1. TEST CLAIM TITLE

~~Airport Land Use Commissions/Plans II,~~
03-TC-12 (amended)

2. CLAIMANT INFORMATION

County of Santa Clara
Name of Local Agency or School District

Lizanne Reynolds
Claimant Contact

Deputy County Counsel
Title

70 W. Hedding Street, 9th Floor, E. Wing
Street Address

San Jose, CA 95110
City, State, Zip

408-299-5940
Telephone Number

408-292-7240
Fax Number

lizanne.reynolds@cco.sccgov.org
E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Lizanne Reynolds
Claimant Representative Name

Deputy County Counsel
Title

County of Santa Clara
Organization

70 W. Hedding Street, 9th Floor, E. Wing
Street Address

San Jose, CA 95110
City, State, Zip

408-299-5940
Telephone Number

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lizanne.reynolds@cco.sccgov.org
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For CSM Use Only

Filing Date:

RECEIVED
MAY 2 8 2009
COMMISSION ON STATE MANDATES

Test Claim #

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections, statutes, bill numbers, regulations, and/or executive orders that impose the alleged mandate (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]). When alleging regulations or executive orders, please include the effective date of each one.

Pub. Util. Code § 21671.5, added by Stats. 1967, c. 852, amended by Stats. 1972, c. 419, amended by Stats. 1989, c. 306, amended by Stats. 1990, c. 1572 [A.B. 3228], amended by Stats. 1991, c. 140 [S.B. 532], amended by Stats. 2002, c. 438 [A.B. 3026]. Pub. Util. Code § 21675, added by Stats. 1970, c. 1182, amended by Stats. 1973, c. 844, amended by Stats. 1980, c. 725, amended by Stats. 1981, c. 714, amended by Stats. 1984, c. 1117, amended by Stats. 1987, c. 1018, amended by Stats. 1989, c. 306, amended by Stats. 1990, c. 563 [A.B. 4265], amended by Stats. 2002, c. 438 [A.B. 3026], amended by Stats. 2002, c. 971 [S.B. 1468]. Pub. Util. Code § 21676, added by Stats. 1970, c. 1182, amended by Stats. 1982, c. 1041, amended by Stats. 1987, c. 1018, amended by Stats. 2002, c. 438 [A.B. 3026]. Pub. Res. Code § 21080, added by Stats. 1983, c . 872, amended by Stats. 1985, c. 392, amended by Stats. 1993, c. 1131, amended by Stats. 1994, c. 1230, amended by Stats. 1996, c. 547.

☑ *Copies of all statutes and executive orders cited are attached.*

Sections 5, 6, and 7 are attached as follows:

5. Written Narrative: pages 1 to 11.
6. Declarations: pages 12 to 14.
7. Documentation: pages 15 to 452.

SECTION 5. WRITTEN NARRATIVE

INTRODUCTION

In 1967, airport land use commissions ("ALUCs") were created through the addition of Article 3.5 of the Public Utilities Code. At the time, the establishment of such commissions by the counties was voluntary. By 1994, the law was amended to make establishment of an ALUC mandatory. Thus there was a new unfunded state mandate. San Bernardino County successfully pursued a test claim before this Commission regarding the 1994 and 1995 amendments, which resulted in Commission Decision CSM-4507. The Statement of Decision for that test claim provided as follows:

> The Commission further found that the creation of airport land use commissions under section 21670 of Chapter [644, Statutes of 1994] imposed a new program when compared to Chapter 59, Statutes of 1993 (the legislation in effect immediately before the enactment of the test claim legislation). (CSM-4507, Statement of Decision, p. 3.)

The San Bernardino County test claim did not, however, address several points incumbent within the newly mandated establishment of an ALUC. In particular, that test claim did not examine all of the attendant mandates related to ALUC activities that flowed from mandating the creation of an ALUC. Several of these ancillary mandates remain unreviewed and unconsidered by the Commission. The instant test claim seeks to correct that gap.

Two of the most significant mandatory duties of an ALUC are the review and amendment of its comprehensive land use plan ("CLUP")[1] and the review of projects referred to the ALUC for a determination of compatibility/incompatibility with the CLUP. Counties are mandated to provide an ALUC with staff assistance, supplies, equipment, and to cover the ALUC's other "usual and necessary operating expenses." The annual costs associated with these mandates exceed $1,000.

(A) New Activities and Costs that Arise from the Mandate.

1. Review/Revision of CLUP (§ 21675(a))

As of the date this claim was initially filed, Public Utilities Code Section 21675[2] provided as follows:

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[1] When this test claim was filed in 2003, section 21675, subdivision (a) used the term "comprehensive land use plan." S.B. 1233 (Stats. 2004, c. 615) renamed this document to "airport land use compatibility plan." We will refer to these plans as "CLUPs" in this narrative.

[2] All further statutory references in this narrative are to the Public Utilities Code, unless otherwise indicated.

> (a) Each commission shall formulate a comprehensive land use plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission plan shall include and shall be based on a long-range master plan or an airport layout plan, as determined by the Division of Aeronautics of the Department of Transportation, that reflects the anticipated growth of the airport during at least the next 20 years. In formulating a land use plan, the commission may develop height restrictions on buildings, specify use of land, and determine building standards, including sound proofing adjacent to airports, within the planning area. The comprehensive land use plan shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year.
>
> (b) The commission shall include, within its plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding and military airport for all purposes specified in subdivision (a). The plan shall be consistent with the safety and noise standards in the Air Installation Compatible Use Zone prepared for that military airport. This subdivision does not give the commission any jurisdiction or authority over the territory or operations of any military airport.
>
> (c) The planning boundaries shall be established by the commission after hearing and consultation with the involved agencies.
>
> (d) The commission shall submit to the Division of Aeronautics of the department one copy of the plan and each amendment to the plan.
>
> (e) If the comprehensive land use plan does not include the matter required to be included pursuant to this article, the Division of Aeronautics of the department shall notify the commission responsible for the plan.

Although this section was added by Chapter 1182, Statutes of 1970, and was subsequently amended by Chapter 844, Statutes of 1973, Chapter 725, Statutes of 1980, and Chapter 714, Statutes of 1981, (and later amended by Chapter 306, Statutes of 1989, Chapter 563, Statutes of 1990, Chapter 438, Statutes of 2002 and Chapter 971, Statutes of 2002) there was no mention of amending the comprehensive land use plan until the enactment of Chapter 1117, Statutes of 1984. Moreover, it was not until the enactment of Chapter 1018, Statutes of 1987, that section

21675 set forth the current requirement that comprehensive land use plans be reviewed as often as necessary and amended no more often than once a year. At the time, although a reimbursable state mandate had been found in Chapter 1117, Statutes of 1984, in October 1987 for the establishment of ALUCs, this section was not part of that test claim. Beginning in 1990, first by lack of funding and later by the enactment of Chapter 59, Statutes of 1993, the mandate was made optional. When the establishment of an ALUC became mandatory again in 1994, this provision lost its voluntary character.

In ruling on the San Bernardino County test claim, the Commission found that the duty to develop the initial CLUP was not reimbursable because the initial CLUP was required to be adopted prior to January 1, 1995. However, the San Bernardino County claim did not address the requirement in section 21675, subdivision (a), that the CLUP "shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year."

A CLUP must comply with the statutory criteria in Section 21675, including that it be based on a long-range master plan or airport layout plan. These airport plans are amended from time to time by the airport operators, thereby triggering CLUP amendments. (*Muzzy Ranch Co. v. Solano County Airport Land Use Comm'n* (2007) 41 Cal.4th 372, 378.)

If an ALUC determines that it is necessary or appropriate to amend its CLUP, then the county is obligated to provide assistance for this effort pursuant to Section 21671.5, subdivision (c). The County of Santa Clara has provided substantive and procedural assistance from planners, GIS technicians, county counsel, and clerks for these CLUP amendment activities.

The mandate to assist an ALUC with revising its CLUP is impacted by the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 *et seq.*, because CLUP amendments are subject to compliance with CEQA. (Pub. Res. Code § 21080; *Muzzy Ranch*, 41 Cal.4th at p. 385.) Thus, as a result of the ALUC mandate, counties must also bear the costs associated with the environmental review of CLUP amendments required by CEQA. (Stats. 1970, c. 1433.)

2. Mandatory Duty to Review/Act on Referrals (§ 21676)

Section 21676 requires ALUCs to determine whether certain types of plans and ordinances submitted by local jurisdictions comply with the adopted CLUP. As of the date of this test claim, Section 21676 provided as follows:

> (a) Each local agency whose general plan includes areas covered by an airport land use compatibility plan shall, by July 1, 1983, submit a copy of its plan or specific plans to the airport land use commission. The commission shall determine by August 31, 1983, whether the plan or plans are consistent or inconsistent with the airport land use compatibility plan. If the plan or plans are inconsistent with the airport land use compatibility plan, the local

> agency shall be notified that the local agency shall have another hearing to reconsider its airport land use compatibility plans. The local agency may overrule the commission after the hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.
>
> (b) Prior to the amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the airport land use commission pursuant to Section 21675, the local agency shall first refer the proposed action to the commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The local agency may, after a public hearing, overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.
>
> (c) Each public agency owning any airport within the boundaries of an airport land use compatibility plan shall, prior to modification of its airport master plan, refer any proposed change to the airport land use commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The public agency may, after a public hearing, overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.
>
> (d) Each commission determination pursuant to subdivision (b) or (c) shall be made within 60 days from the date of referral of the proposed action. If a commission fails to make the determination within that period, the proposed action shall be deemed consistent with the airport land use compatibility plan.

Although this section was added by Chapter 1182, Statutes of 1970, (and later amended by Chapter 1018, Statutes of 1987, and Chapter 438, Statutes of 2002) there was no requirement of ALUC review prior to amending general plans, specific plans, adopting or approving zoning ordinances or building regulations as set forth in subdivision (b), or the 60 day time constraints set forth in subdivision (d), until the enactment of Chapter 1041, Statutes of 1982. Despite its language, until the establishment of an ALUC became mandatory in 1994, the requirement remained optional. This mandate should have been part of the San Bernardino County test claim, but was not.

The Santa Clara County ALUC receives numerous referrals from local land use jurisdictions each year pursuant to Section 21676. The County provides staff and other resources to review and make recommendations regarding these referrals, and to schedule and attend Commission hearings for the referrals (e.g., planners, GIS technicians, county counsel, clerks).

3. Mandate that Counties Provide Staff Assistance and Other Resources

Once established, ALUCs are independent bodies that are not subject to the control of the relevant county. (§ 21670, subd. (b).) However, Section 21671.5 requires a county to provide the ALUC with staff assistance and other usual and necessary services and expenses. Section 21670, subdivision (b) provides as follows:

> Staff assistance, including the mailing of notices and the keeping of minutes and necessary quarters, equipment, and supplies shall be provided by the county. The usual and necessary operating expenses of the commission shall be a county charge.

This mandate, insofar as it relates to the county resources required to assist an ALUC in the review and update of its CLUP (including environmental review under CEQA) and the processing of referrals related to the review of local agencies' amendments of their general plans, specific plans, and adoption or approval of zoning ordinances or building regulations within a 60-day time period, was not considered as part of the San Bernardino County test claim. The staff time and other resources that a county must absorb in relation to these mandated activities are significant. For example, individuals in various County of Santa Clara departments are responsible for providing services to the ALUC, including the Planning Office, County Counsel, and Clerk of the Board. Thus, the total costs of this program are reimbursable.

The County of Santa Clara estimates that the costs exceed $1,000.00 per year.

(B) Description of Existing Activities and Costs Modified by the Mandate.

As explained above, the Commission has already determined that Chapter 644, Statutes of 1994, requiring the creation of airport land use commissions under Section 21670 imposed a new program when compared to Chapter 59, Statutes of 1993 (the legislation in effect immediately before the enactment of the test claim legislation). (CSM-4507, Statement of Decision, p. 3.) Therefore, all of the activities associated with ALUCs constitute new mandates, not modified mandates.

(C) Actual Increased Costs Incurred by Claimant for Fiscal Year 2002/2003

The actual increased costs incurred by the County of Santa Clara for fiscal year 2002/2003 are approximately $72,000. These costs were incurred by the County as a result of the statute on which this test claim is based are all reimbursable costs as such costs are "costs mandated by the State" under Article XIII B (6) of the California Constitution, and Government Code §17500 *et*

seq. Section 17514 of the Government Code defines "costs mandated by the state," and specifies the following three requirements:

1. There are "increased costs which a local agency is required to incur after July 1, 1980."

2. The costs are incurred "as a result of any statute enacted on or after January 1, 1975."

3. The costs are the result of "a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIIIB of the California Constitution."

For the reasons set forth herein, the mandates described in this test claim meet all three of the above requirements for finding costs mandated by the State.

(D) Estimated Annual Costs Incurred by Claimant for Fiscal Year 2003/2004

The actual increased costs incurred by the County of Santa Clara for fiscal year 2002/2003 are approximately $75,000.

(F) Funding Sources Available for this Program.

There are seven disclaimers specified in Government Code Section 17556 which could serve to bar recovery of "costs mandated by the State":

1. The claim is submitted by a local agency or school district which requests legislative authority for that local agency or school district to implement the Program specified in the statutes, and that statute imposes costs upon the local agency or school district requesting the legislative authority.

2. The statute or executive order affirmed for the State that which had been declared existing law or regulation by action of the courts.

3. The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.

4. The local agency or school district has the authority to levy service charges, fees or assessments sufficient to pay for the mandated program or increased level of service.

5. The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the State mandate in an amount sufficient to fund the cost of the State mandate.

6. The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a Statewide election.

7. The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

None of the above disclaimers have any application to the test claim herein stated by the County of Santa Clara.

(i) Dedicated State Funds

There are no dedicated state funds to offset mandated county costs.

(ii) Dedicated Federal Funds

There are no dedicated federal funds to offset mandated county costs.

(iii) Other Nonlocal Agency Funds

There are no nonlocal agency funds to offset mandated county costs.

(iv) Local Agency General Purpose Funds

Test claimant is unaware of any local agency general purpose funds available to cover the costs of this program.

(v) Fee Authority to Offset Costs

a. Public Utilities Code § 21671.5(f) only gives ALUCs Authority to Adopt Fees.

Section 21671.5, subdivision (f), authorizes the ALUC to adopt fees:

> The commission may establish a schedule of fees necessary to comply with this article. Those fees shall be charged to the proponents of actions, regulations, or permits, shall not exceed the estimated reasonable cost of providing the service, and shall be imposed pursuant to Section 66016 of the Government Code. Except as provided in subdivision (g), after June 30, 1991, a commission that has not adopted the airport land use compatibility plan required by Section 21675 shall not charge fees pursuant to this subdivision until the commission adopts the plan.

This provision states that ALUCs "may" establish a fee schedule, but does not mandate that they do so. Consequently, unless and until an ALUC exercises its discretion to adopt a fee schedule, the county providing services to that ALUC has no mechanism for recovering its ALUC-related costs.

Once established, an ALUC is an independent body and is not subject to the direct control of any other public agency.[3] As discussed above, Section 21671.5, subdivision (c), requires counties to provide staff assistance and other "usual and necessary" services to ALUCs.

Even if an ALUC adopts a fee schedule, those fees may not fully cover the county's costs. For example, the Santa Clara County ALUC did not choose to exercise its authority to adopt fees until March 24, 2004. When the ALUC finally adopted fees, they were based on the estimated costs of processing referrals under Section 21676, and did not reflect the significant costs associated with updating and maintaining the ALUC's CLUP pursuant to Section 21675, subdivision (a). Hence, the County continued to absorb ALUC costs, as required by Section 21671.5, subdivision (c).

Where an ALUC either does not adopt a fee schedule or the fees generated by that fee schedule do not provide full cost reimbursement to the county, then the county has an unreimbursed state mandate.

b. The County Fee Adoption Authority does not apply to Mandated ALUC Activities.

A county's fee adoption authority under Government Code section 66014 and its general police power do not apply to ALUC-related costs. These provisions pertain to situations where the county is acting in its capacity and exercising its regulatory authority as a county. There is no basis in statute or case law to find that this fee authority extends to the county's performance of mandatory duties for an ALUC.

Government Code section 66014 provides, in pertinent part:

> (a) Notwithstanding any other provision of law, when a local agency charges fees for zoning variances; zoning changes; use permits; building inspections; building permits; filing and processing applications and petitions filed with the local agency formation commission or conducting preliminary proceedings or proceedings under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3 (commencing with Section 56000) of Title 5; the processing of maps under the provisions of the Subdivision Map Act, Division 2 (commencing with Section 66410) of Title 7; or planning services under the authority of Chapter 3 (commencing with Section 65100) of Division 1 of Title 7 or under any other authority . . . those fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged . . .
>
> (b) The fees charged pursuant to subdivision (a) may include the costs reasonably necessary to prepare and revise the plans and policies that a local agency is required to adopt before it can make any necessary findings and determinations.

[3] § 21670. Although ALUC commissioners are appointed by various public entities, once appointed, the commissioners act independently.

The text of Government Code section 66014 addresses activities that a county undertakes when exercising its land use jurisdiction over development projects. I.e., when the county is performing as the county, not as ALUC staff. This includes, for example, processing applications for zoning amendments and use permits pursuant to the Planning and Zoning Law, Gov. Code § 65000 *et seq.*, and subdivisions pursuant to the Subdivision Map Act, Gov. Code § 66410 *et seq.* There is nothing in this section that suggests it applies to activities a county performs when fulfilling its obligations on behalf an ALUC pursuant to the mandate in section 21671.5, subdivision (c).

A local agency's ability to recover costs of plans and policies in Government Code section 66014, subdivision (b), expressly pertains only to those "costs reasonably necessary to prepare and revise the plans and policies that a local agency is required to adopt before it can make any necessary findings and determinations." (Emphasis added.) Such plans include, for example, a General Plan that a county or city must adopt pursuant to Government Code section 65300 before it may approve development projects pursuant to its land use jurisdiction. A CLUP is adopted by the ALUC, not the county. Consequently, the fee authority in section 66014, subdivision (b), does not authorize counties to charge fees to cover the costs of CLUP preparation.

Moreover, a county's land use and other regulatory jurisdiction is generally limited to the unincorporated area of a county. Referrals to ALUCs pursuant to section 21676 come from all areas that fall within the ALUC's "referral boundaries" surrounding public use airports, including both incorporated and unincorporated areas.[4] In fact, in Santa Clara County, the vast majority of referrals to the ALUC come from the cities, not the county, because most land within the vicinity of airports is incorporated. A county has no jurisdiction or authority to charge fees to applicants for development projects in incorporated areas.

Any assertion that counties may adopt their own ALUC-related fees is also inconsistent with the Legislature's express grant of fee authority to ALUCs in section 21671.5, subdivision (f), and the requirement that ALUCs follow the fee adoption procedures in Government Code section 66016.

A county's police power under article XI, section 7 of the California Constitution is also limited to the regulatory functions the county performs when it exercises its police power and the adoption of fees related thereto.[5] The services a county performs for an ALUC do not flow from any regulatory authority of the county; rather, they flow solely and directly from the statutory mandate to provide "staff assistance" and other "usual and necessary operating expenses" imposed by section 21671.5, subdivision (c). Therefore, the constitutional fee authority associated with a county's regulatory activities does not apply to a county's ALUC-related costs.

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[4] § 21676(b) (referring to referral boundaries established by an ALUC pursuant to § 21675).
[5] *See, e.g., Pennell v. City of San Jose* (1986) 42 Cal.3d 365; *City of Oakland v. Superior Court* (1996) 45 Cal.App.4th 740.

(G) Prior Related Mandate Determinations.

In CSM 4231, the Commission found that Chapter 1117, Stats. 1984, imposed a reimbursable state mandate on counties with general aviation airports by requiring them to form an ALUC and develop a CLUP. This mandate was eliminated by Chapter 59, Stats. 1993, which made the establishment of an ALUC discretionary.

In CSM 4507, the Commission found that Chapter 59, Stats. 1993, imposed a new requirement on counties to reestablish ALUCs. The Commission found that the development of the initial CLUP was not a new state-mandated program or activity because Section 21675.1, subdivision (a), required those initial plans to have been completed by June 30, 1991. That test claim did not address the review and revision of a CLUP pursuant to Section 21675.

THIS MANDATE MEETS BOTH SUPREME COURT TESTS

The mandate created by this statute clearly meets both tests that the Supreme Court in the *County of Los Angeles* v. *State of California* (1987) created for determining what constitutes a reimbursable state mandated local program. Those two tests, which the Commission on State Mandates relies upon to determine if a reimbursable mandate exists, are the "unique to government" and the "carry out a state policy" tests. Their application to this test claim is discussed below.

Mandate Is Unique to Local Government

The sections of the law claimed involve airport land use commissions. Only counties, as subdivisions of the state, are mandated to have ALUCs and to provide staffing and other resources to ALUCs. Thus, this requirement is unique to government.

Mandate Carries Out a State Policy

From the legislation, it is stated that the Legislature wishes carry out its charge to protect the public health, safety and welfare through ensuring an orderly expansion of airports, promoting the goals and objectives of the California airport noise standards, and preventing the creation of new noise and safety problems. (Section 21670.)

In summary, these statutes mandate that local government bear the burden of the increased work load of the airport land use commissions. The County of Santa Clara believes that the airport land use commissions program as set forth above satisfies the constitutional requirements for a mandate.

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CONCLUSION

The enactment of Chapter 1041, Statutes of 1982, Chapter 1018, Statutes of 1987, and Chapter 644, Statutes of 1994, imposed a new state mandated program and cost on the County of Santa Clara by establishing a program whereby the newly required airport land use commissions had were mandated to review and update comprehensive land use plans, review local agencies' amendments of general plans, specific plans, adoption of or approval of zoning ordinances or building regulations within a 60 day time period. The mandated program meets all of the criteria and tests for the Commission on State Mandates to find a reimbursable state mandated program. None of the so-called disclaimers or other statutory or constitutional provisions that would relieve the State from its constitutional obligation to provide reimbursement have any application to this claim.

SECTION 6. DECLARATIONS

DECLARATION OF MICHAEL LOPEZ

I, Michael Lopez, make the following declaration under oath:

I am the Planning Manager for the County of Santa Clara ("County"). As part of my duties, I am responsible for overseeing the planning staff that support the Santa Clara County Airport Land Use Commission ("ALUC"). In performing these duties, I have also gathered information from the various departments with respect to County expenditures on ALUC-related activities.

(A) I declare that I have examined the costs incurred by the County of Santa Clara related to its State mandated duties and resulting costs related to supporting the ALUC. The estimated costs incurred by the County for fiscal year 2002/03 are $72,559.70. The estimated costs incurred by the County for fiscal year 2003/04 are $75,000.

(B) There are no local, state or federal funds available to offset ALUC costs. In March 2004, the ALUC adopted fees for referrals submitted to the ALUC pursuant to Public Utilities Code section 21676. Since then, those fees have resulted in revenue that partially offsets County costs associated with mandated ALUC activities, but the fees do not fully offset these costs.

(C) Chapter 644, Statutes of 1994, amended Public Utilities Code sections 21670 and 21670.1 to make the establishment of an ALUC or other designated body mandatory. Once the establishment of the ALUC was mandated, then the County was required to provide staff assistance to the ALUC and to cover the "usual and necessary operating expenses" of the ALUC pursuant to Public Utilities Code Section 21671.5, subdivision (c). The activities the County performs to fulfill its ALUC-related mandates include assisting the ALUC with the review and amendment of its Comprehensive Land Use Plan ("CLUP") pursuant to Public Utilities Code Section 21675 (including compliance with the California Environmental Quality Act, Pub. Res. Code § 21000 *et seq.*), the review of projects referred to the ALUC for a determination of compatibility/incompatibility with the CLUP pursuant to Public Utilities Code Section 21676, and noticing, holding and staffing the ALUC's meetings.

(D) I am personally conversant with the foregoing facts, and if so required, I could and would testify to the statements made herein. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are stated upon information or belief, and as to those matters, I believe them to be true.

Executed this 28th day of May, 2009, at San Jose, California.

Michael Lopez, Planning Manager
County of Santa Clara

8. CLAIM CERTIFICATION

*Read, sign, and date this section and insert at the end of the test claim submission.**

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

Lizanne Reynolds
Print or Type Name of Authorized Local Agency or School District Official

Deputy County Counsel
Print or Type Title

Lizanne Reynolds
Signature of Authorized Local Agency or School District Official

May 28, 2009
Date

** If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

DECLARATION OF ALLAN P. BURDICK

I, Allan P. Burdick, declare:

1. I am currently employed by MAXIMUS, Inc. and have worked with California's state mandate cost local program since 1978 as an employee of MAXIMUS or the California State Association of Counties. I have personal knowledge of the matters stated in this declaration and I could and would testify competently to them if called upon to do so.

2. I consulted materials published by the California State Department of Transportation, Division of Aeronautics, regarding ALUC's and gathered the following facts: The test claim statutes allow counties various alternatives to formation of airport land use commissions. There are various alternatives and exemptions that have been provided by the test claim statutes. Section 21670.1 (c.) provides for what is generally referred to as an alternative process for a county to conduct airport land use compatibility planning. It eliminates the need for the formation of an ALUC, but not for the preparation of compatibility plans. The County board of supervisors and each affected city must individually determine that proper airport land use compatibility planning in the county can be accomplished without the formation of an ALUC. The California Department of Transportation's Division of Aeronautics is required to approve a proposed alternative process. In addition to those alternatives, there are several other exceptions to the formation of an ALUC. There are three specific county exceptions The three include, Los Angeles County where the regional planning commission is given the responsibility; Kern County were an ALUC need not be formed; and Santa Cruz County which is given to any county which "has only one public use airport that is owned by a city." The board of supervisors, in four rural counties (Alpine, Lake, Modoc and Sierra) have exercised the exception which allows the board to declare the county of be exempt from the requirements if it meets the requirements of Section 2167 (b). The breakdown of 58 counties alternatives is as follows: 27 have Single-Purpose ALUC's, 20 have Specific Designated Body ALUC's (12 Regional Planning Agencies; 2 Airport Commissions, 3 Planning Commissions and 3 counties where board of supervisors is the designated body), 8 are Exceptions (3 single counties; 4 exempt; and 1 no airport) and 3 have an Alternative Process. The County of Santa Clara is one of 27 counties that have single-purpose ALUC's.

3. In my efforts to ascertain a statewide cost estimate for the Airport Land Use Commissions/Plans II test claim, I surveyed the counties of Alameda, Contra Costa, Merced, Butte, Sonoma, Kern, San Bernardino, Solano and Kings for cost information. There was considerable variance in the manner in which the counties handle their ALUC's. In addition, any statewide cost estimate is impacted by the number of projects and amendments undertaken by the ALUC's.

4. Based on the survey and internet research, for fiscal year 2003-2004 the statewide cost is estimated to be between 2.1 and 2.6 million dollars.

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(2) Certification of a pilot in a stated category by the Federal Aviation Administration.

(3) Establishing requirements for pilot experience.

(4) Establishing limitations on the use of the aircraft.

(5) Any person licensed under Division 6 (commencing with Section 11401) of the Agricultural Code with respect to his operation of an aircraft for the purpose of applying pest control materials or substances by dusting, spraying or any other manner whereby such materials or substances are applied through the medium of aircraft.

CHAPTER 852

An act to add Article 3.5 (commencing with Section 21670) to Chapter 4 of Part 1 of Division 9 of the Public Utilities Code, relating to the Airport Land Use Commission.

[Approved by Governor July 21, 1967. Filed with Secretary of State July 21, 1967.]

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

SECTION 1. Article 3.5 (commencing with Section 21670) is added to Chapter 4 of Part 1 of Division 9 of the Public Utilities Code, to read:

Article 3.5. Airport Land Use Commission

21670. There is hereby created in each county containing at least one airport operated for the benefit of the general public and served by an air carrier certified by the Public Utilities Commission or the Civil Aeronautics Board, an Airport Land Use Commission, hereinafter referred to as the "commission." Each commission shall consist of seven members to be selected as follows:

(a) Two representing the cities in the county, appointed by a selection committee comprised of the mayors of all the cities within that county; provided, however, that if there are any cities contiguous or adjacent to the qualifying airport, at least one such representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by subdivisions (b) and (c) shall each be increased by one.

(b) Two representing the county, appointed by the board of supervisors.

(c) Two representing the airports within that county, appointed by a selection committee comprised of the managers of all of the public airports within that county.

(d) One representing the general public, appointed by the other six members of the commission.

If, however, a majority of the selection committee and of the board of supervisors in such county make a determination that adequate provision exists for a continuing review of land use surrounding airports, such commission shall not be created.

21671. In any county where there is an airport operated for the general public, and served by an air carrier certified by the Public Utilities Commission or the Civil Aeronautics Board, which is owned by a city or district in another county or by another county, one of the representatives provided by subdivision (a) of Section 21670 shall be appointed by the mayors of the cities of the county in which the owner of that airport is located, and one of the representatives provided by subdivision (b) of Section 21670 shall be appointed by the board of supervisors of the county in which the owner of that airport is located.

21671.5. Except for the terms of office of the members of the first commission, the term of office of each member shall be four years and until the appointment and qualification of his successor. The members of the first commission shall classify themselves by lot so that the term of office of one member is one year, of two members is two years, of two members is three years, and of two members is four years. The body which originally appointed a member whose term has expired shall appoint his successor for a full term of four years. Any member may be removed at any time and without cause by the body appointing him. The expiration date of the term of office of each member shall be the first Monday in May in the year in which his term is to expire. Any vacancy in the membership of the commission shall be filled for the unexpired term by appointment by the body which originally appointed the member whose office has become vacant. The chairman of the commission shall be selected by the members thereof.

Compensation, if any or reimbursement for necessary expenses, or both, shall be determined by the board of supervisors.

Staff assistance, including the mailing of notices and the keeping of minutes, shall be provided by the county.

The commission shall meet at the call of the commission chairman or at the request of the majority of the commission members.

21672. Each commission shall adopt rules and regulations with respect to the temporary disqualification of its members from participating in the review or adoption of a proposal because of conflict of interest and with respect to appointment of substitute members in such cases.

21673. In any county when a commission has not been created by Section 21670, any owner of a public airport may initiate proceedings for the creation of a commission by presenting a request to the board of supervisors that a commission be created and showing the need therefor to their satisfaction.

21674. The commission shall have the following powers and duties, subject to the limitations upon its jurisdiction herein set forth:

(1) To study conditions and make recommendations concerning the need for height restrictions on buildings near airports;

(2) To make recommendations for the use of the land surrounding airports to assure safety of air navigation and the promotion of air commerce.

(3) To hold public hearings regarding the subject matter in subdivisions (1) and (2) and make findings of fact thereon which would be advisory only to the involved jurisdiction.

(4) To make and enforce rules and regulations for the orderly and fair conduct of such hearings.

The powers of the commission shall be advisory only and shall in no way be construed to give the commission jurisdiction over the operation of any airport or jurisdiction over any matters relating to zoning or land use authority of any city or county.

CHAPTER 853

An act to amend Section 75034 of, and to add Section 75035 to, the Government Code, relating to the Judges' Retirement Law.

[Approved by Governor July 21, 1967. Filed with Secretary of State July 21, 1967.]

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

SECTION 1. Section 75034 of the Government Code, is amended to read:

75034. Notwithstanding any other provision of this chapter, if the service of a judge, who has been elected as such by vote of the people, has been discontinued by any means other than death, resignation, recall, impeachment, or retirement pursuant to this chapter, and who withdrew his accumulated contributions prior to September 9, 1953, he may within one year after October 1, 1961, pay into the Judges' Retirement Fund a sum equal to the amount withdrawn plus interest thereon at the rate of 6 percent per annum from the date of withdrawal to the date of payment. A judge who makes such payment as in this section provided shall, upon his application therefor to the State Controller after attaining age 60, or after making said payment, whichever event last occurs, be retired, and receive a retirement allowance based upon the judicial service with which he is credited, in the same manner as other judges, except that his retirement allowance is an annual amount equal to 5 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the

(3) To hold public hearings regarding the subject matter in subdivisions (1) and (2) and make findings of fact thereon which would be advisory only to the involved jurisdiction.

(4) To make and enforce rules and regulations for the orderly and fair conduct of such hearings which shall conform as nearly as possible to the provisions applicable to hearings conducted by local agency formation commissions.

The powers of the commission shall in no way be construed to give the commission jurisdiction over the operation of any airport.

SEC. 5. Section 21675 is added to the Public Utilities Code, to read:

21675. The commission shall formulate a comprehensive land use plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission plan shall include a long-range master plan that reflects the anticipated growth of the airport during at least the next 20 years. This plan shall not be inconsistent with the State Master Airport Plan. In formulating a land use plan, the commission may develop height restrictions on buildings, may specify use of land, and may determine building standards, including soundproofing adjacent to airports, within the planning area.

The planning boundaries shall be established by the commission after hearing and consultation with the involved agencies.

SEC. 6. Section 21676 is added to the Public Utilities Code, to read:

21676. Each public agency having representation on the commission shall assist in the development of an area plan. All such plans must be filed with the commission for its approval. If in the determination of the commission, an action or regulation of any public agency within the boundaries of the area plan is inconsistent with the commission plan, then the commission shall hold a hearing to determine whether or not the proposed action is in the best interest of the airport and the adjacent area. If it is determined that the action would be harmful, then the public agency shall be notified and the public agency shall have another hearing to reconsider its action. The public agency proposing the action or regulation, however, may overrule the commission after such hearing by a four-fifths vote of its governing body.

Each public agency owning any airport within the boundaries of the area plan shall file any substantive change in development plans with the commission for its approval. If such plans are inconsistent with the commission plan, then the public agency shall be notified and shall have another hearing to reconsider its action. Such public agency, however, may overrule the commission by a four-fifths vote of its governing body.

An act to amend Sect
and to add Section 2
to community college

[Approved by Go
Secretary

The people of the Stat

SECTION 1. Section
amended to read:

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SEC. 2. Section 254
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SEC. 3. Section 2
amended to read:

25545.29. Bonds sh
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SEC. 4. Section 2
amended to read:

25545.36. Bonds
sale. The board may

Airport Land Use Commissions/Plans II (03-TC-12, Amended)
County of Santa Clara
Section 7: Documentation

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

SECTION 1. Section 10205 of the Streets and Highways Code is amended to read:

10205. The provisions of the Improvement Act of 1911 relating to contributions is incorporated in this division as if fully set out herein.

At any time either before or after the formation of the district, the legislative body may provide by ordinance that for a period specified in the ordinance, but not exceeding the term of bonds issued or to be issued, the city may contribute, from any sources of revenue not otherwise prohibited by law, any specified amount, portion, or percentage of such revenues for the purposes set forth in such ordinance, limited to the following: the acquisition or construction of improvements, the acquisition of interests in real property and the payment of expenses incidental thereto for the use and benefit of the district. In addition, the purposes specified in the ordinance may also include the application of such revenues as a credit upon the levied assessments in the same manner as is provided in Section 10427.1. A brief statement of intention to provide such contribution of revenues shall be set forth in the resolution of intention. Such contribution shall not constitute an indebtedness or liability of the municipality. Contributions may be made from any sources of revenue not otherwise prohibited by law; provided, however, that any contributions authorized after the levy of assessment shall be from sources other than ad valorem taxes on real property.

CHAPTER 1182

An act to amend Sections 21670 and 21674 of, and to add Sections 21670.1, 21670.2, 21670.3, 21675 and 21676 to, the Public Utilities Code, relating to airport land use commissions.

[Approved by Governor September 15, 1970. Filed with Secretary of State September 15, 1970.]

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

SECTION 1. Section 21670 of the Public Utilities Code is amended to read:

21670. There is hereby created in each county subject to this article and containing at least one airport operated for the benefit of the general public and served by an air carrier certified by the Public Utilities Commission or the Civil Aeronautics Board, an airport land use commission, hereinafter referred to as the "commission." Each commission shall consist of seven members to be selected as follows:

(a) Two representing the cities in the county, appointed by a selection committee comprised of the mayors of all the

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Secretary of State on
SEC. 2. Section 21
Code, to read:
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SEC. 3. Section 21
Code, to read:
21670.2. Sections 2
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SEC. 4. Section 21
amended to read:
21674. The commiss
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airports;
(2) To make recom
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cities within that county; provided, however, that if there are any cities contiguous or adjacent to the qualifying airport, at least one such representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by subdivisions (b) and (c) shall each be increased by one.

(b) Two representing the county, appointed by the board of supervisors.

(c) Two representing the airports within that county, appointed by a selection committee comprised of the managers of all of the public airports within that county; however, one such representative shall be appointed from an airport operated for the benefit of the general public.

(d) One representing the general public, appointed by the other six members of the commission.

Each commission shall file a certificate of formation with the Secretary of State on or prior to January 1, 1971.

SEC. 2. Section 21670.1 is added to the Public Utilities Code, to read:

21670.1. Notwithstanding any provisions of this article, if the board of supervisors and the selection committee of mayors in any county each makes a determination by a majority vote that proper land use planning can be accomplished through the actions of an appropriately designated body, then such body shall assume the planning responsibilities of an airport land use commission as provided for in this article, and a commission need not be formed in that county. The Secretary of State shall be notified of such determinations by January 1, 1971.

SEC. 3. Section 21670.2 is added to the Public Utilities Code, to read:

21670.2. Sections 21670 and 21670.1 do not apply to counties of more than 4 million population. In such counties, the county regional planning commission has the responsibility for coordinating the airport planning of public agencies within the county. In instances where impasses result relative to this planning, an appeal may be made to the county regional planning commission by any public agency involved. The action taken by the county regional planning commission on such an appeal may be overruled by a four-fifths vote of the governing body of a public agency whose planning led to the appeal.

SEC. 4. Section 21674 of the Public Utilities Code is amended to read:

21674. The commission shall have the following powers and duties, subject to the limitations upon its jurisdiction herein set forth:

(1) To study conditions and make recommendations concerning the need for height restrictions on buildings near airports;

(2) To make recommendations for the use of the land surrounding airports to assure safety of air navigation and the promotion of air commerce.

CHAPTER 843

An act to amend Section 32664 of the Streets and Highways Code, relating to parking authorities.

[Approved by Governor September 25, 1973. Filed with Secretary of State September 25, 1973.]

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

SECTION 1. Section 32664 of the Streets and Highways Code is amended to read:

32664. At least once annually, the authority shall submit a statement of all its financial affairs, audited by independent certified public accountants, to the legislative body of the city.

CHAPTER 844

An act to amend Section 21675 of the Public Utilities Code, relating to airport land use commissions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1973. Filed with Secretary of State September 25, 1973.]

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

SECTION 1. Section 21675 of the Public Utilities Code is amended to read:

21675. (a) The commission shall formulate a comprehensive land use plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission plan shall include a long-range master plan that reflects the anticipated growth of the airport during at least the next 20 years. This plan shall not be inconsistent with the State Master Airport Plan. In formulating a land use plan, the commission may develop height restrictions on buildings, may specify use of land, and may determine building standards, including soundproofing adjacent to airports, within the planning area.

(b) The commission may include within its plan formulated pursuant to subdivision (a) the area within the jurisdiction of the commission surrounding any federal military airport for all the purposes specified in subdivision (a). This subdivision shall not give the commission any jurisdiction or authority over the territory or operations of any such military airport.

(c) The planning boundaries shall be established by the commission after hearing and consultation with the involved

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*An act to amend Sectio
320.5 to the Unem
employment statistics*

[Approved by G
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The people of the State

SECTION 1. Section
150. The Division of
this chapter referred to
present facts and statist
state, including informa
demand, industrial relat
and safety, labor produc
labor, and such other m
Industrial Relations dee
internal administration,
shall be performed by t

SEC. 2. Section 320.5
Code, to read:

320.5. The Director
Development may b
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Division 2 of the Reve
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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 such necessity are:

Because the areas surrounding federal military airports are presently not subject to the planning jurisdiction of airport land use commissions, there are many instances of unregulated construction in such areas presenting serious safety hazards both to air navigation and to the occupants of the structures. In order to commence regulation of the construction of such incompatible facilities at the soonest possible time in the interests of public safety, it is necessary that this act go into immediate effect.

CHAPTER 845

An act to amend Section 150 of the Labor Code, and to add Section 320.5 to the Unemployment Insurance Code, relating to employment statistics.

[Approved by Governor September 25, 1973. Filed with Secretary of State September 25, 1973.]

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

SECTION 1. Section 150 of the Labor Code is amended to read:

150. The Division of Labor Statistics and Research, hereafter in this chapter referred to as the division, shall collect, compile and present facts and statistics relating to the condition of labor in the state, including information as to cost of living, labor supply and demand, industrial relations, industrial disputes, industrial accidents and safety, labor productivity, sanitary and other conditions, prison labor, and such other matters in relation to labor as the Director of Industrial Relations deems desirable. Except for statistics relating to internal administration, all statistical functions of the department shall be performed by the division.

SEC. 2. Section 320.5 is added to the Unemployment Insurance Code, to read:

320.5. The Director of the Department of Human Resources Development may by authorized regulations prescribe the information required to be reported to the department by employing units under this division and employers subject to withholding tax under Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, in order to make reports required by the Secretary of Labor, to provide information necessary to administer this code, to estimate unemployment rates or to make other estimates required for the purpose of dispensing or withholding money payments under the Welfare Reform Act of 1971,

CHAPTER 724

An act to add Section 1501.1 to the Health and Safety Code, relating to care facilities.

[Approved by Governor July 26, 1980. Filed with Secretary of State July 27, 1980.]

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

SECTION 1. Section 1501.1 is added to the Health and Safety Code, to read:

1501.1. (a) It is the policy of the state to facilitate the proper placement of every child in residential care facilities where such placement is in the best interests of the child. The placement agencies shall actively seek out-of-home care facilities capable of meeting the varied needs of the child. Therefore, in placing children in out-of-home care, particular attention should be given to the individual child's needs, the ability of the facility to meet those needs, the needs of other children in the facility, the licensing requirements of the facility as determined by the licensing agency, and the impact of the placement on the family reunification plan.

(b) Pursuant to the provisions of this section, children with varying designations and varying needs, except as provided by statute, shall not be precluded from being placed in the same facility provided the facility is licensed, and has a special permit if necessary, to meet the needs of each child so placed. Neither the requirement for any license nor any regulation shall restrict the implementation of the provisions of this section. Implementation of this section does not obviate the requirement for a facility to be licensed by the department.

CHAPTER 725

An act to amend Sections 1231, 1231.1, 10107, 21007, 21008.5, 21206, 21669.2, 21669.3, 21670, 21670.1, 21675, 21682.5, 21683, 21684, and 29031 of, to repeal Section 130060 of, and to repeal Article 4 (commencing with Section 130290) of Chapter 4 of Division 12 of, the Public Utilities Code, to amend Section 25 of Chapter 1243 of the Statutes of 1971, and to repeal Sections 4 and 5 of Chapter 1428 of the Statutes of 1974, relating to transportation.

[Approved by Governor July 26, 1980. Filed with Secretary of State July 27, 1980.]

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

SECTION 1. Section 1231 of the Public Utilities Code is amended to read:

1231. The commission shall allocate and expend any money which may be appropriated, from the State Highway Account in the State Transportation Fund or any other fund, for the purposes specified herein, to cities, counties, and cities and counties, on the basis of need as determined by the commission, to assist them in paying their shares of the cost of constructing grade-crossing protection works on city, county, and city and county streets, roads, and highways. In no event, however, shall the commission allocate or expend to any city, county, or city and county a sum exceeding one-half of its share of the cost of such work.

Funds appropriated for the purposes specified herein shall be available for allocation and expenditure without regard to fiscal years.

SEC. 2. Section 1231.1 of the Public Utilities Code is amended to read:

1231.1. In each annual proposed budget prepared by the Department of Transportation under Section 165 of the Streets and Highways Code, a sum not to exceed one million dollars ($1,000,000) shall be set aside for allocations to the Public Utilities Commission, for the purpose of paying to the railroad or street railroad corporations the share of the cost to cities, counties, and cities and counties of maintaining automatic grade-crossing protection. Payment shall be made on the basis of verified claims filed with the commission by the railroad or street railroad corporation responsible for maintenance of automatic grade-crossing protection. The specific amount of the total allocation shall be determined by the California Transportation Commission and shall constitute the amount necessary for such maintenance. In arriving at such amount, the California Transportation Commission shall consult with representatives of the Public Utilities Commission. Any amounts not expended by the Public Utilities Commission in any one fiscal year may be credited to subsequent annual allocations.

Funds appropriated for the purposes specified herein shall be available for allocation and expenditure without regard to fiscal years.

SEC. 3. Section 10107 of the Public Utilities Code is amended to read:

10107. Nothing in this article limits in any respect the jurisdiction, powers, and duties vested by law in the Public Utilities Commission or, with respect to state highways, in the Department of Transportation. In the event of any conflict of jurisdiction, that of the Public Utilities Commission or the Department of Transportation, as the case may be, shall prevail.

SEC. 4. Section 21007 of the Public Utilities Code is amended to read:

21007. Whenever the term "California Aeronautics Commission," "Division of Aeronautics," or "Department of

Aeronautics" is used in any other law, it means the Department of Transportation.

SEC. 5. Section 21008.5 of the Public Utilities Code is amended to read:

21008.5. "Commission" means the California Transportation Commission.

SEC. 6. Section 21206 of the Public Utilities Code is amended to read:

21206. The department shall prepare a statement of all estimated revenues of the Aeronautics Account in the State Transportation Fund and revenues available for local subventions from any other sources for the next succeeding fiscal year, together with a statement of proposed expenditures to be made to local agencies and the University of California during the next succeeding fiscal year, or obligations to be incurred in connection therewith.

The statement shall be included in the printed fiscal year budget submitted to the Legislature. Insofar as the matters to which it pertains, it shall constitute as submitted the budget submitted to the Department of Finance pursuant to Section 13320 of the Government Code, and, as to such matters, shall be administered by the Department of Finance as the fiscal year budget of the Department of Transportation under the provisions of this section and of Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of Division 3 of Title 2 of the Government Code.

Any changes or modifications in the budget described in this section shall be approved by the Director of Finance.

In the event, during an annual period, the budgetary amount approved and allocated for any purpose exceeds the amount actually necessary therefor, with a resultant available surplus, such surplus may be allocated to any other purpose or supplemental project upon the written approval of the Director of Finance.

In administering the budget, the Director of Finance shall not limit expenditures or incurrence of obligations thereunder to quarterly, semiannual, or other periods of the fiscal year.

SEC. 7. Section 21669.2 of the Public Utilities Code is amended to read:

21669.2. In its deliberations, the department and the advisory committee shall be governed by the following guidelines:

(a) Statewide uniformity in standards of acceptable airport noise need not be required, and the maximum amount of local control and enforcement shall be permitted.

(b) Due consideration shall be given to the economic and technological feasibility of complying with the standards promulgated by the department.

SEC. 8. Section 21669.3 of the Public Utilities Code is amended to read:

21669.3. Any regulations designed to establish a noise monitoring program at an airport entering service after November 30, 1971, shall go into effect on the date the airport enters service.

SEC. 9. Section 21670 of the Public Utilities Code is amended to read:

21670. There is hereby created, in each county subject to this article and containing at least one airport operated for the benefit of the general public and served by an air carrier certified by the Public Utilities Commission or the Civil Aeronautics Board, an airport land-use commission, hereinafter referred to as the "commission." Each commission shall consist of seven members to be selected as follows:

(a) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county; provided, however, that, if there are any cities contiguous or adjacent to the qualifying airport, at least one such representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by subdivisions (b) and (c) shall each be increased by one.

(b) Two representing the county, appointed by the board of supervisors.

(c) Two representing the airports within that county, appointed by a selection committee comprised of the managers of all of the public airports within that county; however, one such representative shall be appointed from an airport operated for the benefit of the general public.

(d) One representing the general public, appointed by the other six members of the commission.

Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

Each member shall promptly appoint a single proxy to represent him in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the member who appointed him. A vacancy in the office of proxy shall be filled promptly by appointment of a new proxy.

SEC. 10. Section 21670.1 of the Public Utilities Code is amended to read:

21670.1. Notwithstanding any provisions of this article, if the board of supervisors and the city selection committee of mayors in any county each makes a determination by a majority vote that proper land use planning can be accomplished through the actions of an appropriately designated body, then such body shall assume the planning responsibilities of an airport land use commission as provided for in this article, and a commission need not be formed in that county.

SEC. 11. Section 21675 of the Public Utilities Code is amended to read:

21675. (a) The commission shall formulate a comprehensive land use plan that will provide for the orderly growth of each public

airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission plan shall include a long-range master plan that reflects the anticipated growth of the airport during at least the next 20 years. In formulating a land use plan, the commission may develop height restrictions on buildings, may specify use of land, and may determine building standards, including soundproofing adjacent to airports, within the planning area.

(b) The commission may include, within its plan formulated pursuant to subdivision (a), area within the jurisdiction of the commission surrounding any federal military airport for all the purposes specified in subdivision (a). This subdivision shall not give the commission any jurisdiction or authority over the territory or operations of any such military airport.

(c) The planning boundaries shall be established by the commission after hearing and consultation with the involved agencies.

SEC. 12. Section 21682.5 of the Public Utilities Code is amended to read:

21682.5. The department shall pay, from the Aeronautics Account to the Transportation Planning and Development Account in the State Transportation Fund, a sum equal to the pro rata share of the comprehensive transportation duties attributable to aviation planning and research, as determined by the Secretary of the Business and Transportation Agency.

SEC. 13. Section 21683 of the Public Utilities Code is amended to read:

21683. Any balance remaining in the Aeronautics Account, after the payments made under Section 21682, shall be used at the discretion of the commission for airport and aviation purposes, subject to the provisions of Section 21684.

Any public entity may apply to the department each year for the allocation of funds for the acquisition or development of airports. The commission may, pursuant to rules and regulations promulgated by the department, make an allocation to such public entity if it determines that the proposed acquisition or development is feasible and in accordance with the policies and standards established by the department. The department shall make recommendations to the commission on all applications. Such allocations shall be represented as subventions in the department budget in accordance with Section 21206.

No moneys paid under this section shall be expended for operation and maintenance. No payment shall be made under this section to any public entity for any airport on which general or commercial aviation activities are substantially restricted if the airport is licensed to conduct such activities by the department. The department shall determine whether or not general or commercial aviation activities are restricted.

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SEC. 14. Section 21684 of the Public Utilities Code is amended to read:

21684. (a) No payment shall be made to a public entity pursuant to this article unless the public entity has established a special aviation fund in which all payments received by a public entity under this article shall be deposited for expenditure solely for airport and aviation purposes. No payment shall be made to a public entity pursuant to Section 21682 or 21683 unless the public entity deposits in its special aviation fund, for expenditures solely for airport and aviation purposes, a sum from nonstate or nonfederal funds based on a rate established annually by the commission as matching funds. The commission shall establish a rate of at least 10 percent and not exceeding 50 percent of the nonfederal funded portion; provided, such rate shall be uniform for all entities and projects within a particular year. In no event shall the sum deposited in the special aviation fund be less than 10 percent of the total eligible project costs.

Notwithstanding the provisions of this subdivision requiring matching funds, the department shall pay a sum of five thousand dollars ($5,000) annually to each city, county, airport district, or the University of California owning and operating an airport in accordance with subdivision (a) of Section 21682.

(b) No payment shall be made for any airport to the University of California pursuant to this article unless the university has established a special aviation fund in which all payments received by the university under this article shall be deposited for expenditure solely for airport and aviation purposes. No payment shall be made for any airport to the University of California pursuant to Section 21682 or 21683 unless the university deposits in its special aviation fund, for expenditure solely for airport and aviation purposes, a sum from nonstate or nonfederal funds based on the rate established annually by the commission pursuant to subdivision (a), or unless a city located within 10 miles of the airport, or the county within which the airport is located, pays to the university a sum based on the rate established by the commission pursuant to subdivision (a); provided, however, that any such sums deposited by the university or paid by such city or county may be considered jointly as meeting the requirements of this section. The payments received from a city or county pursuant to these sections are to be expended solely for the airport and for aviation purposes related to such airport. All payments received by the university shall be deposited in its special aviation fund.

(c) Payments made by the department pursuant to Section 21682 and funds provided by public entities to match these payments may be accrued for a period of not more than three years. Extension of time for accrual of these funds for major projects shall be obtained from the department.

SEC. 15. Section 29031 of the Public Utilities Code is amended to read:

29031. The district may acquire, construct, own, operate, control,

or use rights-of-way, rail lines, bus lines, stations, platforms, switches, yards, terminals, parking lots, and any and all other facilities necessary or convenient for rapid transit service within or partly without the district, underground, upon, or above the ground and under, upon, or over public streets, highways, bridges, or other public ways or waterways, together with all physical structures necessary or convenient for the access of persons and vehicles thereto, and may acquire any interest in or rights to the use or joint use of any or all of the foregoing; provided, that installations in state freeways shall be subject to the approval of the Department of Transportation and installations in other state highways shall be subject to Article 2 (commencing with Section 670), Chapter 3, Division 1 of the Streets and Highways Code.

SEC. 16. Section 130060 of the Public Utilities Code is repealed.

SEC. 17. Article 4 (commencing with Section 130290) of Chapter 4 of Division 12 of the Public Utilities Code is repealed.

SEC. 18. Section 25 of Chapter 1243 of the Statutes of 1971 is amended to read:

Sec. 25. By enacting Section 24 of this act to repeal Chapter 20 of the Statutes of 1952, Second Extraordinary Session, it is the intent of the Legislature that loans for the acquisition of properties for state highway purposes shall be retired by the operation of Section 2108 of the Streets and Highways Code.

Furthermore, it was not the intent of the Legislature in enacting Chapter 20 of the Statutes of 1952, Second Extraordinary Session, nor is it the intent of the Legislature in repealing this chapter, to establish any limit on the amount of funds utilized for the right-of-way advanced acquisition program. The California Transportation Commission and the Department of Transportation may use any available funds, including the money specified in Section 26 of this act, for temporary investment in the right-of-way advanced acquisition program.

SEC. 19. Section 4 of Chapter 1428 of the Statutes of 1974 is repealed.

SEC. 20. Section 5 of Chapter 1428 of the Statutes of 1974 is repealed.

SEC. 21. Any section of any act enacted by the Legislature during the 1980 portion of the 1979–80 Regular Session, which takes effect on or before January 1, 1981, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether such act is enacted prior to or subsequent to this act.

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making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 15. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 714

An act to amend Sections 1627, 2892, 2892.1, 2913, 4035, 4036, 4047.7, 6037, 6102, 6146, 6180.14, 6546.6, 10133.1, 10153, 10471, 12613, 12701, 12777, 12793, 14415, 17842, 19409.5, and 19464 of, to amend the heading of Article 4 (commencing with Section 9840) of Chapter 20 of Division 3 of, to amend and renumber Sections 730, 731, 4975, 7538.7, 9780, and 23428.7 of, to amend and renumber the heading of Article 6 (commencing with Section 4140), Article 7 (commencing with Section 4160), Article 8 (commencing with Section 4210), Article 10 (commencing with Section 4330), Article 11 (commencing with Section 4350), Article 12 (commencing with Section 4380), and Article 13 (commencing with Section 4410), of Chapter 9 of Division 2 of, to repeal Sections 11010.3, 11010.4, and 23958.3 of, and to repeal Article 10.5 (commencing with Section 725) of, the heading of Article 10.5 (commencing with Section 730) of Chapter 1 of, the heading of Article 5 (commencing with Section 4120) of Chapter 9 of Division 2 of, the Business and Professions Code, to amend Sections 25.8, 56.22, 224, 224a, 232.3, 798.38, 798.56, 3241, and 4555 of, to amend and renumber Sections 798.10 and 1821.23 of, and to repeal Section 4600.5 of the Civil Code, to amend Sections 86, 329, 446, 917.7, 1046, 1282.2, 1567, 1952, and 2034 of, to repeal Sections 119.6, 119.9, 120.1, 123, 123.1, 123.4, 123.5, and 123.7 of, and to repeal the heading of Article 4 (commencing with Section 121) and Article 6 (commencing with Section 123) of Chapter 5-B of Title 1 of Part 1 of, the Code of Civil Procedure, to amend Sections 16039, 16406, 22509, 23804, 23902, 23918, 24806, 35167, 39153, 39316, 41604, 48600, 48651, 49405, 49422, 49441, 49454, 52324, 54347, 54526, 54600, 54630, 54660, 56364, 69276, 72130, 76441, 84370, and 88086.5 of, to amend the heading of Article 4 (commencing with Section 19700) of Chapter 9 of Part 11 of, to amend and renumber Sections 1273 and 42649 of, to amend and renumber the heading of Part 20 (commencing with Section 32500) of, the heading of Article 3 (commencing with Section 78230), Article 4 (commencing with Section 78240), and Article 5 (commencing with Section 78271) of Chapter 2 of Part 48 of, and to repeal the heading of Article 2 (commencing with Section 78220) of Chapter 2 of Part 48 of, the Education Code, to amend Sections 3709,

11554, 23528, 27212, 29623, and 30044 of the Elections Code, to amend Sections 752, 855, 1231, 1237, 2071, 3522, 5067.5, 6407, 6408, 6450.4, 7153.9, 7153.11, 14052, 14410, 18138, 18300, 18455, 24454, 31020, 31114, and 33521 of, and to amend and renumber Section 18643 of, the Financial Code, to amend Sections 4700, 8231, 8234, 10740, and 10770 of, and to repeal Sections 8680, 8681, 8682, and 8683 of, the Fish and Game Code, to amend Sections 11512 and 68081 of, to add Division 23 (commencing with Section 70500) to, to repeal Division 23 (commencing with Section 67500) of, and to repeal the heading of Chapter 5 (commencing with Section 43801) and Chapter 20.5 (commencing with Section 47501) of Division 17 of, the Food and Agricultural Code, to amend Sections 850.8, 6901, 8574.3, 8580, 8597, 8897.1, 11011.1, 11121.9, 11370, 11550, 11554, 35012.5, 38507, 43073, 53205, 55606, 55607, 55608, 55640, 55641, 60400, 65302, 66452.5, 66770.5, 75095.1, and 91531 of, to amend and renumber Sections 24, 4540, 4541, 4542, 7540, 7541, 7542, 7543, 7544, 12032, 25211.3, 53215, 65863.5, 69894.4, 71603.2, 91560, 91561, 91562, 91563, and 91564 of, to amend and renumber the heading of Chapter 11 (commencing with Section 4540) of Division 5 of Title 1 of, and Chapter 24 (commencing with Section 7540) of Division 7 of Title 1 of, and to repeal Section 66427.4 of, the Government Code, to amend Sections 775.5, 6309.4, and 7157 of, and to amend the heading of Chapter 1 (commencing with Section 240) of Division 2 of, the Harbors and Navigation Code, to amend Sections 1250, 1285, 1343, 1732, 3703, 11361.5, 12003, 12006, 13002, 13009.5, 13053, 13054, 13055, 13100, 13104.5, 13140.5, 13821, 13991, 17922.5, 17925, 25810, 25811, 33436, 34354.5, 37850, 41809, 41813, 41957, 41958, 41959, 41960, 41961, 50902, 51351, and 51858 of, to amend the heading of Article 3.4 (commencing with Section 320) of Chapter 2 of Division 1 of the Health and Safety Code, to amend and renumber Sections 1367.8, 5472, and 11977 of, to repeal Sections 1250.2 and 51350.5 of, to repeal the heading of Article 1 (commencing with Section 446) of Part 1.95 of Division 1 of, to repeal Article 2 (commencing with Section 447) of Part 1.95 of Division 1 of, Chapter 9 (commencing with Section 50735), and Chapter 10 (commencing with Section 50775) of Part 2 of Division 31 of, the Health and Safety Code, to amend Sections 779.8, 922.4, 922.5, 1033, 1035.5, 1597, 1599, 1751, 10178, 11551, 11558, 11580.2, 11600, 11602, 11656.9, 11657, 11663, 11690, 11699, 11710, 11715, 11716, 11716.01, 11716.02, 11716.61, 11719, 11730, 11732.1, 11732.3, 11733, 11738, 11740, 11741, 11750, 11750.1, 11750.2, 11750.3, 11751.5, 11755, 11770, 11778, 11780, 11784, 11840, 11846, 11871, 12401.3, and 12973.9 of, and to amend and renumber Sections 11512.18 and 11512.21 of, the Insurance Code, to amend Sections 98.1, 1299, 3093, 3097, 3600.3, 4724, and 6305 of, and to repeal Section 7804 of, the Labor Code, to amend Sections 375, 384a, 384i, 626.11, 653k, 653o, 859, 871.5, 894, 1170.6, 1203.4a, 1413, 1551.2, 1567, 2903, 5006, 5007, 5008, 13301, and 13843 of, the Penal Code, to amend Section 732 of the Probate Code, to amend Sections 2313, 2708, 2760, 3311, 3470, 4143, 4186, 4423.1, 4431, 4438, 4446, 4476, 4551, 4554, 4555, 4582.8, 4621.2, 4656, 4656.1, 5003.7, 5019.10, 5019.53, 5093.62, 6332, 9104,

9183, 13111, 21080.5, 21083, 21087, 25210, 25213, 25502, 25964, 26004, 26005, 26703, 30302, 30339, 30340.5, 30700, and 34056 of, and to amend and renumber Sections 30168 and 30170.6 of, the Public Resources Code, to amend Sections 1901, 1902, 5503.5, 21675, 27091, 29038, 29171, 29750, 29753, 50218, and 99117 of the Public Utilities Code, to amend Sections 99, 485, 4836.5, 6486, 7396, 15556, 17153, 17203, 17206, 17253, 17482, 17631, 17637, 18082, 18211, 18816.5, 19092, 20583, 20640.6, 24431, 24497, 24563, 24662, 24949.2, 24952, 38108, 38351, 38421, 40081, and 41080 of, to amend and renumber Sections 232 and 6593 of, to repeal the heading of Chapter 6 (commencing with Section 5801) of Part 12 of Division 1 of, to repeal the heading of Article 4 (commencing with Section 14791) of Chapter 12 of Part 8 of Division 2 of, the Revenue and Taxation Code, to amend Section 31856 of the Streets and Highways Code, to amend Sections 2708.1 and 9002 of the Unemployment Insurance Code, to amend Sections 1817, 2400, 3051, 4451, 5004, 5004.5, 9400, 11511, 11515, 11704.5, 11902, 21051, 25100, 26708.5, 35780.5, and 42050 of the Vehicle Code, to amend Sections 8617, 8886, 13220, 13360, 13627, 20023, 20054, 25809, 25825.3, 26225, 31303, and 47127 of the Water Code, to amend Sections 708, 736, 1756, 1760.5, 9203, 9600, and 10653 of, to amend and renumber Section 14145 and the heading of Chapter 8.5 (commencing with Section 19810) of Part 2 of Division 10 of, to add Chapter 3 (commencing with Section 4330) to Division 4 of, to add Chapter 7.5 (commencing with Section 4740) to Division 4.5 of, to repeal Sections 4302, 4446, 18294, 18295, 18296, 18297, and 18298 of, and to repeal Chapter 7.5 (commencing with Section 4740) of Division 4.1 of, the Welfare and Institutions Code, and to amend Section 25 of Chapter 1313 of the Statutes of 1980, relating to the maintenance of the codes.

[Approved by Governor September 23, 1981. Filed with Secretary of State September 23, 1981.]

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

SECTION 1. Article 10.5 (commencing with Section 725) of Chapter 1 of Division 2 of the Business and Professions Code, as added by Chapter 373 of the Statutes of 1979, is repealed. The repeal made by this section shall not affect the existence or validity of Article 10.5 (commencing with Section 725) of Chapter 1 of Division 2 of the Business and Professions Code, as added by Chapter 348 of the Statutes of 1979.

SEC. 2. The heading of Article 10.5 (commencing with Section 730) of Chapter 1 of Division 2 of the Business and Professions Code, as added by Chapter 955 of the Statutes of 1979, is repealed.

SEC. 3. Section 730 of the Business and Professions Code is amended and renumbered to read:

726. The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer which is substantially related to the qualifications, functions, or duties of the occupation for

which a license was issued constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division, under Chapter 17 (commencing with Section 9000) of Division 3, and under Chapter 4 (commencing with Section 17800) of Part 3 of Division 7.

SEC. 4. Section 731 of the Business and Professions Code is amended and renumbered to read:

727. The provisions of subdivision (2) of Section 1103 of the Evidence Code shall apply in disciplinary proceedings brought against a licensee for acts in violation of Section 726.

SEC. 5. Section 1627 of the Business and Professions Code is amended to read:

1627. It is unlawful for any person to engage in the practice of dentistry in the state, either privately or as an employee of a governmental agency or political subdivision, unless the person has obtained a license or special permit from the board. The provisions of this act, however, do not apply to practice by personnel of the Air Force, Army, Coast Guard, or Navy or employees of the United States Public Health Service, Veterans' Administration, or Bureau of Indian Affairs when engaged in discharge of official duties.

The license of any dentist, existing at the time of the passage of this chapter, shall continue in force until it expires or is forfeited in the manner provided by this chapter.

SEC. 6. Section 2892 of the Business and Professions Code is amended to read:

2892. Licenses issued under this chapter prior to January 1, 1974, shall, unless renewed, expire on the last day of the month following the month in 1974 in which the licensee's birthday occurs and at two-year intervals thereafter on the last day of the month following the month in which the licensee's birthday occurs. Licenses issued under this chapter on or after January 1, 1974, shall, unless renewed, expire at two-year intervals on the last day of the month following the month in which the licensee's birthday occurs, beginning with the second birthday following the date on which the license was issued. To renew an unexpired license, the licensee shall, on or before each of the dates on which it would otherwise expire, apply for renewal on a form prescribed by the board and pay the renewal fee prescribed by this chapter.

The board shall give written notice to a licensee 30 days in advance of the renewal date and, 90 days in advance of the expiration of the fourth year that a renewal fee has not been paid, shall give written notice to the licensee informing the licensee in general terms of the provisions of Section 2892.4.

SEC. 7. Section 2892.1 of the Business and Professions Code is amended to read:

2892.1. Except as provided in Sections 2892.3 and 2892.5, an expired license may be renewed at any time within four years after its expiration on filing of application for renewal on a form prescribed by the board, and payment of the renewal fee in effect

on the date application for renewal is filed.

If the license is renewed more than 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 2892 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 8. Section 2913 of the Business and Professions Code is amended to read:

2913. A person other than a licensed psychologist may be employed by a licensed psychologist, by a licensed physician and surgeon who is board certified in psychiatry by the American Board of Psychiatry and Neurology, by a clinic which provides mental health services under contract pursuant to Section 5614 of the Welfare and Institutions Code, by a psychological corporation, by a licensed psychology clinic as defined in subdivision (c) of Section 1204 of the Health and Safety Code, or by a medical corporation to perform limited psychological functions provided that all of the following apply:

(a) The person is termed a "psychological assistant."

(b) The person has completed at least one fully matriculated year of graduate training in psychology from an accredited or approved university, college, or professional school. In addition, on or before January 1, 1983, that person shall maintain registration as a "psychological assistant," and to be entitled to use that title, shall have completed all requirements for a master's degree from an accreditied or approved university, college, or professional school. On and after January 1, 1980, a master's degree in (1) psychology, or (2) education with the field of specialization in psychology or counseling psychology from an accredited or approved university, college, or professional school shall be required of all new registrants as psychology assistants.

(c) The person is at all times under the immediate supervision, as defined in regulations adopted by the committee, of a licensed psychologist, or board certified psychiatrist, who shall be responsible for insuring that the extent, kind, and quality of the psychological services he or she performs are consistent with his or her training and experience and be responsible for his or her compliance with the provisions of this chapter and regulations duly adopted hereunder, including those provisions set forth in Section 2960.

(d) The licensed psychologist, board-certified psychiatrist, contract clinic, psychological corporation, or medical corporation, has registered the psychological assistant with the committee. The registration shall be renewed annually in accordance with regulations adopted by the committee.

No licensed psychologist may register, employ, or supervise more

than three psychological assistants at any given time unless specifically authorized to do so by the committee. No board-certified psychiatrist may register, employ, or supervise more than one psychological assistant at any given time. No contract clinic, psychological corporation, or medical corporation may employ more than 10 such assistants at any one time. No contract clinic may register, employ, or provide supervision for more than one psychological assistant for each designated full-time staff psychiatrist who is qualified and supervises the psychological assistants. No psychological assistant may provide psychological services to the public for a fee, monetary or otherwise, except as an employee of a licensed psychologist, licensed physician, contract clinic, psychological corporation, or medical corporation.

(e) The psychological assistant shall comply with regulations that the committee may, from time to time, duly adopt relating to the fulfillment of requirements in continuing education.

(f) No person shall practice as a psychological assistant who is found by the committee to be in violation of the provisions of Section 2960 and the rules and regulations duly adopted thereunder.

SEC. 9. Section 4035 of the Business and Professions Code is amended to read:

4035. Pharmacy is an area, place, or premises in which the profession of pharmacy is practiced and where prescriptions are compounded. "Pharmacy" includes, but is not limited to, any area, place, or premises described in a permit issued by the board by reference to plans filed with and approved by the board wherein narcotics or dangerous drugs or dangerous devices, as they are herein defined, are stored, possessed, prepared, manufactured, derived, compounded, or repackaged, and from which said narcotics or dangerous drugs or dangerous devices are furnished, sold, or dispensed at retail.

"Pharmacy" shall not include any area in a facility licensed by the State Department of Health Services where floor supplies, ward supplies, operating room supplies, or emergency room supplies of drugs or dangerous devices are stored or possessed solely for treatment of patients registered for treatment in the facility or for treatment of patients receiving emergency care in the facility.

"Narcotics or dangerous drugs or dangerous devices" as used herein shall include, but is not limited to, all narcotics, drugs, or devices which are included within one or more of the following classifications:

(a) Drugs or devices bearing the legend, "Caution, federal law prohibits dispensing without prescription," or words of similar import.

(b) Controlled substances as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(c) Drugs or devices enumerated in Section 4211.

(d) Drugs or devices heretofore or hereafter classified as dangerous by the board pursuant to Sections 4061 and 4240.

(e) Hypodermic syringes and needles, or other drugs or devices, the sale of which is restricted by law to a registered pharmacist.

Neither this section nor any other provision of law shall be construed as prohibiting a pharmacy from furnishing a prescription drug or device to a licensed health care facility for storage in a secured emergency pharmaceutical supplies container maintained within the facility in accordance with facility regulations of the State Department of Health Services set forth in Title 22 of the California Administrative Code.

SEC. 10. Section 4036 of the Business and Professions Code is amended to read:

4036. (a) "Prescription" means an oral order given individually for the person or persons for whom prescribed, directly from the prescriber to the furnisher, or indirectly by means of a written order, signed by the prescriber, and shall bear the name or names and address of the patient or patients, the name and quantity of the drug or device prescribed, directions for use, and the date of issue, and either rubber stamped, typed, or printed by hand or typeset the name, address, and telephone number of the prescriber, his or her license classification, and his or her federal registry number, if a controlled substance is prescribed. No person other than a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or registered nurse acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, or physician's assistant acting within the scope of a project authorized under Article 18 (commencing with Section 429.70) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, shall prescribe or write a prescription.

Nothing in the amendments made to this section at the 1969 Regular Session of the Legislature shall be construed as expanding or limiting the right which a chiropractor, while acting within the scope of his or her license, may have to prescribe a device.

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

(b) Notwithstanding subdivision (a), a written order of the prescriber for a dangerous drug, except for any Schedule II controlled substance, which contains at least the name and signature of the prescriber, the name or names and address of the patient or patients in a manner consistent with paragraph (3) of subdivision (b) of Section 11164 of the Health and Safety Code, the name and quantity of the drug prescribed, directions for use, and the date of issue may be treated as a prescription by the dispensing pharmacist so long as any additional information required by subdivision (a) is readily retrievable in the pharmacy. In the event of a conflict between the provisions of this subdivision and Section 11164 of the Health and Safety Code, the provisions of Section 11164 shall prevail.

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(c) Except as provided in Section 4036.1, an oral prescription shall as soon as practicable be reduced to writing by the pharmacist and shall be filled by, or under the direction of, the pharmacist. The pharmacist need not reduce to writing the address, telephone number, license classification, federal registry number of the prescriber, or the address of the patient or patients if the information is readily retrievable in the pharmacy.

SEC. 11. Section 4047.7 of the Business and Professions Code is amended to read:

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

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

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

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

SEC. 12. The heading of Article 5 (commencing with Section 4120) of Chapter 9 of Division 2 of the Business and Professions Code is repealed.

SEC. 13. The heading of Article 6 (commencing with Section 4140) of Chapter 9 of Division 2 of the Business and Professions Code

is amended and renumbered to read:

Article 5. Hypodermics

SEC. 14. The heading of Article 7 (commencing with Section 4160) of Chapter 9 of Division 2 of the Business and Professions Code is amended and renumbered to read:

Article 6. Poisons

SEC. 15. The heading of Article 8 (commencing with Section 4210) of Chapter 9 of Division 2 of the Business and Professions Code is amended and renumbered to read:

Article 7. Dangerous Drugs

SEC. 16. The heading of Article 10 (commencing with Section 4330) of Chapter 9 of Division 2 of the Business and Professions Code is amended and renumbered to read:

Article 8. Certificates, Information and Records

SEC. 17. The heading of Article 11 (commencing with Section 4350) of Chapter 9 of Division 2 of the Business and Professions Code is amended and renumbered to read:

Article 9. Disciplinary Proceedings

SEC. 18. The heading of Article 12 (commencing with Section 4380) of Chapter 9 of Division 2 of the Business and Professions Code is amended and renumbered to read:

Article 10. Prohibitions and Offenses Against the Chapter, Generally

SEC. 19. The heading of Article 13 (commencing with Section 4410) of Chapter 9 of Division 2 of the Business and Professions Code is amended and renumbered to read:

Article 11. Revenue

SEC. 20. Section 4975 of the Business and Professions Code, as added by Chapter 1313 of the Statutes of 1980, is amended and renumbered to read:

4974.5. This chapter shall become operative on July 1, 1982.

SEC. 21. Section 6037 of the Business and Professions Code is amended to read:

6037. No action or decision of the board or committee of the board shall be invalid because of the participation therein by a

member or members in violation of Section 6036. However, any member who intentionally violates the provisions of subdivision (a) of Section 6036 is guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding five days, or by a fine not exceeding five hundred dollars ($500), or by both, and, if the member is an attorney member of the board, a certified copy of the record of conviction shall be transmitted to the Supreme Court for disposition as provided in Sections 6101 and 6102. Upon entry of final judgment of conviction, the member's term of office on the board of governors, and duties and authority incidental thereto, shall automatically terminate. Any member who intentionally violates the provisions of subdivision (b) of Section 6036 shall be liable for a civil penalty not to exceed five hundred dollars ($500) for each violation, which shall be assessed and recovered in a civil action in a court of competent jurisdiction brought in the name of the state only by a district attorney of a county in which the member resides or maintains offices and the penalty collected shall be paid to the treasurer of that county.

SEC. 22. Section 6102 of the Business and Professions Code is amended to read:

6102. (a) Upon the receipt of the certified copy of the record of conviction, if it appears therefrom that the crime of which the attorney was convicted involved or that there is probable cause to believe that it involved moral turpitude, the Supreme Court shall suspend the attorney until the time for appeal has elapsed, if no appeal has been taken, or until the judgment of conviction has been affirmed on appeal, or has otherwise become final, and until the further order of the court. Upon good cause shown the court may set aside the suspension when it appears to be in the interest of justice to do so, with due regard being given to maintaining the integrity of and confidence in the profession.

(b) If, after adequate notice and opportunity to be heard (which hearing shall not be had until the judgment of conviction has become final or, irrespective of any subsequent order under the provisions of Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence), the court finds that the crime of which the attorney was convicted, or the circumstances of its commission, involved moral turpitude it shall enter an order disbarring the attorney or suspending him or her from practice for a limited time, according to the gravity of the crime and the circumstances of the case; otherwise it shall dismiss the proceedings. In determining the extent of the discipline to be imposed in a proceeding pursuant to this article any prior discipline imposed upon the attorney may be considered.

(c) The court may refer the proceedings or any part thereof or issue therein, including the nature or extent of discipline, to the State Bar for hearing, report, and recommendation.

(d) The record of the proceedings resulting in the conviction, including a transcript of the testimony [illegible]

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evidence.

(e) The Supreme Court shall prescribe rules for the practice and procedure in proceedings had pursuant to this section and Section 6101.

(f) The other provisions of this article providing a procedure for the disbarment or suspension of an attorney do not apply to proceedings pursuant to Sections 6101 and 6102, unless expressly made applicable.

SEC. 23. Section 6146 of the Business and Professions Code is amended to read:

6146. (a) An attorney shall not contract for or collect a contingency fee for representing any person seeking damages in connection with an action for injury or damage against a health care provider based upon such person's alleged professional negligence in excess of the following limits:

(1) Forty percent of the first fifty thousand dollars ($50,000) recovered.

(2) Thirty-three and one-third percent of the next fifty thousand dollars ($50,000) recovered.

(3) Twenty-five percent of the next one hundred thousand dollars ($100,000) recovered.

(4) Ten percent of any amount on which the recovery exceeds two hundred thousand dollars ($200,000).

The limitations shall apply regardless of whether the recovery is by settlement, arbitration, or judgment, or whether the person for whom the recovery is made is a responsible adult, an infant, or a person of unsound mind.

(b) If periodic payments are awarded to the plaintiff pursuant to Section 667.7 of the Code of Civil Procedure, the court shall place a total value on these payments based upon the projected life expectancy of the plaintiff and include this amount in computing the total award from which attorney's fees are calculated under this section.

(c) For purposes of this section:

(1) "Recovered" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim. Costs of medical care incurred by the plaintiff and the attorney's office-overhead costs or charges are not deductible disbursements or costs for such purpose.

(2) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500), or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider.

(3) "Professional negligence" is a negligent act or omission to act

by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that the services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

SEC. 24. Section 6180.14 of the Business and Professions Code is amended to read:

6180.14. As used in this article, "attorney" means a member or former member of the State Bar; "law practice" means (a) a law practice conducted by an individual; (b) a law practice conducted by a partnership, if Section 6180 applies to all partners; and (c) a law practice conducted by a law corporation, if Section 6180 applies to all shareholders of the corporation. This article does not apply to legal services rendered as an employee, or under a contract which does not create the relationship of lawyer and client.

SEC. 25. Section 6546.6 of the Business and Professions Code is amended to read:

6546.6. (a) Notwithstanding any other provision of this chapter, a person is qualified to receive a certificate of registration as a registered barber who complies with each of the following:

(1) Has met the requirements of subdivisions (a), (b), (c), (d), (f), and (g) of Section 6545.

(2) Has satisfactorily completed a course of training in barbering established by the Department of Corrections which complies with the requirements of this chapter pertaining to instructors and complies in all other respects with the requirements established for such courses by the board.

(3) Has satisfactorily completed any supplementary training the board prescribes as necessary to assure that his or her total training will be substantially equivalent to the training required in a barber college licensed by the board.

(b) The provisions of Section 6536 relating to notice and hearing shall be applicable to a person who applies under this section.

SEC. 26. Section 7538.7 of the Business and Professions Code, as added by Chapter 954 of the Statutes of 1980, is amended and renumbered to read:

7538.9. Each person licensed as a repossessor shall serve a consumer with a notice of seizure as soon as possible after the recovery of personal property, but in no event later than 48 hours after the repossession of personal property, which notice shall include all of the following:

(a) The name, address, and phone number of the representative of the legal owner to be contacted regarding repossession.

(b) The name, address, and phone number of the representative of the repossessor to be contacted regarding repossession.

(c) A statement printed on the notice containing the following:

"Repossessors are regulated by the Bureau of Collection and Investigative Services and are required to provide you, not later than 48 hours after the recovery of personal property, with an inventory

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personal effects or personal property recovered during repossession."

(d) A disclosure that "Damage to a vehicle during or subsequent to a repossession is the liability of the repossessor."

The notice may be given by regular mail addressed to the last known address of the consumer or by personal service at the option of the repossessor.

SEC. 27. Section 9780 of the Business and Professions Code, as added by Chapter 108 of the Statutes of 1979, is amended and renumbered to read:

9790. Any person having a noncommercial aircraft in for repairs or service has the right to request, in advance of any work done, a written estimate or may specify a maximum charge on the total cost of repairs or service to be performed. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer which shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. Nothing in this section shall be construed as requiring any person to give a written estimated price if such person does not agree to perform the requested repair.

SEC. 28. The heading of Article 4 (commencing with Section 9840) of Chapter 20 of Division 3 of the Business and Professions Code is amended to read:

Article 4. Offenses Against the Chapter

SEC. 29. Section 10133.1 of the Business and Professions Code is amended to read:

10133.1. The provisions of subdivision (d) of Section 10131, subdivision (e) of Section 10131, Section 10131.1, Article 5 (commencing with Section 10230), Article 6 (commencing with Section 10237), and Article 7 (commencing with Section 10240) of this chapter and Section 1695.13 of the Civil Code do not apply to the following:

(a) Any person or employee thereof doing business under any law of this state, any other state, or of the United States relating to banks, trust companies, savings and loan associations, industrial loan companies, pension trusts, credit unions, or insurance companies.

(b) Any lender making a loan guaranteed or insured by an agency of the federal government or for which a commitment to so guarantee or insure has been made by the agency.

(c) 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 therein.

(d) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or

bee products on a cooperative nonprofit basis, in loaning or advancing money to the members thereof or in connection with any such business.

(e) 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 the "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured.

(f) Any person licensed to practice law in this state, not actively and principally engaged in the business of negotiating loans secured by real property, when the person renders services in the course of his or her practice as an attorney at law, and the disbursements of such person, whether paid by the borrower or other person, are not charges or costs and expenses regulated by or subject to the limitations of Article 7 (commencing with Section 10240), provided, the fees and disbursements shall not be shared, directly or indirectly, with the person negotiating the loan or the lender.

(g) Any person licensed as a personal property broker when acting under the authority of the license.

(h) Any cemetery authority as defined by Section 7018 of the Health and Safety Code which is authorized to do business in this state or its authorized agent.

(i) Any person who makes collection of payments for lenders or on notes of owners in connection with loans secured directly or collaterally by liens on real property, insofar as such activities are concerned, and (1) who is not actively engaged in the business of negotiating loans secured by real property or (2) who is not acting as a principal or agent in the sale or exchange of promissory notes secured directly or collaterally by liens on real property; provided that any of the following apply:

(1) The person has made application to the commissioner and has complied with all the provisions of Section 10133.25.

(2) The person makes the collections on 10 or less of such loans, or in amounts of forty thousand dollars ($40,000) or less in any calendar year.

(j) Any person authorized in writing by a savings and loan association to act as an agent, as defined in Section 5053 of the Financial Code, of that savings and loan association, when acting under the authority of the written authorization.

SEC. 30. Section 10153 of the Business and Professions Code is amended to read:

10153. In addition to the proof of honesty and truthfulness required of any applicant for a real estate license, the commissioner shall ascertain by written examination that the applicant, and in case of a corporation applicant for a real estate broker's license that each officer, or agent thereof through whom it proposes to act as a real estate licensee, has all of the following:

(a) An appropriate knowledge of the English language, including reading, writing, and spelling and of arithmetical computations common to real estate and business opportunity practices.

(b) An understanding of the principles of real estate and business opportunity conveyancing, the general purposes and general legal effect of agency contracts, deposit receipts, deeds, mortgages, deeds of trust, chattel mortgages, bills of sale, land contracts of sale and leases, and of the principles of business and land economics and appraisals.

(c) A general and fair understanding of the obligations between principal and agent, of the principles of real estate and business opportunity practice and the canons of business ethics pertaining thereto, of the provisions of this part, of Chapter 1 (commencing with Section 11000) of Part 2, and of the regulations of the Real Estate Commissioner as contained in Title 10 of the California Administrative Code.

SEC. 31. Section 10471 of the Business and Professions Code is amended to read:

10471. (a) When any aggrieved person obtains a final judgment in any court of competent jurisdiction against any person or persons licensed under this part, under grounds of fraud, misrepresentation, deceit, or conversion of trust funds arising directly out of any transaction when the judgment debtor was licensed and performed acts for which a license is required under this part, and which cause of action occurred on or after July 1, 1964, the aggrieved person may, upon the judgment becoming final, file a verified application in the court in which the judgment was entered for an order directing payment out of the separate account in the Real Estate Fund for education, research, and recovery purposes of the amount of actual and direct loss in the transaction up to the sum of ten thousand dollars ($10,000) of the amount unpaid upon the judgment, provided that nothing shall be construed to obligate that separate account for more than ten thousand dollars ($10,000) per transaction regardless of the number of persons aggrieved or parcels of real estate involved in the transaction.

In the case of a small claims court judgment, the aggrieved person shall file the verified application in the justice or municipal court in which the judgment was entered in favor of the aggrieved person. The court shall then make a determination as to whether the small claims court judgment was based on facts constituting grounds for recovery under this section and may enter an order directing payment of the small claims court judgment out of the separate account in the Real Estate Fund for education, research, and recovery purposes.

A copy of the verified application shall be served upon the commissioner and the judgment debtor and a certificate or affidavit of that service filed with the court.

(b) Notwithstanding subdivision (a), the liability of that portion of the separate account in the Real Estate Fund for education, research, and recovery purposes, for which the cause of action occurred on or after January 1, 1980, shall not exceed twenty thousand dollars ($20,000) per transaction, for any transaction which,

is a basis for the judgment or judgments, regardless of the number of persons aggrieved or the number of parcels of real estate involved, or the number of licensees who participated in the transaction.

SEC. 32. Section 11010.3 of the Business and Professions Code, as added by Chapter 1105 of the Statutes of 1980, is repealed. The repeal made by this section shall not affect the existence or validity of Section 11010.3 of the Business and Professions Code, as added by Chapter 1336 of the Statutes of 1980.

SEC. 33. Section 11010.3 of the Business and Professions Code, as added by Chapter 1152 of the Statutes of 1980, is repealed. The repeal made by this section shall not affect the existence or validity of Section 11010.3 of the Business and Professions Code, as added by Chapter 1336 of the Statutes of 1980.

SEC. 34. Section 11010.4 of the Business and Professions Code, as added by Chapter 1105 of the Statutes of 1980, is repealed.

SEC. 35. Section 12613 of the Business and Professions Code is amended to read:

12613. If any provision of this chapter is less stringent or requires information different from any requirement of Section 4 of the act of Congress entitled "Fair Packaging and Labeling Act" (P.L. 89-755; 80 Stat. 1296; 15 U.S.C. 1451-1461) or of any regulation promulgated pursuant to that act, the provision is inoperative to the extent that it is less stringent or requires information different from the federal requirement, in which event the federal requirement is a part of this chapter.

SEC. 36. Section 12701 of the Business and Professions Code is amended to read:

12701. The following shall not be construed to be public weighmasters:

(a) Retailers weighing or measuring commodities for sale by them in retail stores directly to consumers. This exemption does not apply to persons, firms, or corporations weighing bulk lot commodities on vehicle or hopper scales, or selling the commodities by volume, when the purchaser is not present at the time the weight or measure determination is made.

(b) Producers of agricultural commodities or livestock, weighing commodities produced or purchased by them or by their producer neighbors, when no charge is made for the weighing, or no signed or initialed statement or memorandum is issued of the weight upon which a purchase or sale of the commodity is based. However, if the weight is to be used by a processor or conditioner as a basis of payment there is no exception to the provisions of Section 12734.

(c) Common carriers issuing waybills or bills of lading on which are recorded, for the purpose of computing transportation charges, the weights of commodities offered for transportation, including carriers of household goods when transporting shipments weighing less than 1,000 pounds.

(d) Weighers licensed under the provisions of Section 35161 of the Food and Agricultural Code when performing the duties for which

they are licensed.

(e) Employees of the department authorized to weigh agricultural products under the provisions of Chapter 8 (commencing with Section 12801) of Division 5, when performing the duties authorized thereby.

(f) Persons who measure the amount of oil, gas, or other fuels for purposes of royalty computation and payment, or other operations of fuel and oil companies and their retail outlets.

(g) Employees of newspaper publishers weighing or counting newspapers for sale to dealers or distributors.

(h) Textile maintenance establishments weighing, counting, or measuring any articles in connection with the business of such establishments.

(i) Employees of garbage and refuse disposal districts operating pursuant to Chapter 1.5 (commencing with Section 4170) of Part 2 of Division 5 of the Health and Safety Code and county sanitation districts operating pursuant to Chapter 3 (commencing with Section 4700) of Part 3 of Division 5 of the Health and Safety Code, which are authorized by their respective governing boards to utilize scales in determining charges for the disposal of liquid and solid wastes and employees of operators of solid waste disposal facilities, as defined in Section 66720.1 of the Government Code.

(j) Persons who purchase scrap metal or salvage materials pursuant to a nonprofit recycling program.

(k) Persons operating under a license issued pursuant to Section 11701 of the Food and Agricultural Code.

SEC. 37. Section 12777 of the Business and Professions Code is amended to read:

12777. Each license required by this chapter shall be renewed annually, on or before July 1st of each year, by application to the director accompanied by the annual license fee. To any fee not paid when due there shall be added a penalty equal to the amount of the license fee. However, in the case of a deputy weighmaster, no penalties shall be applied if a statement of nonemployment is filed.

The required statement shall be filed at the time of application.

SEC. 38. Section 12793 of the Business and Professions Code is amended to read:

12793. Any person is guilty of a misdemeanor who does any of the following acts:

(a) Requests a public weighmaster at large or any person employed by him or her to weigh, measure, or count any commodity falsely or incorrectly.

(b) Requests a false or incorrect certificate of weights and measures.

(c) Possesses unfilled or unused certificates of weights and measures forms if he or she is not a public weighmaster. This subdivision does not apply to a person engaged in the business of printing certificates of weights and measures forms nor to his or her representative.

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(d) Furnishes or gives false information to a weighmaster for use in the completion of a certificate of weights and measures.

(e) Presents for payment a certificate made false by the insertion of any weight, measure, or count not determined by the issuing weighmaster.

SEC. 39. Section 14415 of the Business and Professions Code is amended to read:

14415. The filing of articles of incorporation pursuant to Section 200 of the Corporations Code, in the case of a domestic corporation, or the obtaining of a certificate of qualification pursuant to Sections 2105 and 2106 of the Corporations Code, in the case of a foreign corporation, shall establish a rebuttable presumption that the corporation has the exclusive right to use as a trade name, in the state the corporate name set forth in the articles or certificate, as well as any confusingly similar trade name, if the corporation is the first to have filed the articles or obtained the certificate containing the corporate name, and is actually engaged in a trade or business utilizing that corporate name or a confusingly similar name.

If a foreign corporation continues to have authority to transact intrastate business pursuant to Section 2102 of the Corporations Code, the foreign corporation shall be considered to have obtained its certificate of qualification pursuant to law for the purposes of this section on the date it first qualified to transact intrastate business in this state.

The rebuttable presumption created by this section affects the burden of producing evidence.

SEC. 40. Section 17842 of the Business and Professions Code is amended to read:

17842. A suspended license is subject to expiration and shall be renewed as provided in this article, but the renewal does not entitle the licensee, while it remains suspended and until it is reinstated, to engage in the activity to which the license relates, or in any other activity or conduct in violation of the order or judgment by which it was suspended.

SEC. 41. Section 19409.5 of the Business and Professions Code is amended to read:

19409.5. "Harness horse racing" is that form of horseracing in which "standardbred horses" as defined in Section 19409 are harnessed to a sulky or similar vehicle, and are raced at either the trotting or pacing gait.

SEC. 42. Section 19464 of the Business and Professions Code is amended to read:

19464. No application for a horse owner's license or for a license to conduct a race meeting shall be granted unless the applicant's liability for workers' compensation is secured in accordance with Division 4 (commencing with Section 3700) of the Labor Code. Any termination of security for that liability during the period of a license shall result in the immediate automatic suspension of the license during the period of that termination and also shall be a ground for

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of Section 1 of the license.

SEC. 43. Section 23428.7 of the Business and Professions Code, as added by Chapter 623 of the Statutes of 1979, is amended and renumbered to read:

23428.4. For the purpose of this article, "club" also means any nonprofit social club with at least 100 members, which members are mobilehome owners within a private mobilehome park and have participated as social club members with a designated clubhouse for not less than one year.

SEC. 44. Section 23958.3 of the Business and Professions Code, as added by Chapter 445 of the Statutes of 1980, is repealed.

SEC. 45. Section 25.8 of the Civil Code is amended to read:

25.8. Either parent if both parents have legal custody, or the parent or person having legal custody or the legal guardian, of a minor may authorize in writing any adult person into whose care the minor has been entrusted to consent to any X-ray examination, anesthetic, medical or surgical diagnosis or treatment and hospital care to be rendered to the minor under the general or special supervision and upon the advice of a physician and surgeon licensed under the provisions of the Medical Practice Act or to consent to an X-ray examination, anesthetic, dental or surgical diagnosis or treatment and hospital care to be rendered to the minor by a dentist licensed under the provisions of the Dental Practice Act.

SEC. 46. Section 56.22 of the Civil Code is amended to read:

56.22. The disclosure of medical information regarding a patient which is subject to subdivision (b) of Section 1798.24 shall be made only with an authorization from the individual patient which complies with the provisions of this part. However, the disclosure may be made only within the time limits specified in subdivision (b) of Section 1798.24.

SEC. 47. Section 224 of the Civil Code is amended to read:

224. A child having a presumed father under subdivision (a) of Section 7004 cannot be adopted without the consent of its parents if living; however, if one parent has been awarded custody by judicial decree, or has custody by agreement of the parents, and the other parent for a period of one year willfully fails to communicate with and to pay for the care, support, and education of the child when able to do so, then the parent having custody alone may consent to the adoption, but only after the parent not having custody has been served with a copy of a citation in the manner provided by law for the service of a summons in a civil action that requires him or her to appear at the time and place set for the appearance in court under Section 227; failure of a parent to pay for the care, support and education of the child for the period of one year or failure of a parent to communicate with the child for the period of one year is prima facie evidence that the failure was willful and without lawful excuse; nor a child with no presumed father under subdivision (a) of Section 7004 without the consent of its mother if living; except that the consent of a father or mother is not necessary in the following cases:

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1. When the father or mother has been judicially deprived of the custody and control of the child (a) by order of the court declaring the child to be free from the custody and control of either or both of his parents pursuant to Chapter 4 (commencing with Section 232) of Title 2 of Part 3 of Division 1, or (b) by similar order of the court of another jurisdiction, pursuant to any law of that jurisdiction authorizing the order; or when the father or mother has, in a judicial proceeding in another jurisdiction, voluntarily surrendered his right to the custody and control of the child pursuant to any law of that jurisdiction providing for the surrender.

2. Where the father or mother of any child has deserted the child without provision for its identification.

3. Where the father or mother of any child has relinquished the child for adoption as provided in Section 224m; or where the father or mother has relinquished the child for adoption to a licensed or authorized child-placing agency in another jurisdiction pursuant to the law of that jurisdiction.

SEC. 48. Section 224a of the Civil Code is amended to read:

224a. The State Department of Social Services shall adopt such rules and regulations as it determines are reasonably necessary to assure that a parent or parents of Indian ancestry, seeking to relinquish a child for adoption, provide sufficient information to the licensed adoption agency or to the State Department of Social Services so that a certificate of degree of Indian blood can be obtained from the Bureau of Indian Affairs. The State Department of Social Services shall immediately request a certificate of degree of Indian blood from the Bureau of Indian Affairs upon obtaining the information. A copy of all documents pertaining to the degree of Indian blood and tribal enrollment, including a copy of the certificate of degree of Indian blood, shall become a permanent record in the adoption files and shall be housed in a central location and made available to authorized personnel from the Bureau of Indian Affairs when required to determine the adoptee's eligibility to receive services or benefits because of the adoptee's status as an Indian. This information shall be made available to the adopted person upon reaching the age of majority.

SEC. 49. Section 232.3 of the Civil Code is amended to read:

232.3. (a) Notwithstanding any other provision of law, an action to declare a child free from parental custody and control pursuant to Section 232 shall be heard not more than 45 days after filing of a petition therefor and completion of service thereon in the manner prescribed by law for service of civil process. Final determination of the matter shall be made as expeditiously as possible.

(b) In order to obtain a motion for a continuance of the hearing, written notice shall be filed within two court days of the date set for the hearing, together with affidavits or declarations detailing specific facts showing that a continuance is necessary, unless the court for good cause entertains an oral motion for continuance. Continuances shall be granted only upon a showing of good cause. Neither a

stipulation between counsel nor the convenience of the parties is in and of itself a good cause.

A continuance shall be granted only for that period of time shown to be necessary by the evidence considered at the hearing on the motion. Whenever any continuance is granted, the facts proven which require the continuance shall be entered upon the minutes of the court.

SEC. 50. Section 798.10 of the Civil Code, as amended and renumbered by Section 7 of Chapter 502 of the Statutes of 1980, is amended and renumbered to read:

798.11. "Resident" is a tenant or other person who lawfully occupies a mobilehome.

SEC. 51. Section 798.38 of the Civil Code is amended to read:

798.38. Where the management provides both master meter and submeter service of utilities to a tenant, for each billing period the cost of the charges for the period shall be separately stated along with the opening and closing readings for his meter. The management shall post in a conspicuous place, the prevailing residential utilities rate schedule as published by the serving utility.

SEC. 52. Section 798.56 of the Civil Code is amended to read:

798.56. A tenancy shall be terminated by the management only for one or more of the following reasons:

(a) Failure of the tenant to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the tenant receives a notice of noncompliance from the appropriate governmental agency.

(b) Conduct by the tenant, upon the park premises, which constitutes a substantial annoyance to other tenants.

(c) Failure of the tenant to comply with a reasonable rule or regulation of the park as set forth in the rental agreement or any amendment thereto.

No act or omission of the tenant shall constitute such a failure to comply unless and until the management has given the tenant written notice of the alleged rule or regulation violation and the tenant has failed to adhere to the rule or regulation within seven days.

(d) Nonpayment of rent, utility charges, or reasonable incidental service charges, provided that the tenant shall be given a three-day written notice to pay the amount due or to vacate the tenancy. The three-day written notice shall be given to the tenant in the manner prescribed by Section 1162 of the Code of Civil Procedure. Such notice may be given at the same time as the 60 days' notice required for termination of the tenancy. Payment by the tenant prior to the expiration of the three-day notice period, or payment by the legal owner, as defined in Section 18007 of the Health and Safety Code, or registered owner, as defined in Section 18010.2 of the Health and Safety Code, if other than the tenant, on behalf of the tenant prior to the expiration of 30 calendar days following the mailing of the notice to the legal owner or registered owner provided in subdivision

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(6) as Section 798.55, shall cure a default under this subdivision with respect to such payment. The tenant shall remain liable for all payments due up until the time the tenancy is vacated. Cure of a default of rent, utility charges, or reasonable incidental service charges by the legal owner or registered owner, if other than the tenant, as provided by this subdivision, may not be exercised more than twice during the term of the tenancy.

(e) Condemnation of the park.

(f) Change of use of the park or any portion thereof, provided:

(1) The management gives the tenants at least 15 days' written notice that the management will be appearing before a local governmental board, commission, or body to request permits for a change of use of the mobilehome park.

(2) The management gives the tenants 12 months' or more written notice of the proposed change after the management has made initial application to the local governmental board, commission, or body requesting a change of use. However, no tenant shall be required to vacate until all required permits for a change of use have been obtained. After all required permits have been obtained and the 12-month or more period specified in the notice has elapsed, the notice specified in Section 798.55 may be given.

If the change of use requires no local governmental permits, then notice shall be given 12 months or more prior to the management's determination that a change of use will occur. The management in the notice shall disclose and describe in detail the nature of the change of use.

(3) The management gives each proposed tenant written notice thereof prior to the inception of his or her tenancy that the management is requesting a change of use before local governmental bodies or that a change of use request has been granted.

(4) The notice requirements for termination of tenancy set forth in Sections 798.55, 798.56, and 798.57 shall be followed if the proposed change actually occurs.

(5) A notice of a proposed change of use given prior to January 1, 1980, which conforms to the requirements in effect at that time shall be valid. The requirements for a notice of a proposed change of use imposed by this subdivision shall only apply to notices given on or after January 1, 1980.

SEC. 53. Section 1821.23 of the Civil Code is amended and renumbered to read:

1861.23. (a) The defendant may except to the plaintiff's sureties not later than 10 days after levy of the writ of possession by filing with the court in which the action was brought a Notice of Exception to Sureties and mailing a copy of the notice to the levying officer and to the plaintiff. An affidavit stating that such copies have been mailed shall be filed with the court at the time the notice is filed.

(b) The plaintiff may except to the defendant's sureties not later than 10 days after the defendant's undertaking is filed by filing with

the court in which the action was brought a Notice of Exception to sureties and mailing a copy of the notice to the levying officer and to the defendant at the address set out in his undertaking. An affidavit stating that such copies have been mailed shall be filed with the court at the time the notice is filed.

(c) If the plaintiff or the defendant does not except to the sureties of the other as provided in this section, he waives all objection to them.

(d) When excepted to, the sureties shall justify in the manner provided in Chapter 7 (commencing with Section 830) before the court in which the action was brought at a time specified by the excepting party.

(e) If the plaintiff's sureties, or others in their place, fail to justify at the time and place appointed or do not qualify, the court shall vacate the temporary restraining order or preliminary injunction, if any, and the writ of possession and, if levy has occurred, order the levying officer or the plaintiff to return the property to the defendant. If the plaintiff's sureties do qualify, the court shall order the levying officer to deliver the property to the plaintiff.

(f) If the defendant's sureties, or others in their place, fail to justify at the time and place appointed or do not qualify, the court shall order the levying officer to deliver the property to the plaintiff, or, if the plaintiff has previously been given possession of the property, he shall retain such possession. If the defendant's sureties do qualify, the court shall order the levying officer or the plaintiff to deliver the property to the defendant.

SEC. 54. Section 3241 of the Civil Code is amended to read:

3241. The written notice to be given to the surety or sureties as provided in Section 3240 may be given by delivery thereof personally to, or by depositing same in the mail, postage prepaid, and certified or registered, addressed in accordance with any of the following which may be applicable:

(a) If to an individual surety, at his residence or place of business, if known.

(b) If to an individual surety and his or her residence is unknown, then in care of the county clerk of the county in which the bond has been recorded.

(c) If to a corporate surety, at the office or care of the agent designated by the surety in the bond as the address to which such notice shall be sent.

(d) At the office or care of any officer of the surety in this state.

(e) At the office of or care of the statutory agent of the surety in this state.

(f) By service in the manner provided by law for the service of a summons in a civil action.

SEC. 55. Section 4555 of the Civil Code is amended to read:

4555. (a) A final judgment made pursuant to Section 4553 shall not prejudice nor bar the rights of either of the parties to institute an action to set aside the final judgment for fraud, duress, accident,

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other grounds recognized at law or in equity or to make a motion pursuant to Section 473 of the Code of Civil Procedure.

(b) The court shall set aside a final judgment made pursuant to Section 4553 regarding all matters except the status of the marriage, upon proof that the parties did not meet the requirements of Section 4550 at the time the petition was filed.

SEC. 56. Section 4600.5 of the Civil Code, as added by Chapter 204 of the Statutes of 1979, is repealed. The repeal made by this section shall not affect the existence or validity of Section 4600.5 of the Civil Code, as added by Chapter 915 of the Statutes of 1979.

SEC. 57. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court shall have original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts shall have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars ($15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars ($15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars ($15,000) or property of a value not exceeding fifteen thousand dollars ($15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars ($1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars ($15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars ($1,000) per month or less, and the whole amount claimed is fifteen thousand dollars ($15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars ($15,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with

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Section 3109), of Title 15 of Part 4 of Division 3 of the Civil Code where the amount of the liens is fifteen thousand dollars ($15,000) or less. However, where an action to enforce the lien is pending in a municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of fifteen thousand dollars ($15,000) the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right or indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver in aid of execution as provided in subdivision 4 of Section 564; to charge the interest of a debtor partner with payment of the unsatisfied amount of any judgment rendered by the court in the manner provided in Section 15028 of the Corporations Code, or any amendment thereof, and in those cases to appoint a receiver and to make any order or perform any act mentioned or authorized in that section; in proceedings under Section 689, or any amendments thereof, to determine title to personal property seized in an action pending in, or upon execution issued by, such court.

(9) In all actions under Section 720 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding fifteen thousand dollars ($15,000) or the debt denied does not exceed fifteen thousand dollars ($15,000).

(b) Each municipal and justice court shall have jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than fifteen thousand dollars ($15,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to this section at the 1977–78 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 58. Section 119.6 of the Code of Civil Procedure is repealed.

SEC. 59. Section 119.9 of the Code of Civil Procedure is repealed.

SEC. 60. Section 120.1 of the Code of Civil Procedure is repealed.

SEC. 61. The heading of Article 4 (commencing with Section 121) of Chapter 5-B of Title 1 of Part 1 of the Code of Civil Procedure is repealed.

SEC. 62. The heading of Article 6 (commencing with Section 123) of Chapter 5-B of Title 1 of Part 1 of the Code of Civil Procedure is repealed.

SEC. 63. Section 123 of the Code of Civil Procedure is repealed.

SEC. 64. Section 123.1 of the Code of Civil Procedure is repealed.

SEC. 65. Section 123.4 of the Code of Civil Procedure is repealed.

SEC. 66. Section 123.5 of the Code of Civil Procedure is repealed.

SEC. 67. Section 123.7 of the Code of Civil Procedure is repealed.

SEC. 68. Section 329 of the Code of Civil Procedure is amended to read:

329. The time within which an action for the foreclosure of a lien securing an assessment against real property for street improvements, the proceedings for which are prescribed by legislation of any political unit other than the state, may be commenced, shall be two years from and after the date on which the assessment, or any bond secured thereby, or the last installment of the assessment or bond, shall be due, or, as to existing rights of action not heretofore barred, one year after the effective date hereof, whichever time is later. After that time, if the lien has not been otherwise removed, the lien ceases to exist and the assessment is conclusively presumed to be paid. The official having charge of the records of the assessment shall mark it "Conclusively presumed paid," if, at the expiration of the time within which such action might be brought he has received no written notice of the pendency of the action.

SEC. 69. Section 446 of the Code of Civil Procedure is amended to read:

446. Every pleading shall be subscribed by the party or his attorney. When the state, any county thereof, city, school district, district, public agency, or public corporation, or any officer of the state, or of any county thereof, city, school district, district, public agency, or public corporation, in his or her official capacity, is plaintiff, the answer shall be verified, unless an admission of the truth of the complaint might subject the party to a criminal prosecution, or, unless a county thereof, city, school district, district, public agency, or public corporation, or an officer of the state, or of any county, city, school district, district, public agency, or public corporation, in his or her official capacity, is defendant. When the complaint is verified, the answer shall be verified. In all cases of a

verification of a pleading, the affidavit of the party shall state that the same is true of his own knowledge, except as to the matters which are therein stated on his or her information or belief, and as to those matters that he or she believes it to be true; and where a pleading is verified, it shall be by the affidavit of a party, unless the parties are absent from the county where the attorney has his or her office, or from some cause unable to verify it, or the facts are within the knowledge of his or her attorney or other person verifying the same. When the pleading is verified by the attorney, or any other person except one of the parties, he or she shall set forth in the affidavit the reasons why it is not made by one of the parties.

When a corporation is a party, the verification may be made by any officer thereof. When the state, any county thereof, city, school district, district, public agency, or public corporation, or an officer of the state, or of any county thereof, city, school district, district, public agency, or public corporation, in his or her official capacity is plaintiff, the complaint need not be verified; and if the state, any county thereof, city, school district, district, public agency, or public corporation, or an officer of such state, county, city, school district, district, public agency, or public corporation, in his or her official capacity is defendant, its or his or her answer need not be verified.

When the verification is made by the attorney for the reason that the parties are absent from the county where he or she has his or her office, or from some other cause are unable to verify it, or when the verification is made on behalf of a corporation or public agency by any officer thereof, the attorney's or officer's affidavit shall state that he or she has read the pleading and that he or she is informed and believes the matters therein to be true and on that ground alleges that the matters stated therein are true. However, in those cases the pleadings shall not otherwise be considered as an affidavit or declaration establishing the facts therein alleged.

A person verifying a pleading need not swear to the truth or his or her belief in the truth of the matters stated therein but may, instead, assert the truth or his or her belief in the truth of those matters "under penalty of perjury."

SEC. 70. Section 917.7 of the Code of Civil Procedure is amended to read:

917.7. The perfecting of an appeal shall not stay proceedings as to those provisions of a judgment or order which award, change, or otherwise affect the custody, including the right of visitation, of a minor child in any civil action, in an action filed under the Juvenile Court Law, or in a special proceeding, or the provisions of a judgment or order for the temporary exclusion of a party from the family dwelling or the dwelling of the other party, as provided in Section 4359 of the Civil Code. However, the trial court may in its discretion stay execution of such provisions pending review on appeal or for such other period or periods as to it may appear appropriate. Further, in the absence of a writ or order of a reviewing court providing otherwise, the provisions of the judgment or order

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allowing, or eliminating restrictions against, removal of the minor child from the state are stayed by operation of law for a period of 30 days from the entry of the judgment or order and are subject to any further stays ordered by the trial court, as herein provided.

SEC. 71. Section 1046 of the Code of Civil Procedure is amended to read:

1046. An affidavit, notice, or other paper, without the title of the action or proceeding in which it is made, or with a defective title, is as valid and effectual for any purpose as if duly entitled, if it intelligibly refers to the action or proceeding.

SEC. 72. Section 1282.2 of the Code of Civil Procedure is amended to read:

1282.2. Unless the arbitration agreement otherwise provides, or unless the parties to the arbitration otherwise provide by an agreement which is not contrary to the arbitration agreement as made or as modified by all the parties thereto:

(a) (1) The neutral arbitrator shall appoint a time and place for the hearing and cause notice thereof to be served personally or by registered or certified mail on the parties to the arbitration and on the other arbitrators not less than seven days before the hearing. Appearance at the hearing waives the right to notice.

(2) With the exception of matters arising out of collective-bargaining agreements, those described in Section 1283.05, actions involving personal injury or death, or as provided in the parties' agreement to arbitrate, in the event the aggregate amount in controversy exceeds fifty thousand dollars ($50,000) and the arbitrator is informed thereof by any party in writing by personal service, registered or certified mail, prior to designating a time and place of hearing pursuant to paragraph (1), the neutral arbitrator by the means prescribed in paragraph (1) shall appoint a time and place for hearing not less than 60 days before the hearing, and the following provisions shall apply:

(A) Either party shall within 15 days of receipt of the notice of hearing have the right to demand in writing, served personally or by registered or certified mail, that the other party provide a list of witnesses it intends to call designating which witnesses will be called as expert witnesses and a list of documents it intends to introduce at the hearing provided that the demanding party provides such lists at the time of its demand. A copy of such demand and the demanding party's lists shall be served on the arbitrator.

(B) Such lists shall be served personally or by registered or certified mail on the requesting party 15 days thereafter. Copies thereof shall be served on the arbitrator.

(C) Listed documents shall be made available for inspection and copying at reasonable times prior to the hearing.

(D) Time limits provided herein may be waived by mutual agreement of the parties if approved by the arbitrator.

(E) The failure to list a witness or a document shall not bar the testimony of an unlisted witness or the introduction of an

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and sign a statement at the hearing, provided that good cause for omission from the requirements of subparagraph (A) is shown, as determined by the arbitrator.

(F) The authority of the arbitrator to administer and enforce this paragraph shall be as provided in subdivisions (b) to (e), inclusive, of Section 1283.05.

(b) The neutral arbitrator may adjourn the hearing from time to time as necessary. On request of a party to the arbitration for good cause, or upon his own determination, the neutral arbitrator may postpone the hearing to a time not later than the date fixed by the agreement for making the award, or to a later date if the parties to the arbitration consent thereto.

(c) The neutral arbitrator shall preside at the hearing, shall rule on the admission and exclusion of evidence and on questions of hearing procedure and shall exercise all powers relating to the conduct of the hearing.

(d) The parties to the arbitration are entitled to be heard, to present evidence and to cross-examine witnesses appearing at the hearing, but rules of evidence and rules of judicial procedure need not be observed. On request of any party to the arbitration, the testimony of witnesses shall be given under oath.

(e) If a court has ordered a person to arbitrate a controversy, the arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a party ordered to arbitrate, who has been duly notified, to appear.

(f) If an arbitrator, who has been duly notified, for any reason fails to participate in the arbitration, the arbitration shall continue but only the remaining neutral arbitrator or neutral arbitrators may make the award.

(g) If a neutral arbitrator intends to base an award upon information not obtained at the hearing, he shall disclose the information to all parties to the arbitration and give the parties an opportunity to meet it.

SEC. 73. Section 1567 of the Code of Civil Procedure is amended to read:

1567. The Director of Parks and Recreation may examine any tangible personal property delivered to the Controller under this chapter for purposes of determining whether such property would be useful under the provisions of Section 512 of the Public Resources Code. If the director makes such a determination with respect to the property, the Controller may deliver the property to the director for use in carrying out the purposes of Section 512 of the Public Resources Code. Upon the termination of any such use, the director shall return the property to the Controller.

SEC. 74. Section 1952 of the Code of Civil Procedure is amended to read:

1952. The court, on its own motion, may order destroyed or otherwise disposed of any exhibit or deposition introduced in the trial of a civil action or proceeding or filed in such action or

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proceeding which, if appeal has not been taken from the decision of the court in the action or proceeding, remains in the custody of the court or clerk six months after time for appeal has expired, or, if appeal has been taken, remains in the custody of the court or clerk six months after final determination thereof or the dismissal of such action or proceeding, or which remains in the custody of the court or clerk for a period of six months after any of the following:

(a) A motion for a new trial has been granted and a memorandum to set the case for trial has not been filed or a motion to set for trial has not been made within such six months.

(b) The filing of the remittitur where the action or proceeding, after appeal, has been remanded to the trial court for a new trial and the same has not been brought to trial within such six months.

(c) The dismissal of such action or proceeding.

(d) The introduction or filing thereof where the foregoing provisions of this section make no provision for the destruction or other disposition of such exhibit or deposition and where in the discretion of the court the same should be destroyed or otherwise disposed of.

The order shall be entered in the register of actions of each case in which any such order is made.

No exhibit or deposition shall be ordered destroyed or otherwise disposed of pursuant to the provisions of this section where a party to the action or proceeding files a written notice with the court requesting the preservation of any exhibit or deposition for a stated time, but not to exceed three years. Such exhibit or deposition may be destroyed after such time unless another such notice is filed.

No exhibit or deposition shall be ordered destroyed or otherwise disposed of pursuant to the provisions of this section until 30 days after notice of such proposed action has been mailed to all attorneys of record and to all parties not having an attorney of record. Such notice is complete upon mailing of written notice by the clerk, or by the court if there is no clerk, to the attorney, or to the party if he has no attorney, at his last address shown in the file.

SEC. 75. Section 2034 of the Code of Civil Procedure is amended to read:

2034. (a) If a party or other deponent refuses or fails to answer any question propounded upon examination during the taking of a deposition, or refuses or fails to produce at a deposition any books, documents or other things under his control pursuant to a subpoena duces tecum, the examination shall be completed on other matters or adjourned, as the proponent of the question may prefer. The proponent, on notice to all persons affected thereby, may move the court in which the action is pending (if the deponent is a party or otherwise subject to the jurisdiction of such court), or if the court does not have jurisdiction over the deponent, to the superior court of the county in which the deposition is taken for an order compelling an answer or if good cause is shown, the production of the book, document, or other thing. The motion may also be made,

without further notice, if the proponent notifies the refusing party or other deponent at the time of the refusal or failure that the proponent will apply to the court for an order pursuant to this subdivision of this section, at a specified time not less than 10 nor more than 30 days from the date of such refusal or failure, in which event the officer before whom the deposition is taken shall direct the refusing or failing party or other deponent to attend a session of said court at said time. Not less than five days prior to the hearing on any such motion, the proponent must lodge with the court the original transcript of the deposition. Upon the refusal or failure of a party to answer any interrogatory submitted under Section 2030, the proponent of the question may on like notice make like application for such an order. Upon the filing and service of either written objections to a request under Section 2033, or an answer deemed by the requesting party not to be in compliance with the requirements of Section 2033, the party serving the request may on like notice make like application for an order requiring answers or further answers to the request. If the motion is granted the court shall order that an answer or further answer be served within an appropriate time. Upon the refusal or failure of a party to identify documents, papers, books, accounts, letters, photographs, objects, or tangible things or to permit inspection or entry after having been served with a request under Section 2031, the party serving the request may on like notice and upon a showing of good cause make application for an order to compel compliance with the request. If the court finds that the refusal or failure or objection was without substantial justification or that the answer does not comply with the requirements of Section 2033, the court may require the refusing or failing or objecting party or deponent and the party or attorney advising the refusal or failure or objection or any of them to pay to the examining party the amount of the reasonable expenses incurred in obtaining the order, including reasonable attorney's fees. If the motion is denied and if the court finds that the motion was made without substantial justification, the court may require the examining party or the attorney advising the motion or both of them to pay to the refusing or failing or objecting party or witness the amount of the reasonable expenses incurred in obtaining the order, including reasonable attorney's fees.

If the court orders that an answer or further answer to requests for admissions be made, and the answer or further answer is not filed and served within the period ordered by the court, each of the matters involved in the order shall be deemed admitted, subject only to relief pursuant to Section 473, as restricted by the provisions of Section 2033.

(b) (1) The court may punish as a contempt (i) the refusal of any person to obey a subpoena issued by that court to attend a deposition or to be sworn as a witness, or (ii) the refusal of any person to attend a session of court (either personally or by his attorney) after having been directed to attend in the manner provided in subdivision (a),

or (iii) the refusal of any person to obey any order made by the court under subdivision (a).

(2) If any party or person for whose immediate benefit the action or proceeding is prosecuted or defended, or an officer, director, superintendent, member, agent, employee, or managing agent of that party or person refuses to obey an order made under subdivision (a), or if any party or an officer or managing agent of a party refuses to obey an order made under Section 2019, 2031, or 2032, the court may make any orders in regard to the refusal which are just, including, but not limited to, any of the following:

(A) An order that the matters regarding which the questions were asked, or the character or description of the thing or land, or the contents of the paper, or the physical or mental or blood condition of the person sought to be examined, or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order.

(B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing in evidence designated documents or things or items of testimony, or from introducing evidence of the physical or mental or blood condition of the person sought to be examined.

(C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party.

(D) An order requiring the disobedient party or the attorney advising such disobedience to pay to the party obtaining an order under this section the reasonable expenses incurred in obtaining the order, including reasonable attorney's fees.

(E) In lieu of any of the foregoing orders or in addition thereto, an order directing the arrest of any party or agent of a party for disobeying any of such orders except an order to submit to a physical or mental or blood examination.

(F) If a party fails to comply with an order under subdivision (a) of Section 2032 requiring him to produce another for examination, those orders listed in paragraph (A), (B), or (C), unless the party failing to comply shows that he is unable to produce the person for examination.

(c) If a party, after being served with a request under Section 2033 to admit the genuineness of any documents or the truth of any matters of fact, serves a sworn denial thereof and if the party requesting the admissions thereafter proves the genuineness of any document or the truth of any matter of fact, he may apply to the court in the same action for an order requiring the other party to pay him or her the reasonable expenses incurred in making the proof, including reasonable attorney's fees. If the court finds that there were no good reasons for the denial and that the admissions sought were of substantial importance, the order shall be made.

(d) If a party or a person for whose immediate benefit the action or proceeding is prosecuted or defended or anyone who at the time the deposition is set is an officer, director, or managing agent of any party or person willfully fails to appear before the officer who is to take his deposition, after the party or his attorney has been served with a proper notice in accordance with the provisions of paragraph (4) of subdivision (a) of Section 2019, or if a party or an officer or managing agent of a party willfully fails to serve answers to interrogatories submitted under Section 2030, after proper service of the interrogatories, the court on motion and notice may strike out all or any part of any pleading of that party, or dismiss the action or proceeding or any part thereof, or enter a judgment by default against that party, or impose other penalties of a lesser nature the court may deem just, and may order that party or his attorney to pay to the moving party the reasonable expenses in making the motion, including reasonable attorney's fees.

SEC. 76. Section 1273 of the Education Code, as added by Chapter 909 of the Statutes of 1978, is amended and renumbered to read:

1274. The county superintendent of schools may establish a fund or funds for losses, and payments, including, but not limited to, property of the superintendent, any liability, and workers' compensation, in the county treasury for the purpose of covering the deductible amount under deductible types of insurance policies, losses or payments arising from self-insurance programs, or losses or payments due to noninsured perils. In the fund or funds shall be placed such sums, to be provided in the budget of the superintendent, as will create an amount which, together with investments made from the fund or funds, will be sufficient in the judgment of the superintendent to protect the superintendent from those losses or to provide for payments on the deductible amount under deductible types of insurance policies, losses or payments arising from self-insurance programs, or losses or payments due to noninsured perils. Nothing in this section shall be construed as prohibiting the superintendent from providing protection against those losses or liability for the payment of claims partly by means of the fund or funds and partly by means of insurance written by acceptable insurers as provided in Section 39601.

The fund or funds shall be considered as separate and apart from all other funds of the superintendent, and the balance therein shall not be considered as being part of the working cash of the superintendent in compiling annual budgets.

Warrants may be drawn on, or transfers made from, the fund or funds so created only to reimburse or indemnify the superintendent for losses as herein specified, and for the payment of claims, administrative costs, related services, and to provide for deductible insurance amounts and purchase of excess insurance. The warrants or transfers shall be within the purpose of the fund or funds as established by the superintendent.

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The cash placed in the fund or funds may be invested and reinvested by the county treasurer, with the advice and consent of the superintendent, in securities which are legal investments for surplus county funds in this state. The income derived from the investments, together with interest earned on uninvested funds, shall be considered revenue of and be deposited in the fund. The cost of contracts or services authorized by this section are appropriate charges against the respective fund.

The superintendent may contract for investigative, administrative, and claims adjustment services relating to claims. The contract may provide that the contracting firm may reject, settle, compromise, and approve claims against the superintendent, its officers or employees, within those limits and for those amounts as the superintendent may specify, and may provide that the contracting firm may execute and issue checks in payment of those claims, which checks shall be payable only from a trust account which may be established by the superintendent. Funds in the trust account established by the superintendent pursuant to the provisions of this section shall not exceed a sum sufficient as determined by the superintendent to provide for the settlement of claims for a 30-day period. The rejection or settlement and approval of a claim by the contracting firm in accordance with the terms of the contract shall have the same effect as would the rejection or settlement and approval of the claim by the superintendent. The contract may also provide that the contracting firm may employ legal counsel, subject to those terms and limitations as the superintendent may prescribe, to advise the contracting firm concerning the legality and advisability of rejecting, settling, compromising, and paying claims referred to the contracting firm by the superintendent, for investigation and adjustment, or to represent the superintendent in litigation concerning the claims. The compensation and expenses of the attorney for services rendered to the superintendent shall be an appropriate charge against the appropriate fund.

The contract provided for in this section may contain any other terms and conditions the superintendent may consider necessary or desirable to effectuate the superintendent's self-insured programs.

In lieu of, or in addition to, contracting for the services described in this section, the superintendent may authorize an employee or employees to perform any or all of the services and functions which the superintendent may contract for under the provisions of this section.

As used in this section, "firm" includes a person, corporation, or other legal entity.

A county superintendent of schools may participate in, or administer, insurance for one or more school or community college districts pursuant to this section, and Sections 39602 and 81602.

SEC. 77. Section 16039 of the Education Code is amended to read:

16039. Notwithstanding any other provisions of this chapter, a district which applies for an apportionment for the purchase of a site

or for the cost of the preparation of plans and specifications, which is not a part of a construction project, shall make a separate application for the site or plans and specifications in the same manner as prescribed by Section 16024.

All of the provisions of this chapter apply to that application and apportionment except that:

(a) If the Department of Education determines that within five years in the case of an application for an elementary grade level maintained by the district, or within seven years, in the case of an application for a high school grade level maintained by the district, from the date of the application for the site or for the plans and specifications, there will be sufficient enrollment in the district, based upon enrollment projection criteria adopted by the board, to show the need of such site or for the plans and specifications, it may approve the application. The board may modify a determination respecting future enrollment in connection with an application for an elementary grade level maintained by the district to utilize a period of seven years from the date of the application if it is necessary to meet the emergency conditions existing in that certain district due to a rapid increase in the enrollment of pupils, or due to the scarcity of land within the district, or both. Any application referred to the board pursuant to this section may be either approved in whole or in part, not exceeding the amount applied for, as the board may deem appropriate, pursuant to Sections 16024 and 16035, except that the board may approve additional portions of an application and make an additional apportionment or apportionments within five years of the original approval without requiring a district to issue additional bonds. No additional approval pursuant to the original application or apportionment thereunder may be made unless the board first has investigated and determined the necessity of the additional approval or apportionment, and has received a report thereon from the Department of Education. Any provision of Section 16024 inconsistent with this section does not apply to that application. As used in this section, an "elementary grade level maintained by the district" is a grade level composed of the grades and maintained by the districts specified in clause (1) of subdivision (e) of Section 16002. As used in this section a "high school grade level maintained by the district" is a grade level composed of the grades and maintained by the districts specified in clause (2) of subdivision (e) of Section 16002.

(b) Section 16007 does not apply.

(c) An application for a site pursuant to this section may include an amount for the preparation of plans and specifications for school facilities and for the development of the site, which will conform to those eligible for construction under this chapter.

(d) If the application is approved and an apportionment granted therefor the district shall repay the full amount of the apportionment and the interest thereon. The repayment of the apportionment for a site and the interest thereon, may be over a period of years, not to exceed 30 years from the first day of January of the fiscal year next

succeeding the fiscal year in which the apportionment became final. The repayment of the apportionment for plans and specifications, and the interest thereon, may be over a period of years, not to exceed 30 years from the first day of January of the second fiscal year succeeding the fiscal year in which such apportionment became final. The number of years allowed for repayment shall be determined by the board at the time it fixes interest on the apportionment. The repayment is in addition to any other repayment required under this chapter. If an apportionment is granted pursuant to this section for a site and the site is subsequently used in a construction project for which an apportionment is received under other provisions of this chapter, or if an apportionment is granted pursuant to this section for plans and specifications and the plans and specifications are subsequently used in a construction project for which an apportionment is received under other provisions of this chapter, the district shall not be required to make any further repayments for the site, or the plans and specifications, as the case may be, pursuant to this section and the unpaid balance of the apportionment and interest owing on the apportionment for the site, or the plans and specifications, as the case may be, pursuant to this section shall be added to the principal amount of the apportionment and accrued interest thereon for the construction project. The site is "subsequently used in a construction project" within the meaning of the preceding sentence, if it is used in connection with a construction project at the same grade level by any district receiving a construction apportionment therefor, as this is not intended as a change in the present law, but as a statement of the existing law. In addition, the site is "subsequently used in a construction project" within the meaning of that reference, if it is used in connection with the construction project by any district receiving a construction apportionment therefor at a different grade level, providing that in the latter instance the board in its discretion consents by resolution to the combination of the site and construction apportionments.

SEC. 78. Section 16406 of the Education Code is amended to read:

16406. The bonds authorized to be issued under this chapter shall be sold by the State Treasurer to the highest bidder for cash at public sale upon sealed bids in such parcels and numbers as the State Treasury shall be directed by the Governor, under seal thereof, but the State Treasurer shall reject any and all bids for those bonds, or for any of them, which is below the par value of the bonds so offered plus the interest thereon which accrues between the date of purchaser's payment for the bonds and the last preceding interest maturity date; and the State Treasurer may from time to time, by public announcement at the place and time fixed for the sale, continue the sale, as to the whole of the bonds offered, or any part thereof offered, at that time and place which the State Treasurer may select. Each bid shall be in writing and signed by the bidder and sealed, and shall be accompanied by the deposit of a certified check

a cashier's check for five thousand dollars ($5,000), drawn on a bank or trust company authorized to transact and transacting business in the State of California, payable to the Treasurer of the State of California, such deposit not to bear interest. The deposit of each unsuccessful bidder shall be returned to him immediately upon the nonacceptance of his or her bid, and a deposit of the successful bidder shall immediately upon the acceptance of his or her bid become and be the property of the State of California and be placed in the State Treasury to the credit of the State School Building Aid Fund, and shall be credited to the successful purchaser upon the purchase price of the bonds bid for in case the purchase price is paid in full by him or her within the time mutually agreed upon between the successful bidder and the State Treasurer. If the purchase price is not so paid, the successful bidder shall have no right in and to the bonds or by reason of the bid, or to the recovery of the deposit accompanying the bid, or to any allowance or credit by reason of that deposit unless it appears that the bonds would not be validly issued if delivered to the purchaser in the form and manner proposed. In case the purchase price is not so paid, the bonds so sold but not paid for shall be resold by the State Treasurer upon notice as provided in case of original sale.

Temporary or interim bonds, certificates, or receipts of any denomination whatever and with or without coupons attached thereto, to be signed by the State Treasurer, may be issued and delivered until the definitive bonds are executed and available for delivery. Signature of the State Treasurer may be by signature stamp.

SEC. 79. The heading of Article 4 (commencing with Section 19700) of Chapter 9 of Part 11 of the Education Code is amended to read:

Article 4. Biennial Election of Trustees

SEC. 80. Section 22509 of the Education Code is amended to read:

22509. Members who on January 1, 1976, are in state service positions according to former Section 13948 as it read on December 31, 1975, or who are employees of the Trustees of the California State University and Colleges, may elect in writing prior to July 1, 1976, not to continue as members of this system and to transfer membership to the Public Employees' Retirement System. Failure to execute and file the election which must be received in the office of this system by the close of business on June 30, 1976, shall be deemed a decision to remain as a member of this system.

SEC. 81. Section 23804 of the Education Code is amended to read:

23804. If on the date of death the member had met the following conditions:

(a) Death occurred after June 30, 1972, and

(b) Had one or more years of credited service, and

(c) If the member had a refund of accumulated retirement

contributions, at least one year of credited service had been performed subsequent to the most recent refund of accumulated retirement contributions, and

(d) If the member had been reinstated to membership under the provisions of Section 23913, at least one year of credited service had been performed subsequent to the date of reinstatement, and

(e) If there had been a break in service of more than one year, one-half year of credited service had been performed after the end of last break, and

(f) The provisions of Sections 23800 and 23801 have been met, or

(g) Lacking the above, was a disabilitant receiving a disability allowance based upon projected salary which began to accrue after June 30, 1972; a family allowance shall be paid subject to the provisions of this chapter and Section 24203 as follows:

(1) To the surviving spouse, having financial responsibility for at least one dependent child who qualifies under Section 22112 there shall be paid an amount, in monthly installments, equal to 40 percent of the deceased's final compensation, plus 10 percent of the final compensation for each child, up to a maximum of 90 percent of the final compensation. If there are children who are not in the care of the surviving spouse, the amount of the allowance in excess of 40 percent of the final compensation shall be divided equally among all children and is payable to the trustee of the estate of such children under age 18 or their guardian if no trustee is designated or to the children age 18 and over, or

(2) If there is no surviving spouse or the surviving spouse subsequently dies or remarries and there are children who qualify under Section 22112, there shall be paid to the trustee of the estate of surviving children under 18 as designated by the member, or the guardian of the children under age 18 if no trustee is designated, or to the child if over age 18, an amount payable in monthly installments equal to 10 percent of the deceased's final compensation, up to a maximum of 50 percent of the final compensation. If there are more than five children, they shall share equally in the maximum of 50 percent, or

(3) If there is no allowance being paid under paragraph (1) or (2) the unremarried spouse age 60 or over shall receive a monthly payment equal to the amount which would have been payable to the spouse based on projected service and projected salary, had the member continued service to age 60 and at that time elected option number three. The allowance payable under this paragraph shall be increased by application of the benefit improvement factor for time which elapses between the date the member would have reached age 60 and the date the allowances commence to accrue under this paragraph. For the calculation of the benefit, it shall be considered that the member died on the June 30 following the actual date of death and the spouse reached age 60 on the June 30 prior to attainment of that age, but the allowance shall not begin to accrue until the spouse attains age 60.

(4) If there is no surviving spouse or children entitled to allowances under paragraph (1), (2), or (3) at the time of the member's death, the dependent parent, age 60, or upon attainment of that age, shall receive an allowance based on projected service and projected earned salary equal to the amount which would have been paid if the member had retired at age 60 and elected option number three. If there are two parents who qualify under this paragraph, the total benefit will be computed on the assumption that the youngest parent is the beneficiary, and the total shall be divided equally for so long as there are two qualifying parents. Otherwise, the total amount shall be payable to the one who qualifies.

The benefits payable under paragraphs (1) and (2) because of the death of a disabilitant shall be based on projected salary.

Allowances payable under this section are in lieu of the death benefit payable under paragraph (1) of subdivision (b) of Section 23800 irrespective of the beneficiary designated to receive that benefit, except that if there are no children who qualify for an allowance under Section 22112, a spouse or the dependent parent or parents may elect, prior to the receipt of the first payment under paragraph (3) or (4), to receive the accumulated contributions in a lump sum subject to a reduction for any payments made from the account for any prior qualified persons.

SEC. 82. Section 23902 of the Education Code is amended to read:

23902. A member may apply for a disability allowance if he has five or more years of credited service and all of the following requirements are met:

(a) At least four years were credited for actual service performed in a position requiring membership in the system. Credit received because of workers' compensation payments shall be counted toward the four-year requirement.

(b) The last five years of credited service have been served in this state.

(c) At least one year was credited for service performed subsequent to the date on which the member was reinstated to membership under the provisions of Section 23913.

(d) At least one year was credited for service performed subsequent to the most recent refund of accumulated retirement contributions.

(e) The member has not attained age 60 years, or has unused sick leave with sufficient days to have him receive salary on account of sick leave to age 60 years.

Nothing in this section shall affect the right of a member to a disability allowance if the reason that the member has less than four years of actual service is due to an on-the-job injury or disease in a position requiring membership in the system.

SEC. 83. Section 23918 of the Education Code is amended to read:

23918. Any retirant whose last employment was in the California State University and Colleges, as a member of this system or the Public Employees' Retirement System, may serve as a member of

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the teaching staff of the California State University and Colleges and shall be subject to the employment limitations as provided by the Public Employees' Retirement Law (Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code).

SEC. 84. Section 24806 of the Education Code is amended to read:

24806. (a) A district retirement salary plan established under Sections 24800 to 24812, inclusive, in any school district or districts, in which the average daily attendance of all districts combined is in excess of 200,000, governed by the same governing board, may be discontinued by the governing board of the district or districts, with the consent of the majority of the active members of the system expressing their desires with respect to the discontinuance of the plan evidenced in such manner as the governing board may prescribe; but no discontinuance of any retirement plan shall be effective for any purpose unless provision is made for retirement allowances for active and retired employees of the district as provided in subdivisions (b), (c), (d), and (e).

(b) (1) Active and retired employees of the district or districts who otherwise would be members of the plan, other than teachers and persons employed in a status requisite for membership in the State Teachers' Retirement System or who were so employed prior to retirement, shall be made members and beneficiaries, respectively, of the Public Employees' Retirement System according to the provisions of Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code, including transfer to the system of the accumulated contributions of the employees, together with any other assets of the plan as may be determined.

(2) With respect to persons who are members of the plan at its discontinuance, it shall be provided in the contract making the employees members of the Public Employees' Retirement System, that their respective rates of contribution thereunder shall be based on the age at the nearest birthday at July 1, 1944, or at the respective later effective dates of their membership in the plan, all instead of the age at the nearest birthday at the effective date of membership in the employees' system.

(3) Each employee of the district or districts who is included in the contract, but who during all or part of his or her employment in a status requisite for membership in the plan was not a member thereof, because of his or her election under an available option, or who failed to redeposit upon reentry into membership contributions previously withdrawn, shall have the right to elect by written document filed with the Board of Administration, Public Employees' Retirement System, at any time within 90 days after the date upon which the notice of the right to make the election is mailed by the system to the member's latest address on file in the office of the system, and prior to the date of retirement, to contribute to the system, subject to minimum payments fixed by the board of administration, and in one or more sums, or in not to exceed 60 monthly payments, an amount which, when added to his

accumulated contributions, including interest, transferred as required in paragraph (1), will make a total amount equal to the accumulated contributions, including interest, which would have been credited to him or her in the plan, if he or she had never elected not to be a member thereof, or if he or she had redeposited the withdrawn contributions upon reentry, as the case may be. The employee shall pay to the Public Employees' Retirement System interest on the unpaid balance of the amount payable to the system, beginning with the date of discontinuance of the plan at the rate of interest currently used from time to time under the system. If the employee elects to make, and makes such contributions, and pays the interest, but not otherwise, he or she shall receive credit under the employees' system, as state service, for all the service rendered while he or she was not a member of the plan, because of his or her optional exclusion, or for all service upon which the withdrawn contributions were based, and for the purpose of paragraph (2) shall be considered as a member of the plan at its discontinuance and from November 1, 1937, or later beginning date of the service. Regardless of whether the contributions are made, the employee shall receive credit for service with which he or she was credited or would have been credited if he or she had been a member, as prior service under the plan. The contributions under this paragraph shall be added to and administered in the same manner as the contributions transferred under paragraph (1).

(4) Service rendered by active employees, who are made members of the Public Employees' Retirement System, prior to the assumption by the district or districts of the function under which the service was rendered, such as, but not limited to, cafeterias and student body activities, shall be credited under the employees' system; provided, the service qualified for credit under the discontinued plan.

(5) The contract making the active employees members of the Public Employees' Retirement System, shall include the employees with respect to service rendered in a status in which they are not eligible for membership in the State Teachers' Retirement System, as provided in Section 20491 of the Government Code, and also with respect to service rendered in a status in which they are eligible for membership, but which is no longer credited under the retirement system, and the service shall be credited in the same manner applicable to service otherwise qualifying for credit.

(6) Retirement allowances being paid under the discontinued plan to retired employees of the district or districts, who are made beneficiaries of the Public Employees' Retirement System, shall be changed by action of the governing board of the districts, effective at the discontinuance of the plan, to retirement allowances calculated on the basis of service used in the calculation of the respective allowances under the plan, and average annual salary earnable during the highest three consecutive years of creditable service, calculated according to the methods used at the date of

discontinuance under the plan in determining salary earnable, but excluding any salary based on overtime as provided in Section 20025.2 of the Government Code, but otherwise according to the formulae under the employees' system which apply to active employees who are made members thereof. The changed allowances shall be paid to beneficiaries for time commencing on the date they are made beneficiaries of the employees' system. No allowance shall be reduced by the change.

(7) If two or more districts under the control and management of a single governing board are participants in the plan, one contract between the board of administration and the governing board may include all the districts. The governing board may apportion the total contributions required under the contract, among the districts on the basis of total salaries upon which the contributions are computed, and on the basis of other pertinent information.

(8) Paragraph (1) of this subdivision notwithstanding, the contract making active employees members of the Public Employees' Retirement System, shall include teachers and persons employed in a status requisite for membership in the State Teachers' Retirement System, with respect to service rendered in a status in which they would have been eligible for membership in the Public Employees' Retirement System, if the district or districts by which they were employed had been participating in that system under Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code. Contributions deducted from salary earned by the employees in that service, together with credited interest, and standing to the credit of the employees at the effective date of discontinuance of the plan, shall be subject to the provisions of paragraph (1), in the same manner as they would have been so subject if the employees had been employed at the date of the discontinuance, in a status which was not requisite for membership in the State Teachers' Retirement System. The employees shall be members of the Public Employees' Retirement System with the same effect, but only with respect to that service, as if they had been employed in a status which would have qualified them for membership under other paragraphs of this section. The employees shall continue in membership and shall be entitled to benefits in the same manner as if they individually were credited with at least five hundred dollars ($500) in accumulated contributions. In the computation of such members' benefits under the Public Employees' Retirement System, their compensation earnable while they are members of the State Teachers' Retirement System shall be taken into consideration.

(c) Notwithstanding any other provisions of Sections 35161, 35162, 72200, 72201, Article 1 (commencing with Section 7000) of Chapter 1, Article 1 (commencing with Section 7100) of Chapter 2 of Part 5, Article 2 (commencing with Section 10010) of Chapter 1, Chapter 4 (commencing with Section 10300) of Part 7, Article 1 (commencing with Section 12500) of Chapter 5 of Part 8, this part, Article 5

(commencing with Section 32340) of Chapter 3 of Part 19, of this division, and Part 25 (commencing with Section 44000) of Division 3 of Title 2, Chapter 1 (commencing with Section 87000), Article 3 (commencing with Section 87250) and Article 4 (commencing with Section 87270) of Chapter 2, Article 1 (commencing with Section 87400), Article 2 (commencing with Section 87600), Article 5 (commencing with Section 87700), and Article 8 (commencing with Section 87800), Chapter 4 (commencing with Section 88000), of Part 51 of Division 7 of Title 3, contributions to the discontinued district retirement plan made by teachers and other persons employed by the district or districts in a status requisite for membership in the State Teachers' Retirement System standing to their individual credit at the date of discontinuance of the district retirement plan shall be deposited forthwith in the Retirement Annuity Fund with credited interest, to be applied on the amount due from the teachers, but not to exceed the amount so due. Likewise an amount equal to the actuarial equivalent of the annuity portion of the retirement allowance to which the respective retired teachers and other persons employed by the district or districts, prior to retirement, in a status requisite for membership in the State Teachers' Retirement System were entitled under the plan, based on the interest rate and mortality tables used in its determination, shall be deposited in the Retirement Annuity Fund, to be applied on the amount due from the respective retired teachers, but not to exceed the amount so due. Any excess of the contributions with credited interest or the actuarial equivalents, as the case may be, over the respective amounts due under those sections, shall be paid forthwith to the respective active and retired teachers and other persons. Further amounts, if any, due under those sections after the deposits, shall be paid to the Retirement Annuity Fund by the respective active and retired teachers and other persons. If any of the teachers or other persons who is not retired, is not entitled to credit under the State Teachers' Retirement System for all or part of his or her service credited under the plan, or if any of the retired teachers or other persons is not entitled to a retirement allowance from the system, either before or after the discontinuance, the provisions of this subdivision about contributions and credited interest or about the actuarial equivalent of annuity portions of retirement allowances, as the case may be, shall not apply to him or her with respect to service which is not credited under the state system, until and unless he or she becomes entitled to credit for that service or to an allowance from the state system, based on service which was credited to him under the discontinued plan. The balance of the assets held in the various funds of the discontinued district retirement plan after the transfers, deposits and payments required by this section, or after establishment of reserves from which the transfers, deposits and payments shall be made, shall be delivered to the district or districts in which the plan is discontinued.

(d) The district or districts in which the district retirement plan

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is discontinued shall pay monthly to teachers and other persons employed by the district or districts, prior to retirement, in a status requisite for membership in the State Teachers' Retirement System who were retired prior to the date of the discontinuance an amount equal to the amount by which the retirement allowance to which any of the retired teachers or other persons was entitled under the plan exceeds the increase in the teacher's or other person's retirement allowance under the State Teachers' Retirement System resulting from the discontinuance. If the amount payable to any such teacher or other person, under the sentence next preceding, is less than two dollars ($2), the district or districts may pay, in lieu of that amount, one amount which shall be actuarially equivalent to the monthly amount thereafter payable, according to the interest rate and mortality table used in the determination of the teacher's or other person's retirement allowance under the district retirement plan. The payment of the actuarially equivalent amount shall discharge fully the district's liability to the teacher or other person under this subdivision. The arrangement under which the amounts are paid by the district shall not be considered to be a local retirement system for the purposes of Chapter 1 (commencing with Section 22000) to Chapter 15 (commencing with Section 23400), inclusive, of this part, nor shall the amount be taken into account in the calculation of retirement allowances under the State Teachers' Retirement System. If any of the teachers or other persons is not entitled to a retirement allowance from the State Teachers' Retirement System, either before or after discontinuance, the district or districts shall pay monthly to him or her, an amount equal to his or her retirement allowance under the plan prior to the discontinuance. If any teacher or other person has left the service of the district or districts, and is in a status under the plan, which if continued would qualify him or her for a retirement allowance without his return to that service, but is in a status otherwise which would not qualify him or her for retirement under the state system, the district or districts shall pay monthly to the teacher or other person, beginning at the date upon which he or she would have qualified for service retirement under the plan, an amount equal to the retirement allowance for which he or she would have qualified if the plan had not been discontinued. If any teacher or other person has credit under the plan for service which does not qualify for credit under either the State Teachers' Retirement System or Public Employees' Retirement System, the district or districts shall pay monthly to the teacher or other person, beginning on the date upon which he or she would have qualified for service retirement under the plan, an amount equal to the retirement allowance for which he or she would have qualified on the basis of that service if the plan had not been discontinued. If the individual at a later date becomes entitled to a retirement allowance from the state system, based on service which was credited to him or her under the discontinued plan, the monthly payments shall cease, and he or she shall become subject forthwith to the provisions

subdivision (c), and the provisions of the first four sentences of this subdivision, in the same manner as he or she would have been subject, if he or she had been entitled to a retirement allowance at the date of discontinuance, but calculation of actuarial equivalents and amounts payable shall be made as of the later date.

(e) If any person who was retired prior to the discontinuance from a position requisite for membership in the State Teachers' Retirement System, under a district retirement salary plan which is discontinued pursuant to this section, elected either under the plan or under the system, but not under both, to have the retirement allowance modified according to an option under which he or she would receive a smaller allowance and provide a benefit for his beneficiary, such person shall have the right, to be exercised not later than 60 days after the discontinuance of the plan, to change his or her election under the State Teachers' Retirement System with respect to the options. Any computations of actuarial equivalent under a changed election shall be made as of the date of discontinuance of the plan, and no adjustment shall be included in the computation on account of retirement allowance payments made prior to that date.

SEC. 85. The heading of Part 20 (commencing with Section 32500) of the Education Code is amended and renumbered to read:

PART 19.5. EDUCATION IN STATE PRISONS

SEC. 86. Section 35167 of the Education Code is amended to read:

35167. Except where otherwise provided, all of the provisions of this code applicable to the government, maintenance, support, functions, and administration of elementary and high school districts are applicable to the government, maintenance, support, and administration of unified school districts.

SEC. 87. Section 39153 of the Education Code is amended to read:

39153. The Department of General Services shall make such inspection of the school buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this article and the protection of the safety of the pupils, the teachers, and the public. The school district, city, city and county, or the political subdivision within the jurisdiction of which any school building is constructed or altered shall provide for and require competent, adequate, and continuous inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer and the Department of General Services. The inspector shall act under the direction of the architect or structural engineer as the board may direct, and be responsible to the governing board.

SEC. 88. Section 39316 of the Education Code is amended to read:

39316. Any bonds, notes, warrants, or other evidences of indebtedness to be issued by a nonprofit corporation to finance the construction of a building pursuant to a lease or agreement entered into pursuant to Section 39315 shall be sold pursuant to Chapter 10

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(commencing with Section 5800) of Division 6 of Title 1 of the Government Code.

SEC. 89. Section 41604 of the Education Code is amended to read:

41604. "Miscellaneous funds" as used in Section 41603 means the amount the county superintendent of schools has determined and reported to the Superintendent of Public Instruction, in accordance with regulations the Superintendent of Public Instruction is hereby authorized to adopt, that the district has received and which has been deposited to the credit of the general fund of the district for a fiscal year on account of in-lieu taxes or income from bonuses or royalties. Federal forest reserve funds, potash and potassium royalties received pursuant to United States federal mineral deposits, and motor vehicle license fees distributed pursuant to Section 11003.4 of the Revenue and Taxation Code received by a district shall not be considered miscellaneous funds as defined by this section.

SEC. 90. Section 42649 of the Education Code, as added by Chapter 533 of the Statutes of 1977, is amended and renumbered to read:

42649.5. In a county in which the board of supervisors has transferred educational functions to the county board of education pursuant to Section 1080, and a single budget has been authorized for the purposes of the county school service fund, county board of education, county committee on school district organization, and the office of the county superintendent of schools pursuant to Sections 1620 to 1625, inclusive, the duties of the county auditor specified in this article shall be performed by the county superintendent of schools.

A listing of all warrants approved and allowed by the county superintendent of schools pursuant to this section shall be forwarded to the county auditor on the same day the warrants are forwarded to the school district or the payee. The form of the warrant and the form and content of the warrant listing shall be as prescribed by the county auditor.

Notwithstanding Section 27005 of the Government Code, or any other section requiring orders for warrants or warrants to be signed by the county auditor, the county treasurer in counties subject to this section shall pay warrants which are signed by the county superintendent of schools, and the county auditor shall not be liable under his bond or otherwise for a warrant issued pursuant to this section.

This section shall apply only in those counties in which the county board of supervisors has adopted its provisions by resolution.

SEC. 91. Section 48600 of the Education Code is amended to read:

48600. The purpose of this article is to provide for the operation of 24-hour elementary schools, established pursuant to Article 27 (commencing with Section 940) of Chapter 2 of Part 1 of Division 1 of the Welfare and Institutions Code, for minors between the ages of 8 and 16 years and to provide for the attendance, maintenance, care, home supervision, guidance, observation, and education of

minors attending the schools, and to provide the minors with that vocational, homemaking, mental, moral, physical, and other training which will tend to strengthen and develop them and enable them to become good and useful citizens. The staff of every 24-hour school shall make adjustment as rapidly as possible in order that the period of time the child is away from ordinary community life may be as brief as possible. They shall place the minors in properly licensed children's institutions where they will be assured of suitable educational opportunities, and shall cooperate with child placement agencies to this end and to stimulate proper care of the minors by their parents.

For purposes of this article, the county superintendent of schools has the primary authority to provide for the education and training of minors in 24-hour schools within his or her county.

SEC. 92. Section 48651 of the Education Code is amended to read:

48651. The terms and provisions of Article 25 (commencing with Section 900) of Chapter 2 of Part 1 of Division 2 and Section 579 of the Welfare and Institutions Code shall, so far as applicable, govern and control proceedings under this article.

SEC. 93. Section 49405 of the Education Code is amended to read:

49405. The control of smallpox is under the direction of the State Department of Health Services, and no rule or regulation on the subject of vaccination shall be adopted by school or local health authorities.

SEC. 94. Section 49422 of the Education Code is amended to read:

49422. No physician, psychiatrist, oculist, dentist, dental hygienist, optometrist, otologist, podiatrist, audiologist, or nurse not employed in that capacity by the State Department of Health Services, shall be, nor shall any other person be, employed or permitted to supervise the health and physical development of pupils unless he or she holds a services credential with a specialization in health or a valid credential issued prior to the operative date of the amendment to this section enacted at the 1970 Regular Session of the Legislature.

Any psychologist employed pursuant to Section 49403, and this article shall hold a school psychologist credential, a general pupil personnel services credential authorizing service as a school psychologist, a standard designated services credential with a specialization in pupil personnel services authorizing service as a psychologist, or services credential issued by the State Board of Education or Commission for Teacher Preparation and Licensing.

The services credential with a specialization in health authorizing service as a school nurse shall not authorize teaching services unless the individual holds a baccalaureate degree, or its equivalent, and has completed a fifth year of preparation.

No physician employed by a district to perform medical services pursuant to Section 44873, shall be required to hold a credential issued by the State Board of Education or commission, provided he or she meets the requirements of Section 44873.

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SEC. 95. Section 49441 of the Education Code is amended to read:

49441. The governing board of any school district shall make such rules for the mental examination, as provided in Section 49440, of the pupils in the public schools under its jurisdiction as will insure proper care of the pupils and proper secrecy in connection with any condition of impaired mental health noted by the supervisor of health or his assistant and as may tend to the correction of such condition, and any such governing board may consult and cooperate with the State Department of Mental Health in formulating such rules. The State Department of Mental Health shall cooperate to the full extent of its capacities in aiding and assisting school districts in carrying out the duties imposed by this article.

SEC. 96. Section 49454 of the Education Code is amended to read:

49454. A person employed by a school district in a position requiring certification qualifications who holds a valid special credential authorizing the teaching of lipreading or the teaching of the deaf and hard of hearing or a standard teaching credential with specialized preparation in the area of the deaf and hard of hearing or in the area of the speech and hearing handicapped or who holds a certificate of registration to serve as a school audiometrist issued by the State Department of Health Services may, subject to Section 49451, test the hearing of pupils of the district through the use of an audiometer for the purpose of detecting pupils with impaired hearing.

SEC. 97. Section 52324 of the Education Code is amended to read:

52324. Units of average daily attendance in the regional occupational centers or regional occupational programs of a county for a fiscal year are the quotient arising from dividing the total number of days of pupil's attendance in the centers, or programs, during the fiscal year by 175.

Attendance in regional occupational centers, or regional occupational programs, operated under subdivision (a) of Section 52305 shall be considered pupil's attendance under this section, but attendance in regional occupational centers, or regional occupational programs, under subdivision (b) of Section 52305 shall not be so considered.

As used in this section, "school district" includes each of those districts which are cooperating in the maintenance of the center or program, with the approval of the county superintendent of schools, pursuant to Section 52301; and units of average daily attendance of pupils residing in the school district shall be credited to the school district.

SEC. 98. Section 54347 of the Education Code is amended to read:

54347. The State Board of Education and the Superintendent of Public Instruction shall take all necessary actions and steps to ensure that all federal funds which may be made available for any of the experimental pilot programs provided for under Article 2 (commencing with Section 54340) shall be received and utilized for those purposes.

SEC. 99. Section 54526 of the Education Code is amended to read:

54526. Pilot preschool followthrough programs and projects shall be established on the basis of a geographical dispersion throughout the state which is most appropriate for purposes of this article, as determined by the State Board of Education. The programs and projects shall serve as demonstration models for other school districts in the state in the coordination of preschool, kindergarten, and elementary grade instructional programs for the benefit of disadvantaged minors.

SEC. 100. Section 54600 of the Education Code is amended to read:

54600. This article may be cited as the Educational Improvement Act of 1969.

SEC. 101. Section 54630 of the Education Code is amended to read:

54630. This article shall be known and may be cited as the School Improvement Act of 1970.

SEC. 102. Section 54660 of the Education Code is amended to read:

54660. This article shall be known and may be cited as the Elementary and Secondary School Dropout Prevention Act of 1969.

SEC. 103. Section 56364 of the Education Code is amended to read:

56364. Special classes and centers which enroll pupils with similar and more intensive educational needs shall be available. The classes and centers shall enroll the pupils when the nature or severity of the disability precludes their participation in the regular school program for a majority of a schoolday. Special classes and centers and other removal of individuals with exceptional needs from the regular education environment shall occur only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals and recess periods, each public agency shall ensure that each individual with exceptional needs participates in those services and activities with nonhandicapped pupils to the maximum extent appropriate to the needs of the individual with exceptional needs. Special classes and centers shall meet standards adopted by the board.

SEC. 104. Section 69276 of the Education Code is amended to read:

69276. The Director of the Office of Statewide Health Planning and Development shall adopt, amend, or repeal such regulations as are necessary to enforce the provisions of this article, which shall include criteria which training programs must meet in order to qualify for waivers of single capitation formulas or maintenance of effort requirements authorized by Section 69274. Regulations for the administration of this article shall be adopted, amended, or repealed as provided in Chapter 3.5 (commencing with Section 11340) of Part

1 of Division 3 of Title 2 of the Government Code.

SEC. 105. Section 72130 of the Education Code is amended to read:

72130. The date set for special meetings shall be at least 24 hours subsequent to the completion of the call.

SEC. 106. Section 76441 of the Education Code is amended to read:

76441. The governing board of any community college district shall make any rules for the mental examination, as provided in Section 76440, of the students in the schools under its jurisdiction which will ensure proper care of the students and proper secrecy in connection with any condition of impaired mental health noted by the supervisor of health or his or her assistant and may correct that condition, and the governing board may consult and cooperate with the State Department of Mental Health in formulating such rules. The State Department of Mental Health shall cooperate to the full extent of its capacities in aiding and assisting school districts in carrying out the duties imposed by this article.

SEC. 107. The heading of Article 2 (commencing with Section 78220) of Chapter 2 of Part 48 of the Education Code is repealed.

SEC. 108. The heading of Article 3 (commencing with Section 78230) of Chapter 2 of Part 48 of the Education Code is amended and renumbered to read:

Article 2. Military Science

SEC. 109. The heading of Article 4 (commencing with Section 78240) of Chapter 2 of Part 48 of the Education Code is amended and renumbered to read:

Article 3. Work-Experience Education

SEC. 110. The heading of Article 5 (commencing with Section 78270) of Chapter 2 of Part 48 of the Education Code is amended and renumbered to read:

Article 4. Aviation

SEC. 111. Section 84370 of the Education Code is amended to read:

84370. (a) No community college district, other than one newly formed, shall, except as otherwise provided in this article, receive its full apportionment from the State School Fund unless it has maintained the regular day schools of the district for at least 175 days during the next preceding fiscal year.

(b) For the purposes of this article, the Board of Governors of the California Community Colleges shall establish standards to determine whether the districts within its jurisdiction have maintained the regular day schools of the district for at least 175 days

during the next preceding fiscal year.

(c) If a community college district fails to maintain its schools for the required 175 days, the Board of Governors shall withhold from that district's apportionment the product of 0.01143 times the district's apportionment for each additional day the district would have had to maintain its schools in order to meet the requirement prescribed by this section. This subdivision shall apply retroactively to fiscal year 1975-76 and each fiscal year thereafter.

SEC. 112. Section 88086.5 of the Education Code is amended to read:

88086.5. The provisions of Sections 88022, 88023, 88160, 88198, 88199, 88201, and 88202 are applicable to the employees of school districts which have adopted a merit system pursuant to the procedure set forth in this article.

This section is declaratory of existing law. The sections here enumerated are to be construed and applied in the same manner and with the same effect as when they were applicable to the employees of such school districts prior to the enactment of Section 88000 by Chapter 1267 of the Statutes of 1959, and in accordance with the applicable provisions of this article and the rules of the personnel commission.

SEC. 113. Section 3709 of the Elections Code is amended to read:

3709. If the initiative petition is signed by voters not less in number than 20 percent of the entire vote cast within the county for all candidates for Governor at the last gubernatorial election, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the board of supervisors shall either:

(a) Pass the ordinance without alteration at the regular meeting at which it is presented and within 10 days after it is presented.

(b) Immediately call a special election at which the ordinance, without alteration, shall be submitted to a vote of the voters of the county.

SEC. 114. Section 11554 of the Elections Code is amended to read:

11554. Copies of each campaign statement shall be filed as follows:

(a) Campaign statements of candidates and persons holding statewide office, of committees supporting such candidates, of state central committees of political parties, and of committees supporting or opposing statewide measures—one original and one copy with the Secretary of State, two copies with the Registrar-Recorder of Los Angeles County, and two copies with Registrar of the City and County of San Francisco.

(b) (1) Campaign statements for candidates and persons holding office of superior court judge, Member of the State Legislature, and member of the Board of Equalization—one original and one copy with the Secretary of State, and two copies with the clerk of the largest county by population which in whole or in part is included in the election district which the officeholder represents or in which

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(2) Campaign statements for committees supporting candidates and persons holding offices listed in paragraph (1)—one original and one copy with the Secretary of State, two copies with the clerk of the largest county by population which in whole or in part is included in the election district which the officeholder represents or in which the candidate or any of the candidates seek nomination or election, and two copies with the clerk of the county in which the committee is domiciled, provided that a committee not domiciled in California shall file two copies with the Registrar-Recorder of Los Angeles County instead of its county of domicile. No more than two copies of each such statement need be filed with the clerk of any one county. For purposes of this act, the domicile of a committee is the address of the committee listed on the campaign statement.

(c) Campaign statements of candidates and persons holding any elective office not mentioned above which is voted upon in more than one county, of committees supporting such candidates, and of committees supporting or opposing measures to be voted upon in more than one county but not statewide—one original and one copy with the clerk of the county having the largest population, and two copies with the clerk of each additional county wholly or partially included in the election district in which the candidate seeks nomination or election or in which the measure is voted upon.

(d) Campaign statements of candidates and persons holding office not mentioned above, or committees supporting such candidates, and of committees supporting or opposing measures to be voted upon in not more than one county—one original and one copy with the county clerk and, if the candidates or measures are to be voted upon within a single city, two copies with the clerk of that city.

(e) Campaign statements of the county central committees of political parties—one original and one copy with the Secretary of State and two copies with the county clerk.

SEC. 115. Section 23528 of the Elections Code is amended to read:

23528. At least 30 days prior to the day fixed for the general district election, the county clerk shall do all of the following:

(a) Establish a convenient number of election precincts within the affected county.

(b) Define the precinct boundaries.

(c) Designate a polling place for each precinct.

(d) Appoint for each precinct from the voters of any district within that precinct one inspector, one or more judges and one or more clerks who shall constitute a precinct board for the precinct.

(e) Notify the members of each precinct board of their appointment and the location of the precinct and polling place where they will serve.

The county clerk, in establishing precincts and defining their boundaries, shall, to the extent practicable, provide for a single polling place where a voter entitled to vote in more than one registered voter district may cast all of his ballots.

In a landowner voting district, the county clerk shall designate the polling place at which a nonresident landowner shall vote.

SEC. 116. Section 27212 of the Elections Code is amended to read:

27212. The petition shall be filed by the proponents, or by any person or persons authorized, in writing, by a proponent. All sections of the petition shall be filed at the same time.

When the petition is presented for filing, the clerk shall determine the total number of signatures affixed to the petition. If from this examination, the clerk determines that the number of signatures, prima facie, equals or is in excess of the minimum number of signatures required, the clerk shall accept the petition for filing. The petition shall be deemed as filed on that date. Any sections of the petition not so filed shall be void for all purposes. If, from the clerk's examination, the clerk determines that the number of signatures, prima facie, does not equal or exceed the minimum number of signatures required, the petition shall not be filed and the proponents shall not be permitted to file supplemental petitions. Any petition not accepted for filing shall be returned to the proponents.

SEC. 117. Section 29623 of the Elections Code is amended to read:

29623. A person shall not directly or through any other person advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that it, or any part thereof, shall be used in bribery at any election; or knowingly pay or cause to be paid any money or other valuable thing to any person in discharge or repayment of any money, wholly or in part, expended in bribery at any election.

Any person violating this section is punishable by imprisonment in the state prison for 16 months or two or three years.

SEC. 118. Section 30044 of the Elections Code is amended to read:

30044. All that portion of Los Angeles County described and bounded as follows:

Beginning at the intersection of Santa Maria East Fork Road and the boundary common to the County of Los Angeles and the City of Los Angeles; northeasterly on Santa Maria East Fork Road to Mulholland Drive; generally easterly on Mulholland Drive to the south extension of Lankershim Boulevard; north on the south extension of Lankershim Boulevard and Lankershim Boulevard to the Los Angeles River; easterly on the Los Angeles River to the south Burbank city limits; northeast on the Burbank city limits to the Glendale city limits; generally north and east on the Glendale city limits to the boundary of the Angeles National Forest; east and south on the boundary of the Angeles National Forest to Pickins Canyon Wash; southwest on Pickins Canyon Wash to Foothill Boulevard; southeast on Foothill Boulevard to Vista Bonita Way; south and southwest on Vista Bonita Way to a north Glendale city limits;

generally southeast on the Glendale city limits to the west Pasadena city limits; generally northeast, northwest, north, east, south and east to the Southern California Edison Company transmission line; easterly and southeasterly on the Southern California Edison Company transmission line to the boundary common to the County of Los Angeles and the City of Pasadena; north, east and south on the boundary common to the County of Los Angeles and the City of Pasadena to an angle point on the boundary common to the Angeles National Forest and the City of Pasadena (in the vicinity of Wilson Road); generally east on the boundary of the Angeles National Forest to a point representing the northwest corner of the City of Sierra Madre; south, west and south on the Sierra Madre boundary to a point common to the cities of Sierra Madre, Pasadena and Arcadia; generally south and east on the boundary common to the City of Arcadia and Temple City and the County of Los Angeles (the vicinity of the intersection of Double Drive and Lynrose Street); south and generally west in varying directions along the boundary of the boundary of Temple City to a point common to Cities of Temple City, Rosemead and El Monte; south and east in varying directions along the boundary common to the Cities of Rosemead and El Monte to the San Bernardino Freeway; west on the San Bernardino Freeway to Rosemead Boulevard; southeast on Rosemead Boulevard to Garvey Avenue; west on Garvey Avenue to the Rio Hondo River; generally south and southwest on the Rio Hondo River to the City of Pico Rivera and the County of Los Angeles; generally east varying directions on the Pico Rivera boundary and the Los Angeles County boundary to U.S. Route 605; generally south on U.S. Route 605 to Beverly Boulevard; southeast on Beverly Boulevard to Mesagrove Avenue; northeast, east and southeast in various directions on the boundary common to the City of Whittier and the County of Los Angeles to a point common to the City of Whittier and to the Counties Los Angeles and Orange (the vicinity of the intersection of Janison Drive and Solejar Drive); west, south and generally southwest on the boundary common to the Counties of Los Angeles and Orange to the Pacific Ocean; west, northwest, north and northwest on the Pacific Ocean to the boundary common to the County of Los Angeles and the City of Los Angeles (in the vicinity of the intersection of the Pacific Coast Highway and Coastline Drive); generally north on the boundary common to the County of Los Angeles and the City of Los Angeles to Santa Maria East Fork Road; including the Islands of San Clemente and Santa Catalina shall constitute the Fourth Equalization District.

SEC. 119. Section 752 of the Financial Code is amended to read:

752. A bank or trust company may purchase, acquire, and hold not less than 75 percent of the outstanding shares of a corporation engaged exclusively in holding real property of the character described in subdivision (a) of Section 750 for the purposes therein set forth or in holding, separately or in addition to that real property, tangible personal property necessary or convenient for the use of the

bank or trust company in the conduct of its business or for future expansion of its business. The purchase or acquisition of stock of any such corporation shall be approved by two-thirds of all the directors of such bank or trust company and be approved in writing by the superintendent.

SEC. 120. Section 855 of the Financial Code is amended to read:

855. (a) No later than 10 days, and no sooner than 60 days prior to the maturity date of any time deposit described in subdivision (g), a bank shall notify the depositor, in writing, of the maturity date.

(b) The notification shall also inform the depositor of the length of time available to the depositor for affecting the status of the deposit after the maturity date.

(c) If no interest is paid beyond the maturity date, and after such date the deposit shall be considered a demand deposit, the depositor shall be so informed.

(d) If, pursuant to an agreement, the deposit after maturity again constitutes a time deposit, the depositor shall be informed of the rate of interest and new maturity date.

(e) It is the intent of the Legislature that banks not be precluded from supplying depositors with additional written notices of the maturity date.

(f) This section does not apply to:

(1) Time deposits represented by instruments payable to bearer.

(2) Time deposits which contemplate subsequent deposits to the account having the same maturity date as the initial deposit, as to which the bank has agreed to pay the balance in the account to the depositor or to credit the balance to another account of the depositor which is not a time deposit on an annual or more frequent basis.

(3) Time deposits having a fixed-term maturity of not more than 90 days.

(g) For the purposes of this section, time deposit includes an account which consists of funds deposited to the credit of one or more natural persons or an association, organization, partnership, or corporation operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes, and does not include accounts which consist of funds deposited to the credit of an association, organization, partnership, or corporation operated for profit.

SEC. 121. Section 1231 of the Financial Code is amended to read:

1231. No loan shall be made by any commercial bank upon the securities of one or more corporations, the payment of which loan is undertaken, in whole or in part, severally, but not jointly, by two or more persons in any of the following circumstances:

(a) If the borrowers or underwriters are obligated absolutely or contingently to purchase the securities, or any of them, collateral to the loan, unless the borrowers or underwriters have paid on account of the purchase of the securities an amount in cash, or its equivalent, equal to at least 25 percent of the several amounts for which they remain obligated in completing the purchase of the securities.

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(b) If the commercial bank making the loan is liable, directly or indirectly, or contingently, for the repayment of the loan or any part thereof.

(c) If its term, including any renewal thereof by agreement, express or implied, exceeds the period of one year.

(d) Or to an amount under any circumstances in excess of 25 percent of the sum of the commercial bank's shareholders' equity, capital notes, and debentures.

SEC. 122. Section 1237 of the Financial Code is amended to read:

1237. (a) Notwithstanding anything provided to the contrary in this division, the superintendent is empowered to prescribe such rules and regulations as will permit a bank, upon the security of residential property, to make loans and advance credit thereon, upon the execution by the borrower of mortgage payment instruments not authorized under the existing law, provided such instruments have prior approval of the superintendent, and the aggregate at any one time of the outstanding loans by a bank evidenced by such mortgage payment instruments, does not exceed 10 percent of the bank's assets.

(b) The rules and regulations of the superintendent shall be designed to permit limited experimentation to furnish valuable experience and information to the superintendent, the banking industry, and to the public relating to the substance of any permanent regulations or laws which may be forthcoming and to permit banks to operate selected pilot projects on a limited basis. The pilot projects and effective period of the regulations shall not exceed five years from the date of the issuance of the regulations and shall place a high priority on protection for the consumer and encouraging integration and home ownership of those persons who have previously been excluded from or failed to avail themselves of home ownership. The regulations, among other things, shall contain provisions relating to the various types of instruments for experimentation, including, but not limited to, forms of graduated payment mortgages, reverse annuity mortgages, flexible payment and flexible rate mortgages and combinations of such mortgages, with the further provision that alternative mortgage instruments shall be limited in number, simple and comprehensible, and provide adequate opportunities and protections to those persons and classes of persons who have previously not been able to participate in home ownership. The regulations shall also contain a provision requiring that full disclosure be made to potential applicants, of, among other things, the nature and effect of the alternative mortgage payment instrument, the payment due each month of the payment term, and all costs or savings attributed to the alternative mortgage instrument.

(c) A bank offering any loan authorized by this section shall also offer any borrower who qualifies for its standard mortgage loan a choice of a standard mortgage loan at current market terms. A standard mortgage loan means a standard fixed-rate, level-payment mortgage loan.

(d) A report shall be submitted by the superintendent to the Legislature annually on the 15th day of February of each year commencing the second year following the effective date of this legislation, and the report shall include the numbers and types of such mortgage instruments, and the impact of such instruments on minorities, women, young families, persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and elderly persons.

(e) This section shall remain in effect until January 1, 1984, and on such date is repealed.

SEC. 123. Section 2071 of the Financial Code is amended to read:

2071. Any agreement for the merger of two or more banks or trust companies and any certificate of ownership executed pursuant to Section 1110 of the Corporations Code pertaining to such a merger shall have the approval of the superintendent endorsed thereon before it is filed with the Secretary of State. An application for the approval shall be in a form and contain any information which the superintendent may require, and shall be accompanied by a fee of one thousand dollars ($1,000).

SEC. 124. Section 3522 of the Financial Code is amended to read:

3522. On or before the first day of February in each year, each corporation and every foreign corporation licensed by the superintendent to transact the business of such a corporation in this state, shall make a written report to the superintendent which shall contain a statement of its condition on the morning of the first day of January in that year and shall be in the form and contain the matters prescribed by the superintendent. The superintendent may, however, in his discretion, accept from a corporation, which has branches in a foreign country or countries, a report containing a statement of its condition as of a date not later than the first day of January and not earlier than the first day of November in the preceding year. Every report shall be verified by the oaths of the two principal officers in charge of the affairs of the corporation or foreign corporation at the time of the verification, which shall state that the report is true and correct in all respects to the best of the knowledge and belief of the persons verifying it, and that the usual business of the corporation or foreign corporation has been transacted at the location required by this article and not elsewhere.

SEC. 125. Section 5067.5 of the Financial Code is amended to read:

5067.5. "Single-family dwelling" means a structure designed for residential use for one family or real property of the type described in subdivision (a), (b) or (c) of Section 7153.1.

SEC. 126. Section 6407 of the Financial Code is amended to read:

6407. Shares issued by any association issuing no investment certificates and which is an insured institution as defined by Title IV of the National Housing Act, are legal investments for the funds of executors, administrators, guardians, conservators of a natural person, receivers and trustees of every kind and nature, insurance

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companies, cemetery associations and of all public corporations, generally referred to as housing authorities, created pursuant to the Housing Authorities Law of this state.

When, by law, it is provided that the money of any pension fund, retirement plan, trust fund, or the money of any fund whose investment is governed by law may or shall be invested in securities which are legal investments for savings banks, then that law shall be deemed to authorize the investment of the money in the shares.

SEC. 127. Section 6408 of the Financial Code is amended to read:

6408. Investment certificates issued by any association are legal investments for the funds of executors, administrators, guardians, conservators of a natural person, receivers and trustees of every kind and nature, insurance companies, cemetery associations and of all public corporations, generally referred to as housing authorities, created pursuant to the Housing Authorities Law of this state.

When, by law, it is provided that the money of any pension fund, retirement plan, trust fund, or the money of any fund whose investment is governed by law may or shall be invested in securities which are legal investments for savings banks, then that law shall be deemed to authorize the investment of the money in the investment certificates.

SEC. 128. Section 6450.4 of the Financial Code is amended to read:

6450.4. No issued and outstanding stock of an association shall be sold or offered for sale to the public, nor shall subscriptions be solicited or taken for those sales, until the association or the selling stockholders have applied for and secured from the commissioner a permit authorizing the sale of the guarantee stock.

This section shall not apply to an offering involving less than 10 percent of the issued and outstanding guarantee stock of an association and less than five hundred thousand dollars ($500,000), nor to an offering made under a registration statement filed under the Securities Act of 1933.

SEC. 129. Section 7153.9 of the Financial Code is amended to read:

7153.9. (a) Notwithstanding anything provided to the contrary in this division, the commissioner is empowered to prescribe such rules and regulations as will permit an association, upon the security of residential property, to make loans and advance credit thereon, upon the execution by the borrower of mortgage payment instruments not authorized under the existing law, provided such instruments have prior approval of the commissioner, and the aggregate at any one time of the outstanding loans by an association evidenced by such mortgage payment instruments, does not exceed 10 percent of the association's assets.

(b) The rules and regulations of the commissioner shall be designed to permit limited experimentation to furnish valuable experience and information to the commissioner, the savings and loan industry, and to the public relating to the substance of any

permanent regulations or laws which may be forthcoming and to permit savings and loan associations to operate selected pilot projects on a limited basis. The pilot projects and effective period of the regulations shall not exceed four years from the date of the issuance of the regulations and shall place a high priority on the protection of the consumer and encouraging integration and home ownership for those persons who have previously been excluded from or failed to avail themselves of home ownership. The regulations, among other things, shall contain provisions relating to the various types of instruments for experimentation, including, but not limited to, forms of graduated payment mortgages, reverse annuity mortgages, flexible payment and flexible rate mortgages and combinations of such mortgages, with the further provision that alternative mortgage instruments shall be limited in number, simple and comprehensible, and provide adequate opportunities and protections to those persons and classes of persons who have previously not been able to participate in home ownership. The regulations shall also contain a provision requiring that full disclosure be made to potential applicants, of, among other things, the nature and effect of the alternative mortgage payment instrument, the payment due each month of the payment term, and all costs or savings attributed to the alternative mortgage instrument.

(c) A report shall be submitted by the commissioner to the Legislature annually on the 15th day of March of each year commencing the second year following the effective date of this legislation, and the report shall include the numbers and types of such mortgage instruments, and the impact of such instruments on minorities, women, young families, persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and elderly persons.

(d) This section shall remain in effect until January 1, 1983, and on such date is repealed.

SEC. 130. Section 7153.11 of the Financial Code is amended to read:

7153.11. (a) An association may make amortized loans upon the security of residential real property to finance the purchase and installation of material or equipment designed to promote energy conservation or the efficient use of energy in the residential real property securing the loan, if all of the following conditions are met:

(1) The residential real property securing the loan consists of not more than four dwelling units.

(2) The loan is made in connection with a concurrent loan authorized under Section 7153.

(3) The loan is in an amount not to exceed 10 percent of the loan made under the authority of Section 7153.

(b) An association may make additional advances, or additional loans, to an existing borrower in order to finance the purchase and installation of material and equipment designed to promote energy conservation or the efficient use of energy in the residential real

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property securing the loan, if all of the following conditions are met:

(1) The residential real property securing the loan consists of not more than four dwelling units.

(2) The aggregate of the additional loan or advance and the unpaid balance of the existing loan will not exceed 80 percent of the appraised value of the residential real property securing the loan immediately after the purchase and installation of the material and equipment.

SEC. 131. Section 14052 of the Financial Code is amended to read:

14052. In addition to the powers enumerated in this division, every credit union has the general powers conferred upon corporations by the Nonprofit Mutual Benefit Corporation Law of this state unless restricted by this division.

SEC. 132. Section 14410 of the Financial Code is amended to read:

14410. No member of the board of directors, supervisory committee, or credit committee shall receive any compensation for his or her services as such, but he or she may be provided with reasonable health, accident and similar insurance under such terms and conditions as specified by the commissioner in the credit union regulations, provided that insurance protection shall exclude life insurance, shall be limited to areas of risk, including accidental death and dismemberment, to which the official is exposed by virtue of carrying out the duties or responsibilities of his or her credit union position and shall cease immediately when the insured person leaves office without providing residual benefits other than from pending claims, if any. A director or committee member may be reimbursed for actual expenses incurred in the performance of his or her duties.

SEC. 133. Section 18138 of the Financial Code is amended to read:

18138. No person may acquire 10 percent or more of the capital stock of an industrial loan company or a holding company as defined in Section 18025 of this division through purchase, foreclosure pursuant to a pledge or hypothecation, or other devices without the written consent of the commissioner. However, the prior written consent of the commissioner is not required if the offer and sale of the capital stock of the holding company is exempt from the qualification requirement of Section 25130 of the Corporate Securities Law of 1968 by subdivision (a) or (b) of Section 25101 of the Corporations Code.

SEC. 134. Section 18300 of the Financial Code is amended to read:

18300. (a) As used in this article, "open-end loan" means a loan or loans made by an industrial loan company pursuant to a loan agreement which expressly states that it is made pursuant to this section and pursuant to which:

(1) The industrial loan company may permit the borrower to obtain advances of money from the industrial loan company from

time to time or the industrial loan company may advance money on behalf of the borrower from time to time as directed by the borrower.

(2) The amount of each advance and the charges and other permitted costs are debited to an account.

(3) The charges are computed from time to time on the unpaid balances of the borrower's account, excluding from the computation any unpaid charges other than permitted fees, costs and expenses.

(4) The borrower has the privilege of paying the account in full at any time or in monthly installments.

(b) Subject to the written approval of the commissioner of the industrial loan company's plan of business for making open-end loans as not being misleading or deceptive and subject to regulations the commissioner may promulgate with respect to open-end loans under Section 18347, an industrial loan company may make open-end loans pursuant to this section and may contract for and receive thereon charges as set forth in Section 18212. Such charges may be calculated on an amount not exceeding the greater of:

(1) The actual daily unpaid balances of the open-end account in the billing cycle for which the charge is made, in which case one-thirtieth of the monthly rate may be charged for each day the unpaid balance is outstanding.

(2) The average daily unpaid balance of the open-end account in the billing cycle for which the charge is made, which is the sum of the amount unpaid each day during that cycle divided by the number of days in that cycle. The amount unpaid on a day is determined by adding to the balance unpaid as of the beginning of that day all advances and other debits and deducting all payments and other credits made or received as of that day.

The billing cycle shall be monthly. A billing cycle is monthly if the closing date of that cycle is the same date each month or does not vary by more than four days from the regular date.

(c) No industrial loan company shall enter into any agreement for an open-end loan that provides for a minimum payment that would result in the full repayment of principal over more than the maximum periods set forth below opposite the respective size of loans.

Principal amount of loan	Maximum period
Less than $1,500	24 months and 15 days
$1,500 but less than $2,500	36 months and 15 days
$2,500 but less than $4,000	48 months and 15 days
$4,000 but less than $6,000	60 months and 15 days
$6,000 but less than $10,000	84 months and 15 days

The minimum payment shall be determined by the amount of the initial loan advance and shall continue at that amount until a subsequent loan advance is made, at which time the minimum payment shall be determined by the amount of the unpaid balance

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of the loan after the advance and including the advance. Minimum payments after each advance shall be determined in the same manner.

(d) On open-end loans the industrial loan company may contract for and receive the fees, costs and expenses permitted on other loans, including those permitted by Sections 18215, 18218, 18290, 18294, and 18412, subject to all of the conditions and restrictions set forth in those sections with the following variations:

(1) The charge for credit life insurance shall be on a monthly basis. No credit life insurance written in connection with an open-end loan shall be cancelled by the lender because of delinquency of the borrower in the making of the minimum payments thereon unless one or more of such payments is past due for a period of 90 days or more, and the lender shall advance to the insurer the amounts required to keep the insurance in force during such period, which amounts may be debited to the borrower's account.

(e) An industrial loan company shall not make an open-end loan in excess of ten thousand dollars ($10,000) principal amount.

(f) The loan contract shall provide for payment of minimum payments complying with subdivision (c). All loans made pursuant to this section shall be repayable by equal or substantially equal monthly payments during the term of the loan.

(g) In lieu of applying the provisions of Section 18290, the provisions contained herein shall apply to open-end loans.

An industrial loan company may provide insurance on the life of one or more borrowers with the borrower's consent. The form of the insurance shall be approved by the Insurance Commissioner and shall be in an amount not in excess of the indebtedness. The amount charged to the borrower for such insurance shall not exceed the amount provided in paragraph (1) or (2) following, whichever is less:

(1) The premium rate filed with the Insurance Commissioner for the coverage provided pursuant to Article 5.9 (commencing with Section 799.1) of Chapter 1 of Part 2 of Division 1 of the Insurance Code and which has not been disapproved by the Insurance Commissioner.

(2) Fifty cents ($0.50) per year per one hundred dollars ($100) of indebtedness (and in the same proportion for longer or shorter maturities and larger or smaller amounts) or such different maximum as is fixed by the Commissioner of Insurance by a valid and effective regulation hereafter adopted.

Notwithstanding Section 18291, any such life insurance shall be in force as soon as the loan is made or coverage is agreed upon, whichever is later.

(h) The open-end loan agreement shall contain the name and address of the industrial loan company and shall disclose the nature of the security taken, if any, the method of determining the minimum payments which will be required to repay the initial

advance, and any subsequent advances on the loan, and the agreed rate of charge.

(i) At the time the open-end loan agreement is made the industrial loan company shall obtain from the borrower a signed statement as to whether any person has performed any act as a broker in connection with the making of the loan. If such statement discloses a broker or other person has participated, the company shall obtain a full statement of all sums paid or payable to the broker or other person. The open-end loan agreement and the statement required by this subdivision shall be kept for a period of two years after the date the loan has been paid in full, or has matured according to its terms, or has been charged off.

(j) Except in the case of an account which the industrial loan company deems to be uncollectible, or with respect to which delinquency collection procedures have been instituted, the company shall deliver or cause to be delivered to the borrower, or any one thereof, for each billing cycle at the end of which there is an outstanding balance in the account or with respect to which a finance charge is imposed, a statement setting forth the outstanding balance in the account at the beginning of the billing cycle, the date and amount of any subsequent loan advance during the period, the amounts and dates of crediting to the account during the billing cycle for payments, the amount of any finance charge debited to the account during the billing cycle, the annual percentage rate of finance charged determined under Regulation Z promulgated by the Board of Governors of the Federal Reserve System under the Federal Consumer Credit Protection Act, the balance on which the finance charge was computed, the closing date of the billing cycle, the outstanding balance on that date, and the minimum monthly payment required in the absence of any additional advance. If there has been any change in the nature of the security for the loan since the next preceding advance, the statement shall contain or be accompanied by a statement of the nature of the security for the loan after such change.

(k) An industrial loan company shall not take any instrument in connection with an open-end loan in which blanks are left to be filled in after execution.

(*l*) Subdivision (a) of Section 18205, and Sections 18206, 18214, 18222, 18231, and 18235 shall not apply to open-end loans.

(m) An industrial loan company shall not make an open-end loan secured by real property in whole or in part.

(n) An industrial loan company shall not charge for, offer or provide credit disability insurance in connection with an open-end loan.

(o) This section shall not apply to loans other than open-end loans.

SEC. 135. Section 18455 of the Financial Code is amended to read:

18455. An industrial loan company shall not, directly or indirectly, make any loan to, or purchase a contract or chose in action

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from, hold a lease obligation of, or purchase a lease contract from:

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

(b) A person who is a holder of record or beneficiary of the shares of the industrial loan company or of any holding or affiliated company.

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

(d) A person in which the holder of record or beneficiary of the shares of the industrial loan company or of any holding or affiliated company directly or indirectly is financially interested, directly or indirectly.

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

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

The prohibition contained in this section shall not apply to the purchase by an industrial loan company of a contract or chose in action from a personal property broker, provided written authorization for such purchase is obtained from the commissioner.

SEC. 136. Section 18643 of the Financial Code, as added by Chapter 984 of the Statutes of 1979, is amended and renumbered to read:

18643.1. Notwithstanding any other provision of law not within this article, with respect to precomputed loans, premium finance agencies derive authority only from this article.

SEC. 137. Section 24454 of the Financial Code is amended to read:

24454. No amount in excess of that expressly permitted by this article shall be directly or indirectly charged, contracted for, or received, by any person, and the total charges including interest, of the lender, the broker, and any other person, in the aggregate, shall not exceed the amount permitted by this article on any one loan for the negotiating, making, collecting, and enforcing of the loan.

SEC. 138. Section 31020 of the Financial Code is amended to read:

31020. The Legislature finds all of the following:

(a) That it is necessary to increase job opportunities in this state.

(b) That promoting the establishment, growth, and expansion of business firms in this state is an efficient way to increase job opportunities in this state.

(c) That it is appropriate to provide for the licensing and regulation of business and industrial development corporations

which will provide financing assistance and management assistance to business firms in this state.

(d) That the federal government, through the Small Business Administration and other federal agencies, offers programs for providing, through such intermediaries as business and industrial development corporations, financing assistance and management assistance to business firms in this state.

(e) That, in order that this state may obtain the full benefits of such programs, it is necessary that this state provide for the licensing and regulation of business and industrial development corporations.

(f) That only California corporations should be licensed to transact business as business and industrial development corporations because, compared with other types of persons, California corporations can be more effectively regulated and supervised, have greater permanency of existence, and can give better assurance of uninterrupted service.

SEC. 139. Section 31114 of the Financial Code is amended to read:

31114. Whenever any person, including any nonresident of this state, engages in conduct prohibited or made actionable by this division or by any regulation or order issued under this division, whether or not he has filed a consent to service of process under Section 31113, and if personal jurisdiction over him cannot otherwise be obtained in this state, that conduct shall be considered equivalent to his appointment of the superintendent and his successor from time to time in office to be his attorney to receive service of any lawful process in any noncriminal judicial or administrative proceeding against him or her, or his or her successor, executor, or administrator, which grows out of that conduct and which is brought under this division or under any regulation or order issued under this division, with the same force and validity as if served on him or her personally. Service may be made by leaving a copy of the process in any office of the superintendent, but the service is not effective unless (a) the party making the service, who may be the superintendent, forthwith sends notice of the service and a copy of the process by registered or certified mail to the party served at his or her last known address, or takes other steps which are reasonably calculated to give actual notice, and (b) an affidavit of compliance with this section by the party making service is filed in the case on or before the return date, if any, or within such further time as the court, in the case of a judicial proceeding, or the administrative agency, in the case of an administrative proceeding, allows.

SEC. 140. Section 33521 of the Financial Code is amended to read:

33521. (a) No licensee shall, nor shall any licensee cause or permit any of its California agents to, sell in this state any payment instrument issued by such licensee unless such payment instrument shall have first been approved as to form by the superintendent.

(b) If the superintendent finds, with respect to an application by

a licensee for approval as to form of a payment instrument to be issued by such licensee, all of the following:

(1) That the payment instrument clearly identifies the licensee as the issuer of the payment instrument.

(2) That the payment instrument is not misleading in any material respect.

(3) That the payment instrument complies with all applicable laws.

The superintendent shall approve the application and shall, after all conditions precedent to the approval of the payment instrument as to form have been fulfilled, approve the payment instrument as to form. If, after notice and a hearing, the superintendent finds otherwise, the superintendent shall deny the application.

SEC. 141. Section 4700 of the Fish and Game Code is amended to read:

4700. Fully protected mammals or parts thereof may not be taken or possessed at any time and no provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected mammal and no such permits or licenses heretofore issued shall have any force or effect for any such purpose; except that the commission may authorize the collecting of such species for necessary scientific research. Legally imported fully protected mammals or parts thereof may be possessed under a permit issued by the department.

The following are fully protected mammals:

(a) Morro Bay kangaroo rat (Dipodomys heermanni morroensis)
(b) Bighorn sheep (Ovis canadensis)
(c) Northern elephant seal (Mirounga angustirostris)
(d) Guadalupe fur seal (Arctocephalus townsendi)
(e) Ring-tailed cat (Genus bassariscus)
(f) Pacific right whale (Eubalaena sieboldi)
(g) Salt-marsh harvest mouse (Reithrodontomys raviventris)
(h) Southern sea otter (Enhydra lutris nereis)
(i) Wolverine (Gulo luscus).

SEC. 142. Section 8231 of the Fish and Game Code is amended to read:

8231. Salmon may not be taken for commercial purposes except under a nontransferable, revocable permit issued by the department to a qualified individual otherwise authorized to engage in commercial fishing. Such permit shall be valid from date of issuance through December 31, 1981.

SEC. 143. Section 8234 of the Fish and Game Code is amended to read:

8234. A permit holder may have any person serve in his or her place and engage in commercial salmon fishing under his or her permit for one period not to exceed 15 calendar days in any one year, except that a longer period may be allowed in the event of serious illness. Prior authorization for the substitution shall be obtained from the director and shall be given only on his or her finding that the

permit holder will not be available to engage in that activity and that the substitution will not adversely affect the resource. Application for the substitution shall be made to the Department of Fish and Game, Headquarters Office, Sacramento, and contain such information as the director may require. Any denial of the substitution may be appealed to the appeals board.

SEC. 145. Section 8680 of the Fish and Game Code, as added by Chapter 886 of the Statutes of 1980, is repealed. The repeal made by this section shall not affect the existence or validity of Section 8680 of the Fish and Game Code, as added by Chapter 961 of the Statutes of 1980.

SEC. 146. Section 8681 of the Fish and Game Code, as added by Chapter 886 of the Statutes of 1980, is repealed. The repeal made by this section shall not affect the existence or validity of Section 8681 of the Fish and Game Code, as added by Chapter 961 of the Statutes of 1980.

SEC. 147. Section 8682 of the Fish and Game Code, as added by Chapter 886 of the Statutes of 1980, is repealed. The repeal made by this section shall not affect the existence or validity of Section 8682 of the Fish and Game Code, as added by Chapter 961 of the Statutes of 1980.

SEC. 148. Section 8683 of the Fish and Game Code, as added by Chapter 886 of the Statutes of 1980, is repealed. The repeal made by this section shall not affect the existence or validity of Section 8683 of the Fish and Game Code, as added by Chapter 961 of the Statutes of 1980.

SEC. 149. Section 10740 of the Fish and Game Code is amended to read:

10740. It is unlawful for any person other than a legally constituted peace officer or officer or employee of the Forest Service of the United States Department of Agriculture, the department, or of the Department of Forestry, or county fish and game wardens or their duly authorized representatives, to travel by motor boat, automobile, motorcycle, or other type of motorized vehicle, or, except for emergencies and for rescue and aerial search for rescue purposes, to land an airplane, helicopter, or similar equipment, within the boundaries of a primitive, wilderness, or wild area closed to the above modes of travel as established by a duly authorized officer of the Forest Service or the Department of Agriculture and recorded in the office of the Regional Headquarters of the Pacific-Southwest Region of the United States Forest Service, Department of Agriculture, and with the department.

SEC. 150. Section 10770 of the Fish and Game Code is amended to read:

10770. The districts described in the following sections are fish and game refuges.

SEC. 151. Section 11512 of the Food and Agricultural Code, as amended by Section 1 of Chapter 660 of the Statutes of 1979, is amended to read:

11512. Except as provided in Section 11512.5, the proceedings for all hearings pursuant to this division shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The director shall have all of the powers which are granted in that chapter.

This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 152. The heading of Chapter 5 (commencing with Section 43801) of Division 17 of the Food and Agricultural Code is repealed.

SEC. 153. The heading of Chapter 20.5 (commencing with Section 47501) of Division 17 of the Food and Agricultural Code is repealed.

SEC. 154. Division 23 (commencing with Section 67500) of the Food and Agricultural Code is repealed.

SEC. 155. Section 68081 of the Food and Agricultural Code is amended to read:

68081. The powers and duties of the commission, subject to Sections 68052 and 68053, shall include, but are not limited to, all of the following:

(a) To adopt, and from time to time, alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, and orders for carrying out the provisions of this chapter, including appeals from any bylaw, rule, regulation, or order of the commission.

(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 for, proper or advisable effectuation of the purposes of this chapter.

(c) To appoint its own officers, including a chairman, one or more vice chairmen, and such other officers as it deems necessary. The officers shall have the powers and duties delegated to them by the commission.

(d) To employ, with the concurrence of the director, a manager to serve, at the pleasure of the commission and the director, as president and chief executive officer of the commission and other personnel, including legal counsel, as necessary to carry out the provisions of this chapter. The commission may retain a management firm or any staff from any board, commission, or committee of the state to perform the functions prescribed by this subdivision under the control of the commission.

(e) To fix the compensation for all employees of the commission.

(f) To appoint committees composed of both members and nonmembers of the commission to advise the commission in carrying out the provisions of this chapter.

(g) 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 commission, for the proper administration and enforcement of this chapter and the performance

(h) To keep accurate books, records and accounts of all of its dealings, which books, records and accounts shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director. The audit shall be made a part of an annual report to all producers and handlers of kiwifruit, copies of which shall also be submitted to the Legislature and the Department of Food and Agriculture. In addition, the director may, as he determines necessary, conduct, or cause to be conducted, a fiscal and compliance audit of the commission. The Department of Finance may audit books, records, and accounts of the commission at any time.

(i) To promote the sale of kiwifruit by advertising and other promotional means, including cost-sharing advertising, for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for kiwifruit and to educate and instruct the public with respect to kiwifruit and the uses and time to use the several varieties and the healthful properties and nutritional value of kiwifruit.

(j) To educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling kiwifruit; to arrange for the performance of dealer service work providing display and other promotional materials; to make market surveys and analyses; to present facts to, and negotiate with, state, federal, and foreign agencies on matters which affect the marketing of kiwifruit.

(k) To make, in the name of the commission, contracts to render service in formulating and conducting plans and programs, and such other contracts or agreements as the commission may deem necessary for the promotion of the sale of kiwifruit.

(*l*) To conduct and contract with others to conduct scientific research, including the study, analysis, dissemination, and accumulation of information obtained from such research or elsewhere respecting cultural and production practices, marketing, and distribution of kiwifruit. In connection with such research, the commission shall have the power to accept contributions of, or to match, private, state, or federal funds that may be available for such purposes, and to employ or make contributions of funds to other persons or state or federal agencies conducting such research.

(m) To publish and distribute, without charge, a bulletin or other communication for dissemination of information relating to the kiwifruit industry to producers and handlers.

(n) To establish an assessment rate to defray operating costs of the commission.

(o) To establish an annual budget according to acceptable accounting practices. The budget shall be concurred in by the director prior to disbursement of funds, except for disbursements made pursuant to subdivision (e).

(p) To submit a statement of contemplated annual activities authorized under this chapter, including advertising, promotion,

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marketing research, and production research, which shall be concurred in by the director.

SEC. 156. Division 23 (commencing with Section 70500) is added to the Food and Agricultural Code, to read:

DIVISION 23. CALIFORNIA DESERT NATIVE PLANTS

CHAPTER 1. GENERAL PROVISIONS

70500. This division shall be known and may be cited as the California Desert Native Plants Act.

70501. It is the intent of the Legislature, in this division, to protect California desert native plants from unlawful harvesting on both public and privately owned lands. It is also the intent of the Legislature to provide the people of this state with the information necessary to legally harvest native plants so as to ultimately transplant those plants with the greatest possible chance of survival. It is the further intent of the Legislature to encourage public participation in implementing the safeguards established by this division and in evaluating the effectiveness and desirability of the safeguards.

70502. The provisions of this division shall be applicable only within the boundaries of the Counties of Imperial, Inyo, Kern, Los Angeles, Mono, Riverside, San Bernardino, and San Diego. The director may thereafter revise the boundaries of the areas of the state which shall be subject to this division after a public hearing required to be held pursuant to Section 70633 and upon receipt of a resolution approving the change of boundaries by the board of supervisors of the affected county.

70503. Persons engaged in the production, storage, sale, delivery, or transportation of nursery stock pursuant to Part 3 (commencing with Section 6701) of Division 4 shall not be required to obtain a permit pursuant to this division unless those activities involve the harvesting of native plants growing in a wild, uncultivated state.

70504. Persons engaged in the production, storage, sale, delivery, or transportation of nursery stock pursuant to Part 3 (commencing with Section 6701) of Division 4 shall not receive any harvested native plants, unless each plant has securely and properly attached thereto a valid native plant tag and seal.

70505. Persons engaged in the sale of nursery stock pursuant to Part 3 (commencing with Section 6701) of Division 4 shall maintain records of their receipts or purchases for sale or resale of any native plant. The records shall include the name and address of the person selling or delivering the plants and shall be subject to inspection by the commissioner or the director.

CHAPTER 2. DEFINITIONS

70600. Unless the context otherwise requires, the definitions of this chapter govern the construction of this division.

70601. "Landowner" includes the public agency administering any public lands within the areas subject to this division.

70602. "Harvest" means to remove or cut and remove from the place where grown.

70603. "Harvester" means a person who harvests a native plant.

70604. "Director" means the Director of Food and Agriculture.

70605. "Department" means the Department of Food and Agriculture.

70606. "Tag" means a paper or cloth label that can be attached to a native plant or a commercial load by means of a string and a seal, which tag specifies among other things a serial number, type of plant, fee required, location of origin, date of removal, witnessing authority, applicant, destination, and proposed use, including, but not limited to, commercial processing or landscaping.

70607. "Seal" means a metal, tamperproof clamp used to permanently affix the tag to a native plant.

70608. "Resale" means native plants harvested, possessed, or transported with the intent to sell the plants for the ultimate purpose of landscaping or decoration or both.

70609. "Resale load" means native plants harvested, possessed, or transported for resale purposes.

70610. "Native plant" means any tree, shrub, bulb, or plant or part thereof, except its fruit, named in this division as being subject to this division or added by the director pursuant to Section 70633, which is growing wild. "Native plant" includes any part of any tree of the following species, whether living or dead:

(a) Olneya tesota (desert ironwood).

(b) All species of the genus Prosopis (mesquites).

(c) All species of the genus Cercidium (palos verdes).

70611. "Commercial harvesting" means harvesting native plants for an ultimate use other than as landscaping or decorative material and with the plants' tops or branches, or both, boughs, or limbs removed.

70612. "Permit" means an application form to harvest native plants that has been filled out by the applicant and approved and officially endorsed by the agricultural commissioner or sheriff of the county wherein the native plants covered by the application are located.

70613. "Wood receipt" means a receipt that is to accompany one or more cords of wood harvested under the provisions of this division. The wood receipt shall contain information which specifies, among other things, a serial number, species of wood, fee required, location of origin, date of removal, witnessing authority, applicant, destination, and proposed use, including, but not limited to, commercial processing landscaping.

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CHAPTER 3. REGULATED NATIVE PLANTS

70630. The botanical names of the plants referred to in this chapter shall, in all cases, govern in the interpretation of this division.

70631. The following native plants may not be harvested except for scientific or educational purposes under a permit issued by the commissioner of the county in which the native plants are growing: all species of Burseraceae family (elephant tree), Carnegiea gigantea (sahuaro cactus), Castela emoryi (crucifixion thorn), Dudleya saxosa (Panamint dudleya), Pinus longaeva (bristlecone pine), and Washingtonia filifera (fan palm).

70632. The following native plants may be harvested under a permit issued by the agricultural commissioner or the sheriff of the county in which the native plants are growing: all species of the family Agavaceae (century plants, nolinas, yuccas), all species of the family Cactaceae (cacti), except the species Carnegiea gigantea (sahuaro cactus), all species of the family Fouquieriaceae (ocotillo, candlewood), all species of the genus Prosopis (mesquites), all species of the genus Cercidium (palos verdes), and the following species: Acacia greggii (catclaw), Atriplex hymenelytra (desert-holly), Dalea spinosa (smoke tree), Olneya tesota (desert ironwood), or any part thereof, except the fruit. For purposes of this division, Olneya tesota (desert ironwood) includes both dead and live desert ironwood.

The commissioner may establish limits on the quantity of desert ironwood which may be taken under any permit and on the number of permits for the taking of desert ironwood which may be issued. The county agricultural commissioner may adopt such rules and regulations as may be necessary for the protection of the ironwood resource.

Notwithstanding the foregoing provisions of this section, the director may add desert ironwood to, or remove it from, the jurisdiction of this division pursuant to Section 70633.

70633. After consultation with the Secretary of the Resources Agency and after a public hearing, the director may add to, or remove from, the jurisdiction of this division a native plant. A public hearing on native plants shall be held at least once every 24 months in a county subject to this division and in a location that is convenient to a large segment of the public.

In deciding whether to call a public hearing, the director may consider a request from a public or private group, including concerned citizens, and the director shall convene such a hearing when requested by resolution of any county board of supervisors. The director may consider at such a hearing which plants are in need of protection and whether the boundaries of the area to be protected should be changed pursuant to Section 70502.

70634. Any native plant that is declared to be a rare, endangered, or threatened species by federal or state law or regulations, including, but not limited to, the Fish and Game Code, is exempt

from the provisions of this division.

CHAPTER 4. ENFORCEMENT POWERS AND ADMINISTRATIVE RESPONSIBILITIES

70650. (a) The commissioner or the sheriff of a county subject to this division shall issue, in accordance with this division, permits, wood receipts, tags, and seals for a fee as prescribed by the board of supervisors of the county where the native plants are located. The fee shall not be less than one dollar ($1) per plant for all native plants, except Yucca brevifolia (Joshua tree), and not less than two dollars ($2) per plant for each Yucca brevifolia (Joshua tree), except that in the case of trees, live or dead, mesquite, palo verde, or ironwood species of trees cut or removed for wood, as provided in Section 70652, the fee shall not be less than one dollar ($1) per cord, or in the case of Yucca Schidigera used for commercial harvesting the fee shall not be less than three dollars ($3) per ton. The fees shall cover the cost of issuing a permit and may cover other related costs including but not limited to, administration, enforcement, and research costs. The permit shall specify, among other things, the species of native plants which may be harvested, the area from which plants may be harvested, and the manner in which plants may be harvested. No person, except as provided in this division, shall harvest, transport, offer for sale, or have in his or her possession any native plant unless at the time of harvesting he or she has a valid permit or valid wood receipt therefor on his or her person, and he or she attaches the required tags and seals to the native plants, and unless he or she exhibits the permit, wood receipt, and tags and seals upon request for inspection by any duly authorized agent of the county agricultural commissioner or any peace officer as provided in this division. No wood receipt or tag and seal is valid unless it is issued with a valid permit and the permit bears the tag number or wood receipt number on its face.

(b) Native plants which have been tagged and sealed, as provided in this section, may be transported under a California nursery stock certificate or a shipping permit.

70651. (a) Each permit authorizing the harvesting, transporting, or possessing of native plants, except trees cut or removed for wood as provided in Section 70652, shall be accompanied by a sufficient number of tags and seals. The permittee or his or her agent shall attach tags and seals to the native plants at the time of harvesting and before transporting in such manner as prescribed by the commissioner of the county in which the native plants are located. After any native plant has been legally harvested and tagged or sealed as provided in this division, it shall be unlawful to remove the tag or seal until the plant has been transplanted into its ultimate site for landscaping or decoration. The tag or seal may be removed from the plant only by the commissioner or the ultimate owner of the plant, who shall retain the tag or seal as proof of ownership.

(b) No permit or tag or seal is transferable by the permittee or his agent, nor shall it be used by anyone except that person to whom the permit or tag or seal was issued, and no refunds shall be made for the purchase thereof.

(c) Every permittee shall be responsible for the acts of any other person or persons acting under any authority, express or implied, of the permittee.

70652. (a) Each permit authorizing the harvesting, transporting, or possessing of live or dead mesquite, palo verde, or ironwood species of trees which are harvested for wood, shall be accompanied by a wood receipt. Any required wood receipt shall be in the possession of the person harvesting, transporting, or possessing the wood.

(b) No permit or wood receipt is transferable by the permittee or his agent, nor shall it be used by anyone other than the person to whom the permit or wood receipt was issued or his or her agent or employee, except that the wood receipt shall be transferred by the permittee or his or her agent or employee to the purchaser of the wood covered by the receipt as proof of ownership.

70653. Any person in possession of a valid permit for the removal of dead plants or wood issued by the United States Forest Service, the National Park Service, or the Bureau of Land Management, or any person in compliance with appropriate federal regulations and policies allowing the removal of dead plants or wood from lands administered by the Bureau of Land Management, shall not be required to obtain a permit pursuant to this division for the removal or possession of those dead plants or wood.

70654. The director may make necessary rules and regulations not in conflict with this division for the enforcement of its provisions.

70655. The director or any of his duly authorized agents, any commissioner, or any peace officer is authorized and directed to enter in or upon any premises or other place, train, vehicle, or other means of transportation within or entering the state, which is suspected of containing or having present therein or thereon native plants in violation of this division, in order to examine permits and wood receipts and observe tags and seals.

70656. When any power or authority is given by any provision of this division to any person, it may be exercised by any deputy, inspector, or agent duly authorized by that person. Any person in whom the enforcement of any provision of this division is vested has the power of a peace officer as to that enforcement, which shall include state or federal agencies with which cooperative agreements have been made by the department to enforce any provision of this division.

70657. Any county may adopt ordinances not in conflict with this division for the preservation of native plants specified in Sections 70631 and 70632.

CHAPTER 5. HARVESTING OF NATIVE PLANTS

70680. (a) Except as provided in this division, it is unlawful for any person to destroy, dig up, mutilate, or harvest any living native plant, or the living or dead parts of any native plant, except its fruit, without obtaining written permission from the landowner and a permit and any required wood receipts or tags and seals.

(b) It shall be unlawful for any person to falsify any paper or document issued to give permission for any person to harvest a native plant specified in Section 70632, or to fail to comply with all conditions or stipulations of the permit.

70681. The commissioner of the county wherein the plants are located may issue a permit to a scientific or educational institution to harvest a definite number of plants listed in Section 70631 for scientific or educational purposes, if permission is obtained from the landowner on whose property the plants are located.

70682. Permits issued for the removal of native plants shall be valid only for a stated period of time to allow the permittee to remove the specific amount of plants or wood stated in the permit, or the period of time stated by the landowner as part of the landowner's permission, whichever is shorter, but in no case for more than one year.

It is the intent of the Legislature that each permit or wood receipt shall be valid for the least period of time possible in which to accomplish the authorized purpose.

70683. No person shall knowingly make any false statement on any application for permits, wood receipts, or tags and seals. The application shall contain the following information:

(a) The name, address, and telephone number of the applicant.

(b) The amount and species of native plants to be transported.

(c) The name of the county from which the native plants are to be removed.

(d) A description sufficient to identify the real property from which the native plants are to be removed, and such other information or documents as the issuing agency may require to identify the general boundaries of the property.

(e) The name, address, and telephone number of each landowner from whose property the native plants are to be removed.

(f) The applicant's timber operator permit number, if the harvesting of the native plants is subject to the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4 of the Public Resources Code).

(g) The proposed date or dates of the transportation.

(h) The location of the office of the peace officer who will validate the tag or tags.

(i) The destination of the native plants.

(j) The ultimate use of the native plants, such as for use as landscaping or decorative material, or for use as a raw material in the manufacture or processing of a product.

(k) Make, model, and license number of the transportation vehicle.

(*l*) Such other information as may be required by the agency issuing the permit.

Every applicant shall, at the time of making the application, show his or her proof of ownership of the native plants. The application forms, tags, seals, and wood receipts shall be produced by the Department of Justice, and distributed to the sheriff and the agricultural commissioner of each county subject to Section 70502.

70684. Any permit issued pursuant to Section 70680, 70681, 70682 or 70683 shall expire when the tags and seals issued therewith have been attached to the plants covered by the permit and such plants are no longer in the possession of the permittee.

70685. The director or agricultural commissioner may establish specific cutting, harvesting, and plant care criteria which shall include the most favorable and practical horticultural methods and seasons to assure the survivability of the plants and to assure compliance with existing local, state, and federal regulations.

70686. No provision of this division shall prevent any of the following:

(a) The clearing of land for agricultural purposes, fire control measures, or required mining assessment work pursuant to federal or state mining laws.

(b) The holding of a recreational event sanctioned by the Bureau of Land Management.

(c) The clearing or removal of native plants from a canal, lateral ditch, survey line, building site, or road or other right-of-way by the landowner or his or her agent, if the native plants are not to be transported from the land or offered for sale and if the commissioner is given at least 10 days' notice of any such activity.

The provisions of this division are not applicable to a public agency or to a publicly or privately owned public utility when acting in the performance of its obligation to provide service to the public. This section does not prevent the landowner or his agent from complying with any other federal, state, or local laws or regulations.

The commissioner may exempt the use of dead and down wood for camping or branding fires from the requirements of this division.

70687. Except as provided in Section 70631, no provision of this division prohibits any person from harvesting or possessing, for purposes other than resale, five or fewer native plants or from cutting, removing, harvesting, transporting, or possessing, for purposes other than resale, any dead mesquite or palo verde in amounts less than one cord, from land owned by the person, or from land leased by the person when the landowner's written permission to harvest has been obtained and is exhibited, or from land not owned by the person when the person exhibits written permission to harvest from the landowner. The written permission shall not be valid unless it includes a description of the land satisfying the requirements of Section 70683 and the address and telephone

number of the landowner.

Persons harvesting five or fewer native plants, for purposes other than resale, and persons cutting, removing, harvesting, transporting, or possessing any dead mesquite or palo verde, for purposes other than resale, in amounts less than one cord shall not be required to obtain and exhibit any permits, tags and seals, or wood receipts.

Persons possessing six or more harvested native plants shall obtain and exhibit a tag and seal for the sixth native plant and for each additional native plant in his possession.

70688. Each county may enact ordinances not inconsistent with this division to control commercial harvesting in that county.

70689. The issuing agency shall collect fees for the issuance of permits, tags and seals and wood receipts under this division, except from a landowner moving native plants from one of his or her properties to another, if the plants are not to be offered for sale.

70690. Any harvested native plant listed in Section 70631 or 70632, or added by the director pursuant to Section 70633, which is not exempt from the permit requirements of this division pursuant to Section 70687, found without a tag and seal securely and properly affixed thereto or for which the owner does not exhibit a tag and seal, or any mesquite or palo verde wood in the amount of one cord or more found in the possession of a person without a wood receipt, may be confiscated as evidence of a violation.

CHAPTER 6. SHIPMENT OF PLANTS

70700. No person or common carrier shall transport, or receive or possess for transportation, any native plant or any wood, or part thereof, except its fruit or manufactured wood articles, that requires a permit, wood receipt, or tag and seal, unless the person offering the plant for shipment furnishes to the person or common carrier a valid permit therefor, and any required wood receipts, and has securely and properly attached thereto any required tag and seal. If for transportation outside of the state, the plant shall also bear a certificate of inspection by the department.

70701. All native plant species or varieties subject to this division, when not grown in California and imported into this state, shall be declared at a California agricultural inspection station or an office of the department, and proceed to destination under quarantine orders issued by agents of the department employed at the station or office. Any person transporting any plant species or varieties subject to this division from outside the state into California shall have in his or her possession a valid bill of sale for those native plants, and such permits and tags as may be required by the state of origin, and shall produce the bill of sale as well as any permits and tags for inspection by any duly authorized person as described in this division or any peace officer of the State of California as a requirement for entry into the state of the native plants.

CHAPTER 7. ENFORCEMENT

70720. A peace officer may, in the enforcement of this division, make arrests without warrant for a violation of this division which he or she may witness, and may confiscate native plants, or parts thereof when unlawfully harvested, transported, possessed, sold, or otherwise obtained in violation of this division.

70721. A person violating any provision of this division is guilty of a misdemeanor punishable by a fine of not less than three hundred dollars ($300), nor more than one thousand dollars ($1,000), for each violation or by imprisonment in the county jail not to exceed one year, or both, and each violation constitutes a separate offense.

70722. Upon conviction of a violation of this division, all permits issued to the person convicted shall be revoked and the permittee shall be required to surrender any unused tags and seals or wood receipts to the issuing agency and no new or additional permits shall be issued to the permittee for a period of one year from the date of conviction.

70723. A second conviction may be considered as a misdemeanor or a felony. If a misdemeanor, it shall be punishable by a fine of not less than three hundred dollars ($300), nor more than one thousand dollars ($1,000), for each violation or by imprisonment in the county jail not to exceed one year, or both, and each violation constitutes a separate offense. If a felony, it shall be punishable by a fine of not less than one thousand dollars ($1,000), nor more than five thousand dollars ($5,000), for each violation or by imprisonment in the state prison not to exceed five years, or both, and each violation constitutes a separate offense.

Upon the second conviction, all permits issued to the person convicted shall be revoked and the permittee shall be required to surrender any unused tags and seals or wood receipts to the issuing agency and no new or additional permits shall be issued to the permittee at any time in the future from the date of conviction.

70724. The issuing agency may revoke any permit, tags, or seals issued for the purpose of harvesting for ultimate replanting if the permittee willfully fails to comply with all conditions or stipulations of the permit.

CHAPTER 8. FINANCIAL PROVISIONS

70740. All fees or moneys collected under this division shall be paid into the general fund of the county in which the permits, tags and seals, and wood receipts were issued.

SEC. 157. Section 24 of the Government Code, as added by Chapter 1208 of the Statutes of 1980, is amended and renumbered to read:

25. (a) For purposes of this code, "assessed value" means 25 percent of full value to, and including, the 1980–81 fiscal year, and 100 percent of full value for the 1981–82 fiscal year and fiscal years

thereafter; and, tax rates shall be expressed in dollars, or fractions thereof, on each one hundred dollars ($100) of assessed value to, and including, the 1980–81 fiscal year and as a percentage of full value for the 1981–82 fiscal year and fiscal years thereafter.

(b) Whenever this code requires comparison of assessed values, tax rates, or property tax revenues for different years, the assessment ratios and tax rates shall be adjusted as necessary so that the comparisons are made on the same basis, and the same amount of tax revenues would be produced, or the same relative value of an exemption or subvention will be realized regardless of the method of expressing tax rates or the assessment ratio utilized.

(c) For purposes of expressing tax rates on the same basis, a tax rate based on a 25 percent assessment ratio and expressed in dollars, or fractions thereof, for each one hundred dollars ($100) of assessed value may be multiplied by a conversion factor of twenty-five hundredths of 1 percent to determine a rate comparable to a rate expressed as a percentage of full value; and, a rate expressed as a percentage of full value may be multiplied by a factor of 400 to determine a rate comparable to a rate expressed in dollars, or fractions thereof, for each one hundred dollars ($100) of assessed value and based on a 25 percent assessment ratio.

SEC. 158. Section 850.8 of the Government Code is amended to read:

850.8. Any member of an organized fire department, fire protection district, or other firefighting unit of either the state or any political subdivision, any employee of the Department of Forestry, or any other public employee when acting in the scope of his or her employment, may transport or arrange for the transportation of any person injured by a fire, or by a fire protection operation, to a physician and surgeon or hospital if the injured person does not object to the transportation.

Neither a public entity nor a public employee is liable for any injury sustained by the injured person as a result of or in connection with that transportation or for any medical, ambulance or hospital bills incurred by or in behalf of the injured person or for any other damages, but a public employee is liable for injury proximately caused by his willful misconduct in transporting the injured person or arranging for the transportation.

SEC. 159. The heading of Chapter 11 (commencing with Section 4540) of Division 5 of Title 1 of the Government Code is amended and renumbered to read:

CHAPTER 12. CHILD CARE FACILITIES FOR STATE EMPLOYEES

SEC. 160. Section 4540 of the Government Code is amended and renumbered to read:

4560. The Legislature finds and declares that there is a substantial need to provide adequate child care facilities for state employees.

When the state constructs, acquires, or receives as a gift any office

buildings which can accommodate 700 or more state employees, or when additions, alterations, or repairs are made to existing state-owned office buildings which can accommodate 700 or more state employees, and the additions, alterations, or repairs both change and affect the use of 25 percent of the net square feet area of the building and include the addition to, alteration of, or repair of the first floor, adequate space shall be designated within the building to meet the child care needs of those employees, if a review of those employees slated to occupy the new or renovated building shows sufficient need for child care services for 30 or more children. The review shall be conducted by the Department of General Services and the Governor's Advisory Committee on Child Development Programs established pursuant to Section 8254 of the Education Code. The Director of the Department of General Services may acquire space in any adequate facility for the same purposes only in the event that all other physical requirements controlling the development of such child care facilities within the office building cannot be utilized, provided that funds for the off-site facilities are made available.

It is the intent of the Legislature that existing state office buildings, at the discretion of the Director of General Services, may be retrofitted to accommodate a child care facility. State funds required for the retrofitting will be subject to regular budgetary procedures and approvals.

Space designed within a state-owned office building for the child care facility shall comply with the prevailing local and state safety building codes for child care facilities.

The indoor area shall not exceed 2,100 square feet, nor be less than that required to accommodate 30 children, excluding space for restrooms, kitchen facilities, storage areas, and teacher offices. Outdoor play area space shall correspond with the indoor play area as set forth in Title 22 of the California Administrative Code.

Utilization of the space shall be subject to terms and conditions as set forth by the Director of General Services. The terms shall include payment of rent, proof of financial responsibility, and maintenance of space. The space shall be made available to the employees who wish to establish child care facilities at a rate to be established by the Director of the Department of General Services that is consistent with rental rates charged to state agencies occupying comparable state-owned space. Rent for non-state-owned space will be based upon the actual cost to the state.

The employee-occupants shall be notified in writing by the department or departments occupying the building, of the availability of space to be used for a child care facility no earlier than 180 days prior to the projected date of occupancy of a new building or space provided as the result of additions, alterations, or repairs to an existing state-owned building, and such additions, alterations, or repairs that both change and affect the use of 25 percent of the net square feet area of the building and include the addition to,

alteration of, or repair of the first floor. If, within 30 days after full occupancy of a new office building or 30 days after the completion of additions, alterations, or repairs to an existing state-owned office building, the employee-occupants so desiring have not filed an application with the Secretary of State as a nonprofit corporation for the purpose of organizing a child care center, deposited two months' rent in a commercial or savings account, and entered into a contract with the Department of General Services, the space may be used for any other purpose, as long as no permanent alteration of the space occurs. Other purposes may include, but are not limited to, conference rooms, storage areas, or offices. The space for child care shall be held for the employee-occupants' nonprofit corporation only as long as they pay the monthly rent and meet the terms set forth in the contract. Payment of rent shall commence 30 days after full occupancy of a new office building or 30 days after completion of additions, alterations, or repairs, as specified in this section.

If at a later date, the employee-occupants so desiring (a) file an application with the Secretary of State as a nonprofit corporation for the purpose of organizing a child care facility, (b) deposit two month's rent in a commercial or savings account, and (c) notify the Director of the Department of General Services of those actions, then the space shall be reconverted for child care purposes within 180 days of such notice.

Only children of whom at least one parent or guardian is a state employee may be served in the child care facility.

When a child care center has been operative for five years, the Director of the Department of General Services shall assess the child care needs of the state employees using the center and the office space needs of the building within which the center is located. If the assessment demonstrates a greater need for office space than for child care, the Director of the Department of General Services may close the child care center. Ninety days' written notice shall be given to the director or head teacher of the center of the closure.

This section shall not be construed to apply to those buildings which provide care or 24-hour residential care for patients, inmates, or wards of the state, such as state hospitals and correctional facilities.

SEC. 161. Section 4541 of the Government Code is amended and renumbered to read:

4561. Child care facilities for the employees of the California State University and Colleges and the University of California shall be incorporated into the campus master plans and constructed subject to the provision of state funding appropriations by the Legislature. Determination of the need for, eligibility for use, and utilization of those facilities, shall be subject to terms and conditions of the trustees and the regents.

For the purposes of this chapter, only this section shall apply to the California State University and Colleges system and the University of California.

SEC. 162. Section 4542 of the Government Code is amended and

renumbered to read:

4562. This chapter shall not apply to the design of new state office buildings, additions, alterations, or repairs of existing state-owned office buildings, where the Public Works Board has approved, prior to the effective date of this chapter, the commencement of the working drawing phase of the new state office building.

SEC. 163. Section 6901 of the Government Code is amended to read:

6901. Notwithstanding any other provision of the law, every state agency owning common stock shall, when returning proxies to a corporation, vote each proxy that is returned to the corporation. Nothing in this section shall prohibit a state agency owning common stock from abstaining on a corporate or shareholder proposal and notifying the corporation in writing of the state agency's desire to abstain on a corporate or shareholder proposal.

As used in this section "state agency" includes the state, the University of California, and any office, department, division, bureau, board, commission, agency, or pension or retirement system thereof.

SEC. 164. The heading of Chapter 24 (commencing with Section 7540) of Division 7 of Title 1 of the Government Code is amended and renumbered to read:

CHAPTER 25. FEDERAL FUNDING

SEC. 165. Section 7540 of the Government code is amended and renumbered to read:

7560. It is the intent of the Legislature to assure receipt of federal funding by the State of California. It is also the intent of the Legislature to assure that if lack of interagency agreement or lack of coordination between state agencies jeopardizes state receipt of federal funds, including, but not limited to, funds available for services to handicapped children, an expeditious process shall exist for resolving such interagency matters.

SEC. 166. Section 7541 of the Government Code is amended and renumbered to read:

7561. It is further the intent of the Legislature that there shall be a single line of responsibility with regard to the education of all handicapped children as required by Public Law 94-142. The Superintendent of Public Instruction shall be responsible for supervising education and related services for handicapped children specifically required pursuant to the federal requirements under the Education for All Handicapped Children Act of 1975, Public Law 94-142. Nothing in this chapter shall be construed to relieve another state agency from an otherwise valid obligation to provide or pay for services to a handicapped child. Furthermore, nothing in this chapter shall be interpreted so as to allow the Superintendent of Public Instruction to prescribe health care services.

SEC. 167. Section 7542 of the Government Code is amended and

renumbered to read:

7562. If any state agency applies for federal funds to meet a mandatory responsibility under federal or state law and such application is not approved, the state agency shall submit to the Department of Finance, the Office of Planning and Research and the Joint Legislative Budget Committee within 15 calendar days of its receipt of notification of the lack of approval of its application all of the following:

(a) An identification of the federal program for which the application was not approved and the federal administering agency.

(b) An estimate of the amount of funds affected by the lack of approval of the state agency application.

(c) An indication of the reason or reasons the application was not approved.

(d) A description of any issues pertaining to responsibilities or actions of other state or local agencies which have affected the lack of approval.

SEC. 168. Section 7543 of the Government Code is amended and renumbered to read:

7563. The Joint Legislative Budget Committee shall submit to each member of the appropriate legislative policy committees and to each member of the legislative fiscal committees, within 10 calendar days of receipt of notification of a lack of approval of an application for federal funds reported to it pursuant to Section 7542, a summary of the information specified in subdivisions (a) through (d) of Section 7542.

SEC. 169. Section 7544 of the Government Code is amended and renumbered to read:

7564. Any state agency which has not received federal agency approval of an application for funds as described in Section 7542 shall submit to the Department of Finance, the Office of Planning and Research and the Joint Legislative Budget Committee within 30 calendar days of receipt of notification of such lack of approval a plan that includes, but is not limited to, any of the following:

(a) Fostering expeditious receipt of the affected federal funds.

(b) Resolving any disagreement or lack of coordination among state agencies or among local agencies which has interfered with federal agency approval of the application for federal funds.

SEC. 170. Section 8574.3 of the Government Code is amended to read:

8574.3. State agencies granted authority to implement a plan adopted under this article may use volunteer workers. The volunteers shall be deemed employees of the state for the purpose of workers' compensation under Article 2 (commencing with Section 3350) of Chapter 2 of Part 1 of Division 4 of the Labor Code. Any payments for workers' compensation under this section shall be made from the account specified in Section 8574.4.

SEC. 171. Section 8580 of the Government Code is amended to read:

8580. The Emergency Council shall establish by rule and regulation various classes of disaster service workers and the scope of the duties of each class. The Emergency Council shall also adopt rules and regulations prescribing the manner in which disaster service workers of each class are to be registered. All of the rules and regulations shall be designed to facilitate the payment of workers' compensation.

SEC. 172. Section 8597 of the Government Code is amended to read:

8597. Whenever a state of emergency is proclaimed to exist within any region or area, or whenever a state of war emergency exists, the following classes of state employees who are within the region or area proclaimed or who may be assigned to duty therein shall be peace officers and shall have the full powers and duties of those officers for all purposes as provided by Section 830.1 of the Penal Code, and shall perform such duties and exercise any powers which are appropriate or which may be directed by their superior officers:

(a) All members of the California Highway Patrol.

(b) All deputies of the Department of Fish and Game who have been appointed to enforce the provisions of the Fish and Game Code pursuant to Section 851 of that code.

(c) The Director of Forestry and the classes of the Department of Forestry who are designated by the Director of Forestry as having the powers of peace officers pursuant to Section 4156 of the Public Resources Code.

(d) All members of the California State Police Division.

(e) Peace officers who are state employees within the provisions of Section 830.5 of the Penal Code.

SEC. 173. Section 8897.1 of the Government Code is amended to read:

8897.1. To implement the foregoing responsibilities, the commission may do any of the following:

(a) Review state budgets and review grant proposals, other than those grant proposals submitted by institutions of postsecondary education to the federal government, for earthquake related activities and to advise the Governor and Legislature thereon.

(b) Review legislative proposals, related to earthquake safety to advise the Governor and Legislature concerning the proposals, and to propose needed legislation.

(c) Recommend the addition, deletion, or changing of state agency standards when, in the commission's view, the existing situation creates undue hazards or when new developments would promote earthquake hazard mitigation, and conduct public hearings as deemed necessary on the subjects.

(d) In the conduct of any hearing, investigation, inquiry, or study which is ordered or undertaken in any part of the state, administer oaths and issue subpoenas for the attendance of witnesses and the production of papers, records, reports, books, maps, accounts,

documents, and testimony.

(e) In addition, the commission may perform any of the functions contained in subdivisions (a) to (d), inclusive, in relation to other disasters, as defined in subdivision (c) of Section 8897, in connection with issues or items reported or discussed with the Office of Emergency Services at any commission meeting.

SEC. 174. Section 11011.1 of the Government Code is amended to read:

11011.1. (a) Land that has been declared surplus by the Legislature, pursuant to Section 11011, and is not needed by any state agency shall be offered to local governmental agencies. Except as authorized in subdivisions (b), (c), (d), and (e), transfers of surplus land to local governmental agencies pursuant to this section shall be at fair market value.

(b) Where the land is to be used for park and recreation purposes and operated for those purposes by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may, notwithstanding any provision in Section 11011, transfer the land to local governmental agencies at less than the fair market value of the land, if the transfer is in the public interest, under the following conditions:

(1) The local public agency has submitted a general development plan for the property which conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7, and which general development plan has been approved by the Director of Parks and Recreation.

(2) The land shall be developed according to plan within a time period determined by the state but not to exceed 10 years. The deed or other instrument of transfer shall provide that the land shall revert to the state if the land is not developed within the time period so determined by the state.

(3) The deed or other instrument of transfer shall provide that the land would revert to the state if the use changed to a use not consistent with parks and recreation purposes during the period of 25 years following the sale.

(c) Where the land is to be used for open-space purposes, as defined herein, and operated by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may transfer the land to local governmental agencies at fair market value of the land or at any lesser value of the land under any of the following conditions:

(1) The local public agency has submitted a plan for the use of the property which conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7, and which plan has been approved by the Director of Parks and Recreation.

(2) The land shall be used according to plan within a time period determined by the state but not to exceed 10 years.

(3) The deed or other instrument of transfer shall provide that the

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land would revert to the state if the use changed to a use not consistent with open-space purposes during the period of 25 years following the sale.

(4) For the purpose of this subdivision, "open-space purpose" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(d) Where the land is suitable to be used for the purpose of providing housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, the Director of General Services, with the approval of the State Public Works Board, may offer the land to local agencies within whose jurisdiction the land is located. Provided, however, if the state has held title to the land for seven years or less and the land is not used for the purposes for which it was acquired, and the land is declared surplus land and is not needed by any other state agency pursuant to the provisions of Section 11011, the state, prior to offering the land to local agencies, shall extend to the individual from whom the land was acquired an offer to purchase the land at current fair market value. The offer shall extend for 60 days and if not exercised within such period shall be irrevocably terminated. The land may be transferred to local agencies at a reasonable cost which will enable the provision of housing for persons and families of low or moderate income. The cost may be less than fair market value. The Department of Housing and Community Development shall recommend to the Department of General Services a cost which will enable the provision of housing for persons and families of low or moderate income. All transfers of land pursuant to this subdivision shall be subject to the following conditions:

(1) The local agency has made all of the following findings:

(A) There is a need for the housing in the community.

(B) The land is suitable for development of the housing.

(2) The local agency develops a plan for the housing in accordance with criteria established by the Department of Housing and Community Development, which shall include, but not be limited to, criteria respecting the financial condition of the developer, if the housing is to be developed by a private sponsor, and the cost of the project. The plan shall be approved by the Department of Housing and Community Development.

(3) After transfer of the property from the state to the local agency, the property shall be developed as housing for persons and families of low or moderate income. The local agency may lease or sell the property to any nonprofit corporation, housing corporation, limited dividend housing corporation, or private developer if the local agency determines a private entity is best suited to develop housing for persons and families of low or moderate income. In authorizing the private development, the local agency shall impose reasonable terms and conditions as will further the purposes of this subdivision, which shall include, but not be limited to, continued use of the property for housing for persons and families of low or

moderate income for not less than 40 nor more than 55 years. A lessee or purchaser of land pursuant to this subdivision shall agree to limitations on profit in the operation of the property which will benefit the public and assure that the housing provided thereon is within the means of persons and families of low or moderate income. The agreement shall be binding upon successors in interest of the original lessee or purchaser and shall inure to the benefit of, and be enforceable by, the state.

(4) The local agency shall assure that the land will be used for the purpose of providing low- or moderate-income housing and shall not permit the use of the dwelling accommodations of the project for any other purpose for not less than 40 nor more than 55 years, except as provided in this section.

In the event a local agency does not comply with the land use requirements prescribed in this section, as determined by the Department of General Services, the Department of General Services may require that the local agency pay the state the difference between the actual price paid by the local agency for the property and the fair market value of the property, at the time of the department's determination of noncompliance, plus 6 percent interest on that amount for the period of time the land has been held by the local agency.

If the local agency, with the approval of the Department of General Services, and in consultation with the Department of Housing and Community Development, determines that there is no longer a need for low- or moderate-income housing within the jurisdiction of the local agency and another valid public purpose could be achieved by utilizing the land in an alternative manner, the local agency shall not be required to make any payment to the state for the difference between purchase price and fair market value or interest charges for the period of time the land has been held by the local agency.

(5) Failure to comply with the provisions of this section shall not invalidate the transfer, sale, or conveyance of the real property to a bona fide purchaser or encumbrancer for value.

(6) The project shall be commenced within 24 months of the original transfer to the local agency. However, the Department of General Services, in consultation with the Department of Housing and Community Development, may for justifiable cause extend the time for commencement of development for an additional 36 months. The aggregate time for commencing development shall not exceed 60 months. The deed or other instrument of conveyance shall specify that, if development has not commenced within that time, the land shall revert to the Department of General Services for disposal pursuant to this section or as otherwise authorized by law.

(7) As used in this subdivision, "local agency" means and includes any county, city, city and county, redevelopment agency organized pursuant to Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code, or housing authority organized

pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code, public district or other political subdivision of the state and any instrumentality thereof, which is authorized to engage in or assist in the development or operation of housing for persons and families of low or moderate income and also includes two or more of those agencies acting jointly pursuant to Part 1 (commencing with Section 6500) of Division 7 of this code.

(8) Up to 40 percent of the housing developed on land purchased at below market value pursuant to this subdivision may be housing which is not regulated as to price, rent, or eligibility of occupants only if the purchaser of the land demonstrates that the proceeds from the sale or rental of such housing, in an amount equal to the difference between the fair market value and the actual price paid for the land, is used to reduce prices or rents on other housing units which are made available exclusively to persons and families of low and moderate income.

(e) Where the land is suitable to be used for the purpose of providing housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and provided no local agency has acquired or is in the process of acquiring the land pursuant to subdivision (d), the Director of General Services, with the approval of the State Public Works Board, may lease or sell the land to a housing sponsor. The land may be sold or leased at a reasonable cost which may be less than fair market value. The Department of Housing and Community Development shall recommend to the Director of General Services a cost which will enable the provision of housing for persons and families of low or moderate income. All transfers of land pursuant to this subdivision shall be subject to all of the following conditions:

(1) The housing sponsor has submitted a plan for the development of such housing pursuant to criteria established by the Department of Housing and Community Development. The criteria shall include, but need not be limited to, standards with respect to the cost of the housing development and the proportion of the housing development to be occupied by persons and families of low and moderate income. Insofar as is practical, the plan shall provide for a mix of housing for all income groups.

(2) The housing development shall normally be developed or be under development within 24 months from the time of transfer or lease of the land to the housing sponsor. However, the Department of General Services, in consultation with the Department of Housing and Community Development, may, upon finding justifiable cause, extend the time for commencement of development for an additional period of 36 months. The aggregate of all extensions for commencement of development shall not exceed 60 months. The deed or other instrument of conveyance shall specify that if development has not commenced within such time, the land shall revert to the Department of General Services for disposal pursuant to this section or as otherwise authorized by law.

(3) Transfer of title to the land or lease of the land to a housing sponsor shall be conditioned upon continued use of the property as housing for persons and families of low and moderate income for not less than 40 nor more than 55 years. In accordance with regulations which shall be adopted by the Department of Housing and Community Development pursuant to the Administrative Procedure Act, the Director of General Services shall require that any housing sponsor purchasing or leasing land pursuant to this subdivision enter into an agreement which (A) provides for limitations on profit in the operation of such property which benefit the public and which assure that the housing is affordable to persons and families of low and moderate income, and (B) does not permit the use of the property for purposes other than the provision of housing for persons and families of low and moderate income except as provided in this subdivision. Upon recordation of the agreement in the office of county recorder in the county in which the real property subject to the agreement is located, the agreement shall be binding for a period of not less than 40 nor more than 55 years upon successors in interest to the original housing sponsor and shall inure to the benefit of, and be enforceable by, the state.

For the purposes of this subdivision, "housing sponsor" means a nonprofit corporation incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code; a cooperative housing corporation which is a stock cooperative, as defined by Section 11003.2 of the Business and Professions Code; a limited-dividend housing corporation; or a private housing developer who agrees to the conditions set forth in this subdivision.

(4) Up to 40 percent of the housing developed on land purchased at below market value pursuant to this subdivision may be housing which is not regulated as to price, rent, or eligibility of occupants only if the purchaser of the land demonstrates that the proceeds from the sale or rental of such housing, in an amount equal to the difference between the fair market value and the actual price paid for the land, is used to reduce prices or rents on other housing units which are made available exclusively to persons and families of low and moderate income.

(f) The Department of Housing and Community Development, in consultation with the Department of General Services and the Office of Planning and Research, shall make a report to the Legislature on or before January 1, 1981, with respect to effectiveness of the program and shall recommend any necessary legislative changes to the provisions of subdivision (d).

(g) Where the land is to be used for public purposes other than specifically set forth in this section, is to be operated by the local agency at no expense to the state, and the use and enjoyment of the public purpose contemplated will be of broad public benefit, and not a benefit basically of local interest enjoyed and used primarily by the residents of the area of tax jurisdiction of the local agency, the Director of General Services, with the approval of the State Public

Works Board, may transfer the land to local governmental agencies at a sales price not less than 50 percent of fair market value. The transfer shall provide that if the land is not used for the contemplated purpose during the period of 25 years following the sale, the land shall revert to the state. The Director of General Services may provide additional terms and conditions which he or she determines to be in the best interest of the state.

(h) If there is more than one appropriate use and more than one offer for the use of a parcel of surplus land, the Department of General Services, in consultation with the Department of Housing and Community Development, the Department of Parks and Recreation, and the Office of Planning and Research, shall determine the most appropriate use for the parcel and the Department of General Services shall offer the land accordingly.

(i) Land that has been declared surplus by the Legislature, pursuant to Section 11011, is not needed by any state agency, is suitable for development for housing purposes, and is not in the process of being acquired pursuant to other provisions of this section, may upon the request of the Department of Housing and Community Development be retained by the Director of General Services for a period not exceeding five years, during which the Director of General Services shall continue to offer the lands for housing pursuant to subdivision (d).

(j) Transfer of state surplus lands under subdivision (d) shall be at a cost which will enable provision of economically feasible housing for persons and families of low or moderate income.

SEC. 175. Section 11121.9 of the Government Code is amended to read:

11121.9. A copy of this article shall be provided to each member of any state agency upon his or her appointment to membership or assumption of office.

SEC. 176. Section 11370 of the Government Code is amended to read:

11370. Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) constitute, and may be cited as, the Administrative Procedure Act.

SEC. 177. Section 11550 of the Government Code is amended to read:

11550. An annual salary of thirty-five thousand dollars ($35,000) shall be paid to each of the following:

(a) Director of Finance.
(b) Secretary of Business and Transportation Agency.
(c) Secretary of Resources Agency.
(d) Secretary of Health and Welfare Agency.
(e) Secretary of State and Consumer Services Agency.
(f) Director of Industrial Relations.
(g) Commissioner, California Highway Patrol.

SEC. 178. Section 11554 of the Government Code is amended to

read:

11554. An annual salary of twenty-seven thousand five hundred dollars ($27,500) shall be paid to each of the following:

(a) Director of Conservation.
(b) Director of Fish and Game.
(c) Director of Parks and Recreation.
(d) Director of Rehabilitation.
(e) Director of Veterans Affairs.
(f) Director of Consumer Affairs.
(g) Members of the Unemployment Insurance Appeals Board.
(h) State Architect.
(i) Director of Forestry.
(j) Director of Fair Employment and Housing.

SEC. 179. Section 12032 of the Government Code is amended and renumbered to read:

12023. The Governor shall annually issue a report to the public on the expenditures for support of his or her office on December 31. The report shall include, but not be limited to, a listing of total expenditures for the Governor in the following categories:

(a) Travel and living expense reimbursement.
(b) Automotive and charter or lease airplane expenses.
(c) Rent.
(d) Telephone.
(e) Postage.
(f) Printing.
(g) Office supplies.

SEC. 180. Section 25211.3 of the Government Code, as added by Chapter 31 of the Statutes of 1977, is amended and renumbered to read:

25211.33. The Revenue Bond Law of 1941 provided for in Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 is applicable to county service areas for the purpose of providing funds for the acquisition, construction, improving or financing of any public improvement authorized by this chapter which is not inconsistent with the provisions of Section 54310. The board may also issue revenue bonds under the Revenue Bond Law of 1941 on behalf of any improvement area created pursuant to this article and any election for the issuance of the revenue bonds shall be limited to the area of the improvement area. If revenue bonds are so issued on behalf of an improvement area:

(a) No proceeds of the revenue bonds shall be used to finance public improvements to provide service outside the area of the improvement area; and

(b) Only revenues which are derived from rates or charges for the providing of service within the area of the improvement area shall be pledged to or used to pay the revenue bonds.

SEC. 181. Section 35012.5 of the Government Code is amended to read:

35012.5. (a) Notwithstanding the provisions of Section 35033,

unincorporated territory consisting of property abutting on a street, highway, or road, and the street, highway, or road, to the extent that it abuts that property, together with the road strip may be annexed to a city pursuant to this part under the following conditions:

(1) The annexation may be made only if the property to be annexed is within the sphere of influence of the annexing city, as adopted by the local agency formation commission, and lies within an unincorporated area wholly surrounded by the annexing city or the annexing city and the county line or the annexing city and the Pacific Ocean or the annexing city and a boundary of another city.

(2) The property to be annexed shall not be annexed if the distance between the boundary of the annexing city and the point closest to the annexing city at which the road strip connects with the abutting property, as measured by the road strip, is more than one-half mile.

(b) Subsequent annexations to the road strip and abutting territory shall not be made unless both of the following conditions are met:

(1) The distance between the point at which the original road strip abuts the boundary of the annexing city and the point closest to the city at which the road strip connects with the abutting property to be annexed, as measured by the road strip, is one-half mile or less.

(2) The annexation is contiguous to the road strip.

(c) As used in this section:

(1) "Road strip" means the street, highway, or road which connects the territory of the property to be annexed to the annexing city.

(2) "Property to be annexed" means the property abutting on a street, highway, or road and the street, highway, or road to the extent it abuts the property.

(d) The provisions of this section shall apply only to the City of Cupertino.

SEC. 182. Section 38507 of the Government Code is amended to read:

38507. The legislative body may employ any legal or other assistants that it deems necessary to sell the land for the best advantage of the city, and may fix and pay their compensation.

SEC. 183. Section 43073 of the Government Code is amended to read:

43073. (a) The legislative body of any city which is encompassed entirely within the territory of a special district may elect to pay the district an amount equal to the amount the district would derive from its share of property tax allocations applicable to all property within the incorporated limits of the city.

(b) If a legislative body makes an election pursuant to subdivision (a), the county auditor shall reallocate property taxes due to the special district within the incorporated limits of the city to the city.

The county auditor shall report to the State Controller the amount

of property taxes reallocated to a city pursuant to this subdivision, as well as the total amount of property taxes allocated to the city pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. No reallocation made pursuant to this subdivision shall affect any allocations of property tax revenues to the city or special district in subsequent fiscal years pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(c) If a city legislative body makes an election pursuant to subdivision (a), and upon apportionment of taxes by the county, the reallocated amounts shall be paid by the city or transferred by the county auditor to the district.

(d) If the legislative body of a city makes an election pursuant to subdivision (a), the legislative body shall notify the county auditor by no later than the first day of September of the fiscal year in which the election becomes effective.

(e) For purposes of this section, "special district" means any special district where the county board of supervisors act as, or has appointed, the governing body of the districts providing fire or library services to one or more cities or any county library service established under Chapter 2 (commencing with Section 27151) of Division 20 of the Education Code provided for one or more cities, if all property within the city is taxed to support the service.

(f) This section does not apply in any case in which a city is making the payments described in this section to a district on the effective date of this section.

(g) If any additional costs are incurred by a county as a result of an election under this act by a city, the county may collect the costs from the city.

(h) This section applies only to cities which are in counties which have a population of 6,000,000 or more.

SEC. 184. Section 53205 of the Government Code is amended to read:

53205. From funds under its jurisdiction, the legislative body may authorize payment of all, or such portion as it may elect, of the premiums, dues, or other charges for health and welfare benefits of officers, employees, retired employees, former elective members specified in subdivision (b) of Section 53201, and retired members of the legislative body subject to its jurisdiction.

Those expenditures are charges against the funds. If the employer pays any portion of the premiums, dues, or other charges for the health and welfare benefits, any dividends paid or premiums refunded or other rebates or refunds under any of those health and welfare benefits up to the aggregate expenditures of the employer for the benefits are the employer's property. The excess, if any, shall be applied by the employer for the benefit of the employees or their dependents generally.

SEC. 185. Section 53215 of the Government Code, as added by Chapter 835 of the Statutes of 1979, is amended and renumbered to

read:

53214.5. A county or city and county which pays the salaries, either in whole or in part, of judges of the superior and municipal courts and the officers and attachés of those courts may allow the judges, officers, and attachés to participate in any deferred compensation plan established pursuant to this article. Any county or city and county is hereby authorized to enter into a written agreement with the judges, officers, and attachés providing for deferral of a portion of their wages. The judges, officers, and attachés may authorize deductions to be made from their wages for the purpose of participating in the deferred compensation plan.

SEC. 186. Section 55606 of the Government Code is amended to read:

55606. The board of supervisors may contract with the state, through the Department of Forestry, for the performance by the Director of Forestry, his deputies, and assistants of functions for the prevention or suppression of fires within the county.

SEC. 187. Section 55607 of the Government Code is amended to read:

55607. The Department of Forestry may contract with the county for the performance by the county firewarden, his deputies, and assistants of functions for the prevention or suppression of fires within the county.

SEC. 188. Section 55608 of the Government Code is amended to read:

55608. When a contract has been made, the Director of Forestry or the county firewarden may exercise the same powers and duties within the county for the prevention and suppression of fires which by state or local law is conferred upon those officers.

SEC. 189. Section 55640 of the Government Code is amended to read:

55640. The board of supervisors of a county may provide rescue and resuscitator services throughout the county, and to this end the board may contract with the state, through the Department of Forestry, for the providing of those rescue and resuscitator services within the county by the Director of Forestry, his deputies, and assistants, including volunteer firefighters.

SEC. 190. Section 55641 of the Government Code is amended to read:

55641. When a contract has been made, the Director of Forestry may exercise the same powers and duties within the county for the providing of rescue and resuscitator services which by state or local law are conferred upon officers of the county.

SEC. 191. Section 60400 of the Government Code is amended to read:

60400. As used in this chapter, "district" means any of the following:

(a) Any flood control district, including any special district having flood control powers under whatever name those powers are

designated, and any improvement district therein established for those flood control purposes, which district is authorized under its principal act to levy, or to have levied on its behalf, an ad valorem assessment or ad valorem tax within the district or any zone, subzone, drainage area, maintenance area, or improvement district thereof.

(b) Any maintenance area formed pursuant to Chapter 4.5 (commencing with Section 12878) of Part 6 of Division 6 of the Water Code.

(c) The Collinsville Levee District formed pursuant to Chapter 310 of the Statutes of 1905, and Levee District No. 1 of Sutter County formed pursuant to Chapter 349 of the Statutes of 1873–74. For the purposes of this chapter, "board of supervisors" includes the trustees of the Collinsville Levee District.

As used in this chapter, "board of supervisors" includes the governing body of any district not governed by a board of supervisors. Any such governing body may act by resolution where a board of supervisors is required to act by ordinance.

SEC. 192. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include all of the following elements:

(a) A land use element which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall also identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to those areas.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies which have developed, served, controlled, or

conserved water for any purpose for the county or city for which the plan is prepared. The conservation element may also cover any of the following:

(1) The reclamation of land and waters.

(2) Flood control.

(3) Prevention and control of the pollution of streams and other waters.

(4) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(5) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(6) Protection of watersheds.

(7) The location, quantity, and quality of the rock, sand, and gravel resources.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) A seismic safety element consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking, to ground failures, or to effects of seismically induced waves such as tsunamis and seiches.

The seismic safety element shall also include an appraisal of mudslides, landslides, and slope stability as necessary geologic hazards that must be considered simultaneously with other hazards such as possible surface ruptures from faulting, ground shaking, ground failure, and seismically induced waves.

To the extent that a county's seismic safety element is sufficiently detailed containing appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's seismic safety element that pertains to the city planning area within the county's jurisdiction, in satisfaction of this subdivision.

In adopting a county seismic safety element, a city shall follow all requirements regarding the content and adoption of general plan elements as set forth in this article and Article 6 (commencing with Section 65350).

Each county and city shall submit to the Division of Mines and Geology of the Department of Conservation one copy of the seismic safety element and any technical studies used for developing the seismic safety element.

(g) A noise element, which shall recognize guidelines adopted by the Office of Noise Control pursuant to Section 46050.1 of the Health and Safety Code, and which quantifies the community noise environment in terms of noise exposure contours for both near- and long-term levels of growth and traffic activity. The noise exposure information shall become a guideline for use in development of the land use element to achieve noise compatible land use and also to provide baseline levels and noise source identification for local noise ordinance enforcement.

The sources of environmental noise considered in this analysis shall include, but are not limited to, all of the following:

(1) Highways and freeways.

(2) Primary arterials and major local streets.

(3) Passenger and freight on-line railroad operations and ground rapid transit systems.

(4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(5) Local industrial plants, including, but not limited to, railroad classification yards.

(6) Other ground stationary noise sources identified by local agencies as contributing to the community noise environment.

The noise exposure information shall be presented in terms of noise contours expressed in community noise equivalent level (CNEL) or day-night average level (L_{dn}). CNEL means the average equivalent A-weighted sound level during a 24-hour day, obtained after addition of five decibels to sound levels in the evening from 7 p.m. to 10 p.m. and after addition of 10 decibels to sound levels in the night before 7 a.m. and after 10 p.m. L_{dn} means the average equivalent A-weighted sound level during a 24-hour day, obtained after addition of 10 decibels to sound levels in the night before 7 a.m. and after 10 p.m.

The contours shall be shown in minimum increments of 5db and shall continue down to 60db. For areas deemed noise sensitive, including, but not limited to, areas containing schools, hospitals, rest homes, long-term medical or mental care facilities, or any other land-use areas deemed noise sensitive by the local jurisdiction, the noise exposure shall be determined by monitoring.

A part of the noise element shall also include the preparation of a community noise exposure inventory, current and projected, which identifies the number of persons exposed to various levels of noise throughout the community.

The noise element shall also recommend mitigating measures and possible solutions to existing and foreseeable noise problems.

The state, local, or private agency responsible for the construction, maintenance, or operation of those transportation, industrial, or other commercial facilities specified in paragraph (2) shall provide to the local agency producing the general plan, specific data relating to current and projected levels of activity and a detailed methodology for the development of noise contours given this supplied data, or they shall provide noise contours as specified in the foregoing statements.

The local agency preparing the general plan shall specify the manner in which the noise element will be integrated into the city or county's zoning plan and tied to the land use and circulation elements and to the local noise ordinance. The noise element, once adopted, shall also become the guideline for determining compliance

with the state's noise insulation standards, as contained in Section 1092 of Title 25 of the California Administrative Code.

(h) A scenic highway element for the development, establishment, and protection of scenic highways pursuant to the provisions of Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code.

(i) A safety element for the protection of the community from fires and geologic hazards including features necessary for that protection as evacuation routes, peak load water supply requirements, minimum road widths, clearances around structures, and geologic hazard mapping in areas of known geologic hazards.

The elements of the general plan may, at the discretion of the county or city, be combined if the county or city complies with all requirements regarding the content and adoption of general plan elements of this article and Article 6 (commencing with Section 65350).

The requirements of this section shall apply to charter cities.

SEC. 193. Section 65863.5 of the Government Code, as added by Chapter 947 of the Statutes of 1979, is amended and renumbered to read:

65863.6. In carrying out the provisions of this chapter, each county and city shall consider the effect of ordinances adopted pursuant to this chapter on the housing needs of the region in which the local jurisdiction is situated and balance these needs against the public service needs of its residents and available fiscal and environmental resources. Any ordinance adopted pursuant to this chapter which, by its terms, limits the number of housing units which may be constructed on an annual basis shall contain findings as to the public health, safety, and welfare of the city or county to be promoted by the adoption of the ordinance which justify reducing the housing opportunities of the region.

SEC. 194. Section 66427.4 of the Government Code, as added by Chapter 879 of the Statutes of 1980, is repealed. The repeal made by this section shall not affect the existence or validity of Section 66427.4 of the Government Code, as added by Chapter 1065 of the Statutes of 1980.

SEC. 195. Section 66452.5 of the Government Code is amended to read:

66452.5. (a) The subdivider, or any tenant of the subject property, in the case of a proposed conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, may appeal from any action of the advisory agency with respect to a tentative map to the appeal board established by local ordinance or, if none, to the legislative body.

The appeal shall be filed with the clerk of the appeal board, or if there is none, with the clerk of the legislative body within 15 days after the action of the advisory agency from which the appeal is being taken.

Upon the filing of an appeal, the appeal board or legislative body

shall set the matter for hearing. The hearing shall be held within 30 days after the date of filing the appeal. Within 10 days following the conclusion of the hearing, the appeal board or legislative body shall render its decision on the appeal.

(b) The subdivider, any tenant of the subject property, in the case of a conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, or the advisory agency may appeal from the action of the appeal board to the legislative body. The appeal shall be filed with the clerk of the legislative body within 15 days after the action of the appeal board from which the appeal is being taken.

Upon the filing of an appeal, the legislative body shall set the matter for hearing. The hearing shall be held within 30 days after the date of filing the appeal. Within 10 days following the conclusion of the hearing, the legislative body shall render its decision on the appeal. The decision shall comply with the provisions of Sections 66473, 66473.5, and 66474, and shall include any findings required by those sections.

(c) If there is an appeal board and it fails to act upon an appeal within the time limit specified in this chapter, the decision from which the appeal was taken shall be deemed affirmed and an appeal therefrom may thereupon be taken to the legislative body as provided in subdivision (b). If no further appeal is taken, the tentative map, insofar as it complies with applicable requirements of this division and local ordinances, shall be deemed approved or conditionally approved as last approved or conditionally approved by the advisory agency, and it is the duty of the clerk of the legislative body to certify the approval, or if the advisory agency is one which is not authorized by local ordinance to approve, conditionally approve or disapprove the tentative map, the advisory agency shall submit its report to the legislative body as if no appeal had been taken.

If the legislative body fails to act upon an appeal within the time limit specified in this chapter, the tentative map, insofar as it complies with applicable requirements of this division and local ordinance, shall be deemed to be approved or conditionally approved as last approved or conditionally approved, and it shall be the duty of the clerk of the legislative body to certify the approval.

(d) Where a local ordinance so provides, any interested person adversely affected by a decision of the advisory agency or appeal board may file a complaint with the governing body concerning any decision of the advisory agency or appeal board. The complaint shall be filed with the clerk of the governing body within 15 days after the action of the advisory agency or appeal board which is the subject of the complaint. Upon the filing of the complaint, the governing body may set the matter for hearing. The hearing shall be held within 30 days after the filing of the complaint. The hearing may be a public hearing for which notice shall be given in the time and manner provided.

Upon conclusion of the hearing the governing body shall, within seven days, declare its findings based upon the testimony and documents produced before it or before the advisory board or the appeal board. It may sustain, modify, reject, or overrule any recommendations or rulings of the advisory board or the appeal board and may make any findings which are not inconsistent with the provisions of this chapter or local ordinances adopted pursuant to this chapter.

(e) Notice of each hearing provided for in this section shall be sent by United States mail to each tenant of the subject property, in the case of a conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, at least three days prior to the hearing. The notice requirement of this subdivision shall be deemed satisfied if the notice complies with the legal requirements for service by mail. Pursuant to Section 66451.2, fees may be collected from the subdivider for expenses incurred under this section.

SEC. 196. Section 66770.5 of the Government Code is amended to read:

66770.5. (a) The State Solid Waste Management Board shall adopt, not later than January 1, 1981, performance standards as an alternative to state minimum standards requiring periodic cover.

(b) In order to protect the public health and the environment, the performance standards, referred to in subdivision (a), shall, at a minimum, address the control of vectors, odor, fire, litter, and moisture infiltration at solid waste disposal sites.

(c) The local enforcement agency may elect to apply either the state minimum standard requiring periodic cover or the performance standards, described in subdivision (b), to solid waste disposal sites within its jurisdiction. Not later than 30 days prior to implementation of either performance standards or state minimum standards requiring periodic cover, the local enforcement agency shall notify the board of the election.

(d) If the board fails to adopt the performance standards by January 1, 1981, the daily coverage requirements for the active face of a disposal site may, at the discretion of the local enforcement agency, be determined solely by the local enforcement agency. For any determination of daily coverage requirements for the active face of a disposal site made pursuant to this section which are less stringent than those standards established by the State Solid Waste Management Board pursuant to Sections 66770 and 66771, the local enforcement agency shall make a finding that the daily coverage requirements are adequate to effectively prevent propagation or attraction of flies, rodents, or other vectors, to control landfill fires and litter, and to prevent the creation of nuisances.

(e) No collection vehicle shall be required to travel on the active face of a disposal site.

(f) This section does not prohibit the State Solid Waste Management Board from taking any enforcement action for which

it is granted authority under Title 7.3 (commencing with Section 66700).

(g) This section shall remain in effect only until January 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1983, deletes or extends such date.

SEC. 197. Section 69894.4 of the Government Code, as amended by Chapter 746 of the Statutes of 1980, is amended and renumbered to read:

69894.6. Notwithstanding the provisions of Section 69894.1, in the County of Los Angeles a majority of the judges of the superior court may appoint 263 court reporters, each of whom shall receive a salary equivalent to the schedule designation 59J in the salary ordinance of the county. Court reporters shall serve at the pleasure of the court and may at any time be removed by the court in its discretion.

Reduction of the schedule applicable to court reporters by reason of the adoption of this salary plan or subsequent reclassification of positions for organizational purposes shall not result in a lower salary rate to incumbent court reporters. The court may regulate by rule the status of employees so affected.

SEC. 198. Section 71603.2 of the Government Code, as added by Chapter 444 of the Statutes of 1980, is amended and renumbered to read:

71603.3. Notwithstanding the provisions of Sections 71602 and 71603, the board of supervisors of a county of the 34th class or of the 43rd class may by ordinance abolish the office of constable and, instead, require that the duties of constable be performed by the sheriff.

SEC. 199. Section 75095.1 of the Government Code is amended to read:

75095.1. Notwithstanding the provisions of Section 75095 any person who is a judge or a retired judge on January 1, 1974, may elect to come within the provisions of this article on or before April 1, 1974. Any person so electing who was previously eligible to come within this article and did not do so, shall pay all of the contributions he would have made pursuant to Section 75097 had he been covered by this article as soon as eligible therefor.

SEC. 200. Section 91531 of the Government Code is amended to read:

91531. (a) Upon certification to an authority of the approval, the secretary or an assistant secretary of the authority shall transmit to the state office the fee required by the state office and information required by the state office which is provided by a company in the approved application.

(b) The state office shall review the information and shall, by express findings on the basis of the information, determine compliance with the following criteria:

(1) Public benefits, determined in accordance with the policy stated in Section 91502.1, from the use of the facilities likely will substantially exceed any public detriment from issuance of bonds in

the maximum principal amount proposed in the application.

(2) Neither the completion of the project nor the operation of the facility will have the proximate effect of relocation of any substantial operations of the company from one area of the state to another or in the abandonment of any substantial operations of the company within other areas of the state, or, if the completion or operation will have either of the effects, then the completion or operation is reasonably necessary to prevent the relocation of any substantial operations of the company from an area within the state to an area outside the state.

(3) The proposed issuance of bonds qualifies for issuance under the provisions of Article 5 (commencing with Section 91570).

(c) Written notification of the determinations of the state office shall be given the authority.

(d) Upon failure of the state office to make determinations as to compliance with the criteria within 60 days of the receipt of the information, unless the time is extended by written consent of the authority, the state office shall lose jurisdiction to make the determinations, and the authority shall determine compliance with the criteria.

(e) Determinations of the state office or of an authority as provided in Section 91530 and this section shall be final and conclusive.

(f) The authority shall not issue bonds for the project until this section has been complied with.

SEC. 201. Section 91560 of the Government Code is amended and renumbered to read:

91570. (a) The commission established by Article 3 (commencing with Section 91550) shall review each issue of bonds and shall determine whether the issue is qualified for issuance under the provisions of this article.

(b) No bonds shall be delivered by an authority in return for the purchase price unless the bond issue has been qualified under this article and no notification of the suspension or revocation of that qualification has been received by the authority which has not been vacated or modified so that the bonds qualify for issuance.

SEC. 202. Section 91561 of the Government Code is amended and renumbered to read:

91571. (a) All issues of bonds may be qualified for issuance under this section.

(b) The commission may refuse to qualify an issue unless it finds that the proposed issuance is fair, just, and equitable to a purchaser of the bonds, and that the bonds proposed to be issued and the methods to be used by an authority in issuing them are not such as, in its opinion, will work a fraud upon the purchaser thereof.

(c) The commission may impose as a condition of qualification conditions imposing a legend condition restricting the transferability thereof, impounding the proceeds from the sale thereof, or any other condition, if the commission finds that without the condition the

bonds. The commission may in its discretion modify or remove any of the conditions when, in its opinion, they are no longer necessary or appropriate.

(d) The commission may refuse to qualify an issue of bonds proposed to be issued in exchange for one or more outstanding bonds, or bonds and claims, or partly in the exchange and partly for cash or property, unless it approves the terms and conditions of the issuance and exchange and the fairness of the terms and conditions, and may hold a hearing upon the fairness of the terms and conditions, at which all persons to whom it is proposed to issue bonds or to deliver any other consideration in the exchange have the right to appear.

(e) The commission may refuse to qualify an issue unless it finds that the bonds issued in connection with the project by the authority will be adequately secured and the revenues and other funds applicable to the payments of the bonds are, or upon the acquisition, construction, or improvement of the project which the bonds finance, will be sufficient to pay the principal of and the interest on the bonds.

SEC. 203. Section 91562 of the Government Code is amended and renumbered to read:

91572. (a) Prior to the delivery by an authority of any bonds of an issue in return for the purchase price, the commission may summarily suspend any qualification of the issue pending final determination of any proceeding under this section. Upon the taking of that action, the commission shall promptly notify each person specified in subdivision (b) of the action and of the reasons therefor and that upon the receipt of a written request of the authority the matter will be set for hearing to commence within 20 business days after that receipt unless the authority consents to a later date. If no hearing is requested within 35 business days of notification to the authority of the taking of that action, and none is ordered by the commission, the commission may summarily revoke the qualification, pending which the suspension shall remain in effect. If a hearing is requested or ordered, the commission, after notice and hearing in accordance with subdivision (b), may modify or vacate the suspension or extend it until final determination.

(b) The authority, the company, and the underwriter and the proposed purchaser, if any, shall be notified of the taking of action pursuant to subdivision (a) and of the opportunity of the authority for a hearing thereon before the commission.

(c) Prior to the delivery by an authority of any bonds of an issue in return for the purchase price, the commission may revoke any qualification if it finds that the proposed issuance is not fair, just, or equitable to a purchaser of the bonds, or that the bonds proposed to be issued or the method to be used by an authority in issuing them will tend to work a fraud upon the purchaser thereof.

(d) The commission may vacate or modify a suspension or

revocation of qualification if it finds that the reasons for the suspension or revocation do not or no longer exist or that the reasons which do exist are not those which support a conclusion that the proposed issuance is not fair, just, or equitable to a purchaser of the bonds, or that the bonds proposed to be issued or the method to be used by an authority in issuing them will tend to work a fraud upon the purchaser thereof.

SEC. 204. Section 91563 of the Government Code is amended and renumbered to read:

91573. (a) The aggregate amount of bonds qualified pursuant to this title shall not exceed two hundred million dollars ($200,000,000).

(b) Each authority shall file with the commission reports at those times which are required by the commission, setting forth the bonds of an issue qualified by the commission or exempt from qualification or not required to be so qualified.

(c) The commission shall determine when the limitation of subdivision (a) has been reached and shall notify all authorities that no further bonds shall be qualified pursuant to this title.

SEC. 205. Section 91564 of the Government Code is amended and renumbered to read:

91574. (a) Neither (1) the fact that an application for qualification has been filed nor (2) the fact that an issue of bonds has been qualified constitutes a finding by the commission that any document filed in connection with the qualification is true, complete, or not misleading. Neither that fact nor the fact that an exemption is available means that the commission has passed in any way upon the merits or qualifications of, or recommended or given approval to any issue of bonds except as provided in subdivision (d) of Section 91561.

(b) It is unlawful to make or cause to be made to any purchaser any representation inconsistent with subdivision (a).

(c) Every notification of qualification issued by the commission shall recite that the qualification is permissive only, and does not constitute a recommendation or endorsement of the bonds so qualified.

SEC. 206. The heading of Chapter 1 (commencing with Section 240) of Division 2 of the Harbors and Navigation Code is amended to read:

CHAPTER 1. SCOPE OF DIVISION

SEC. 207. Section 775.5 of the Harbors and Navigation Code is amended to read:

775.5. As used in this chapter, unless the context clearly requires a different meaning, the following definitions shall govern the construction of this chapter:

(a) "Department" means the Department of Boating and Waterways.

(b) "Marine terminal" means any private or public shoreside

installation, including marinas and ocean terminals, providing mooring, docking, berthing, and other facilities for the use of vessels, including vessels engaged in interstate and foreign commerce, except that, for the purposes of this chapter, "marine terminal" does not include boat launching ramps or facilities for the temporary mooring of vessels for less than one day or dockage adjacent to and serving private residences in areas where pumpout facilities are available or any other facilities which may be designated by the State Water Resources Control Board with the advice and consent of the department.

(c) "Marine sanitation device" means any equipment on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat the sewage.

(d) "Promulgation date" means the date upon which the initial standards and regulations for marine sanitation devices are promulgated by an appropriate federal agency in accordance with the provisions of Section 312 of the Federal Water Pollution Control Act, as amended (33 U.S.C., Section 1251 et seq.).

(e) "Sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body waste.

(f) "Vessel" means every watercraft or other contrivance used or capable of being used as a means of transportation on the waters of the state, excepting foreign and domestic vessels engaged in interstate or foreign commerce upon the waters of the state.

(g) "State board" means the State Water Resources Control Board.

(h) "Regional board" means a California regional water quality control board.

(i) "Waters of this state" shall mean all waters of the state except waters beyond three nautical miles of any shore of the state.

SEC. 208. Section 6309.4 of the Harbors and Navigation Code is amended to read:

6309.4. Every person who violates any of the provisions of a district ordinance adopted pursuant to Sections 6309 and 6309.2 is guilty of an infraction and shall be subject to a fine not to exceed fifty dollars ($50).

SEC. 209. Section 7157 of the Harbors and Navigation Code is amended to read:

7157. All construction authorized to be done under this part exceeding in cost the sum of two thousand five hundred dollars ($2,500) shall be awarded upon competitive bidding. Notice of the proposed letting of such a contract shall be published as provided in Section 6066 of the Government Code in a newspaper of general circulation in the district or, if there is none, of general circulation in the county, the first publication to be at least two weeks prior to the opening of bids. The notice inviting bids shall set a date for the opening of bids. The contract shall be awarded to the lowest responsible bidder. In its discretion, the board may reject any bids

presented and readvertise. If two or more bids are the same and the lowest, the board may accept the one it chooses. If no bids are received, the board may have the work done directly by purchasing the materials and hiring the labor.

If all bids are rejected, the board may adopt a resolution, by four-fifths vote, declaring that the work can be performed more economically by hiring day labor, or the materials or supplies furnished at a lower price in the open market and may have the work done in the manner stated in the resolution in order to take advantage of this lower cost.

If there is a present or anticipated great public calamity, such as an extraordinary fire, flood, storm, enemy attack, or other disaster the board may by four-fifths vote adopt a resolution declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health, or property and expend any sum required in the emergency without submitting the expenditure to the bidding procedure set forth.

The board may negotiate with the Government of the United States or any department or agency thereof, the state or any department or agency thereof, any county, city and county, city, district or other public corporation for the purpose of assisting the district in the performance of any of the work authorized by this part and, without advertising for bids, may cause the district to contribute to the United States or any of the foregoing public bodies all or any portion of the estimated cost of any work authorized by this part which is to be done by or under contract with the United States or any of the foregoing public bodies.

SEC. 210. The heading of Article 3.4 (commencing with Section 320) of Chapter 2 of Division 1 of the Health and Safety Code is amended to read:

Article 3.4. Child Health and Disability Prevention Program

SEC. 211. The heading of Article 1 (commencing with Section 446) of Part 1.95 of Division 1 of the Health and Safety Code is repealed.

SEC. 212. Article 2 (commencing with Section 447) of Part 1.95 of Division 1 of the Health and Safety Code is repealed.

SEC. 213. Section 1250 of the Health and Safety Code is amended to read:

1250. As used in this chapter, "health facility" means any facility, place or building which is organized, maintained and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) "General acute care hospital" means a health facility having

a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) "Skilled nursing facility" means a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(d) "Intermediate care facility" means a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) "Small intermediate care facility/developmentally disabled habilitative" means a facility which provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer developmentally disabled persons who have intermittent recurring needs for nursing services, but have been certified by a physician as not requiring availability of continuous skilled nursing care.

(f) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient care in dentistry or maternity.

(g) "General acute care/rehabilitation hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, laboratory, radiology, pharmacy, dietary, occupational therapy, physical therapy, rehabilitation, audiology, speech pathology; surgical and anesthesia services are provided through a contract with another facility having such services.

(h) "Psychiatric health facility" means a health facility which provides 24-hour inpatient care for mentally disordered, incompetent, or other persons described in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code. The care shall include, but not be

limited to, the following basic services: psychiatry, clinical psychology, psychiatric nursing, social work, rehabilitation, drug administration, and appropriate food services for those persons whose physical health needs can be met in an affiliated hospital or in outpatient settings.

It is the intent of the Legislature that the psychiatric health facility shall provide a distinct type of service to psychiatric patients in a non-hospital setting. The State Department of Mental Health shall require regular utilization reviews of admission and discharge criteria and lengths of stays in order to assure that such patients are moved to less restrictive levels of care as soon as appropriate.

SEC. 214. Section 1250.2 of the Health and Safety Code is repealed.

SEC. 215. Section 1285 of the Health and Safety Code is amended to read:

1285. (a) No patient shall be detained in a health facility solely for the nonpayment of a bill.

(b) For the purposes of this section, "detained" means the intentional confinement of a patient in a health facility without authorization of the patient or any other person who may be authorized to provide consent to care on behalf of the patient.

(c) Any person who is detained in a health facility solely for the nonpayment of a bill has a cause of action against the health facility for the detention, which may be brought by that person or that person's parent, guardian, conservator, or other legal representative.

The cause of action may be brought against the health facility, proprietor, lessee or their agents, or against any person, corporation, association, or directors thereof. Any person who has been detained in a health facility, solely for the nonpayment of a bill, who has brought an action for the detention, may recover general and punitive damages, court costs, and reasonable attorney's fees actually incurred and any other relief which the court in its discretion may allow.

(d) Violation of subdivision (a) is a misdemeanor punishable as prescribed in Section 1290.

SEC. 216. Section 1343 of the Health and Safety Code is amended to read:

1343. (a) The commissioner may by the adoption of any rules deemed necessary and appropriate, either unconditionally or upon specified terms and conditions or for specified periods, exempt from the provisions of this chapter any class of persons or plan contracts if the commissioner finds such action to be in the public interest and not detrimental to the protection of subscribers, enrollees, or persons regulated under this chapter, and that the regulation of those persons or plan contracts is not essential to the purposes of this chapter.

(b) The commissioner, upon request of the State Director of Health Services, may exempt from the provisions of this chapter any pilot program contracting with the State Department of Health

Services pursuant to Article 7 (commencing with Section 14490) of Chapter 8 of Part 3 of Division 9 of the Welfare and Institutions Code. The exemption may be subject to those conditions the commissioner deems appropriate.

(c) This chapter does not apply to:

(1) A person organized and operating pursuant to a certificate issued by the Insurance Commissioner unless the entity is directly providing the health care service through the entity-owned or contracting health facilities and providers, in which case the provisions of this chapter shall apply to the insurer's plan and to the insurer.

(2) A plan directly operated by a bona fide public or private institution of higher learning which directly provides health care services only to its students, faculty, staff, administration, and their respective dependents.

(3) A nonprofit corporation formed under Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

SEC. 217. Section 1367.8 of the Health and Safety Code, as added by Chapter 776 of the Statutes of 1980, is amended and renumbered to read:

1367.9. No health care service plan contract which covers hospital, medical, or surgical expenses shall be issued, amended, delivered, or renewed in this state on or after January 1, 1981, if it contains any exclusion, reduction, or other limitations, as to coverage, deductibles, or coinsurance or copayment provisions applicable solely to conditions attributable to diethylstilbestrol or exposure to diethylstilbestrol.

Any provision in any contract issued, amended, delivered, or renewed in this state on or after January 1, 1981, which is in conflict with this section shall be of no force or effect.

SEC. 218. Section 1732 of the Health and Safety Code is amended to read:

1732. Upon filing of the application for a license provided for in, and upon full compliance with, the provisions of this chapter and the rules and regulations promulgated under this chapter by the state department, the state department shall issue to the applicant the license applied for. However, any hospital, as defined in Section 1401, which is licensed under the provisions of Chapter 2.3 (commencing with Section 1400) is not required to obtain a license. In order for a hospital to establish, conduct, or maintain a home health agency, it shall comply with all the provisions of this chapter and be approved by the state department. The approval shall be deemed to be licensure and shall not extend past midnight on the 31st day of December of each calendar year. The fee set forth in Section 1729 shall be paid before approval is granted. Approval may be denied or withdrawn by the state department on the same grounds as provided for denial, suspension, or revocation of a home health agency license. The state department may take the same action against any

approved hospital home health agency as it may against any licensed home health agency under this chapter.

SEC. 220. Section 3703 of the Health and Safety Code is amended to read:

3703. (a) The state department and all health officers of counties, cities, and health districts shall enforce the provisions of this chapter.

(b) Pursuant to their enforcement of this chapter, those officers shall also enforce the provisions of Section 2441 of the Labor Code. This section shall not be construed to abridge or limit in any manner the jurisdiction of the Division of Occupational Safety and Health of the Department of Industrial Relations pursuant to Division 5 (commencing with Section 6300) of the Labor Code.

SEC. 221. Section 5472 of the Health and Safety Code, as amended by Chapter 862 of the Statutes of 1953, is amended and renumbered to read:

5472.5. The rates may be collected with the rates for any other utility service furnished by a department or agency of that entity over which the legislative body thereof does not exercise control, or with a publicly or privately owned public utility, with the written consent and agreement of that department or agency or public utility owner, which agreement shall establish the terms and conditions upon which the collections shall be made. The agreement, in the discretion of the department or agency or public utility owner making the collections, also may provide that those rates shall be itemized, billed upon the same bill, and collected as one item, together with, and not separately from, the other utility service charge.

SEC. 222. Section 11361.5 of the Health and Safety Code is amended to read:

11361.5. (a) Records of any court of this state, any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency or local public agency pertaining to the arrest or conviction of any person for a violation of subdivision (b) or (c) of Section 11357 or subdivision (b) of Section 11360, shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction. Any court or agency having custody of the records shall provide for the timely destruction of the records in accordance with subdivision (c). The requirements of this subdivision do not apply to records of any conviction occurring prior to January 1, 1976, or records of any arrest not followed by a conviction occurring prior to that date.

(b) This subdivision applies only to records of convictions and arrests not followed by conviction occurring prior to January 1, 1976, for any of the following offenses:

(1) Any violation of Section 11357 or a statutory predecessor thereof.

(2) Unlawful possession of a device, contrivance, instrument, or paraphernalia used for unlawfully smoking marijuana, in violation of

Section 11364, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(3) Unlawful visitation or presence in a room or place in which marijuana is being unlawfully smoked or used, in violation of Section 11365, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(4) Unlawfully using or being under the influence of marijuana, in violation of Section 11550, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Any person subject to an arrest or conviction for those offenses may apply to the Department of Justice for destruction of records pertaining to the arrest or conviction if two or more years have elapsed since the date of the conviction, or since the date of the arrest if not followed by a conviction. The application shall be submitted upon a form supplied by the Department of Justice and shall be accompanied by a fee, which shall be established by the department in an amount which will defray the cost of administering this subdivision and costs incurred by the state under subdivision (c), but which shall not exceed thirty-seven dollars and fifty cents ($37.50). The application form shall be made available at every local police or sheriff's department and from the Department of Justice and may require that information which the department determines is necessary for purposes of identification.

The department may request, but not require, the applicant to include a self-administered fingerprint upon the application. If the department is unable to sufficiently identify the applicant for purposes of this subdivision without the fingerprint or without additional fingerprints, it shall so notify the applicant and shall request the applicant to submit any fingerprints which may be required to effect identification, including a complete set if necessary, or, alternatively, to abandon the application and request a refund of all or a portion of the fee submitted with the application, as provided in this section. If the applicant fails or refuses to submit fingerprints in accordance with the department's request within a reasonable time which shall be established by the department, or if the applicant requests a refund of the fee, the department shall promptly mail a refund to the applicant at the address specified in the application or at any other address which may be specified by the applicant. However, if the department has notified the applicant that election to abandon the application will result in forfeiture of a specified amount which is a portion of the fee, the department may retain a portion of the fee which the department determines will defray the actual costs of processing the application, provided the amount of the portion retained shall not exceed ten dollars ($10).

Upon receipt of a sufficient application, the Department of Justice shall destroy records of the department, if any, pertaining to the arrest or conviction in the manner prescribed by subdivision (c) and shall notify the Federal Bureau of Investigation, the law enforcement agency which arrested the applicant, and, if the applicant was

convicted, the probation department which investigated the applicant and the Department of Motor Vehicles, of the application. Each state or local agency receiving a notice from the Department of Justice shall destroy records of the agency, if any, pertaining to the arrest or conviction specified in the notice, in the manner prescribed by subdivision (c). The application form and the notices from the department to the agencies specified in this subdivision shall be destroyed by the department or agency, as the case may be, at the time the other records of the arrest or conviction are destroyed.

(c) Destruction of records of arrest or conviction pursuant to subdivision (a) or (b) shall be accomplished by permanent obliteration of all entries or notations upon the records pertaining to the arrest or conviction, and the record shall be prepared again so that it appears that the arrest or conviction never occurred. However, where (1) the only entries upon the record pertain to the arrest or conviction and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(d) Notwithstanding subdivision (a) or (b), written transcriptions of oral testimony in court proceedings and published judicial appellate reports are not subject to this section. Additionally, no records shall be destroyed pursuant to subdivision (a) if the defendant or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of those records has received a certified copy of the complaint in the civil action, until the civil action has finally been resolved. Immediately following the final resolution of the civil action, records subject to subdivision (a) shall be destroyed pursuant to subdivision (c) if more than two years have elapsed from the date of the conviction or arrest without conviction.

(e) Costs incurred by local agencies in complying with the provisions of subdivision (c) shall be reimbursed as provided in Section 2231 of the Revenue and Taxation Code.

SEC. 223. Section 11977 of the Health and Safety Code, as added by Chapter 935 of the Statutes of 1978, is amended and renumbered to read:

11978. (a) Except as otherwise provided in this subdivision or in subdivision (b), records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with performance of any narcotic and drug abuse program shall be confidential and shall be disclosed only for the purposes and under the circumstances expressly authorized by this section. The content of any record referred to in this section may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, or:

(1) To licensed medical personnel to the extent necessary to meet a bona fide medical emergency.

(2) To qualified personnel for the purpose of conducting scientific

research, management audits, or program evaluation, but such personnel shall not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

(3) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services program. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

(b) The provisions of subdivision (a) shall not apply to the records of any person involuntarily committed to any narcotic or drug abuse program conducted by the State Department of Corrections.

SEC. 224. Section 12003 of the Health and Safety Code is amended to read:

12003. "Chief" means the Director of Forestry and his or her authorized representatives, the chief of a fire department or fire protection agency maintained by a city, county, or city and county, or fire protection district and his authorized representatives, or the authorized representative of the United States Forest Service. In any area of the state in which there exists no organized fire protection agency responsible for the protection of the area, "chief," for the purpose of this part only, shall mean the county sheriff and his authorized representatives.

On any property that is owned by the state the "chief," for the purpose of this part, shall be the official of the fire protection agency responsible for the suppression of fires in the area. On any state property where there is no fire protection agency responsible for the suppression of fires, the "chief," for the purpose of this part, shall be the State Fire Marshal.

Upon request of the Director of Forestry, the chief of a fire department or fire protection agency, or upon request of the county sheriff the governing body of the area under the jurisdiction of the requesting chief or sheriff may designate any person as "chief" for the purposes of this part.

SEC. 225. Section 12006 of the Health and Safety Code is amended to read:

12006. The provisions of this part and the regulations adopted by the State Fire Marshal pursuant to this part do not apply when the use, handling, possession, storage and transportation is subject to the requirements of the Division of Occupational Safety and Health, Department of Industrial Relations, except as the provisions of this part and the regulations adopted by the State Fire Marshal may extend beyond the scope or authority of the Division of Occupational Safety and Health, Department of Industrial Relations.

SEC. 226. Section 13002 of the Health and Safety Code is

amended to read:

13002. (a) Every person is guilty of a misdemeanor who throws or discharges any lighted or nonlighted cigarette, cigar, match, or any flaming or glowing substances, or any substance or thing which may cause a fire upon any highway, including any portion of the right-of-way thereof, sidewalk or upon any public or private property. No portion of this subdivision shall be construed to restrict a private owner in the use of his or her own private property, except that the placing, depositing, or dumping of the waste matter on the property shall not create a public health and safety hazard, a public nuisance, or a fire hazard, as determined by a local health department, local fire department or fire district, or the Department of Forestry in which case the provisions of this section shall apply.

(b) Every person convicted of a violation of this section shall be punished by a mandatory fine of not less than ten dollars ($10) nor more than five hundred dollars ($500) upon a first conviction, by a mandatory fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500) upon a second conviction, and by a mandatory fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) upon a third or subsequent conviction.

The court may, in addition to the fine imposed upon a second or subsequent conviction, require as a condition of probation, in addition to any other condition, that any person convicted of a violation of this section pick up litter at a time and place within the jurisdiction of the court for not less than four hours upon a second conviction and for not less than eight hours upon a third or subsequent conviction.

SEC. 227. Section 13009.5 of the Health and Safety Code is amended to read:

13009.5. Where the Department of Forestry utilizes inmate labor for fighting fires, the charge for their use, for the purpose of Section 13009, shall be set by the Director of Forestry. In determining the charges, he or she may consider, in addition to costs incurred by the department, the per capita cost to the state of maintaining the inmates.

SEC. 228. Section 13053 of the Health and Safety Code is amended to read:

13053. Whenever a fire occurs in any county or within the boundaries of any national forest which is of such proportions that it can not be adequately handled by the forestry department or fire warden of the county or the facilities of the Department of Forestry or of the United States Forest Service, the personnel, equipment, and fire fighting facilities of any county may be authorized by the state forest ranger within the county or the county forester or fire warden of the county to assist in its extinguishment and control.

SEC. 229. Section 13054 of the Health and Safety Code is amended to read:

13054. Where the personnel, equipment, and facilities of any county are utilized in the extinguishment or control of any fire

outside its boundaries, the county furnishing its personnel, equipment, and facilities shall be reimbursed by the county in which the fire occurs in an amount in accordance with a predetermined schedule of repayments agreed upon by the boards of supervisors of the counties, or between the board of supervisors of the county and the Department of Forestry or the United States Forest Service, as the case may be.

SEC. 230. Section 13055 of the Health and Safety Code is amended to read:

13055. Any public agency authorized to engage in fire protection activities, including but not limited to a fire protection district, city, city and county, or county fire department, the Department of Forestry, and the United States Forest Service, may use fire to abate a fire hazard.

SEC. 231. Section 13100 of the Health and Safety Code is amended to read:

13100. There is in the state government, in the State and Consumer Services Agency, the office of the State Fire Marshal.

SEC. 232. Section 13104.5 of the Health and Safety Code is amended to read:

13104.5. Except on property which has been deeded to the State for taxes, the State Fire Marshal may abate fire hazards existing on property owned, controlled, or held in trust by the State, in areas not under the jurisdiction of the Director of Forestry, upon the request of the legislative body of the city, county, or city and county within which the property is situated. The cost of the abatement shall be paid out of any money in the State Treasury appropriated for that purpose.

SEC. 233. Section 13140.5 of the Health and Safety Code is amended to read:

13140.5. The board shall be composed of the following voting members: the State Fire Marshal, the Director of Forestry, the Supervisor of the California Fire Service Training Program, the Chief of the Fire and Rescue Division, Office of Emergency Services, a representative of the insurance industry, four fire chiefs, four fire service labor representatives, one representative from city government, and one representative from county government.

The following members shall be appointed by the Governor: a representative of the insurance industry, four fire chiefs, four fire service labor representatives, one representative from city government, and one representative from county government. Each member appointed shall be a resident of this state. Three of the fire chiefs appointed to the board shall be selected from a list of names recommended by the Board of Directors of the California Fire Chiefs' Association, Inc. and one fire chief shall be selected from a list of names submitted by the California Metropolitan Fire Chiefs. The four fire service labor representatives shall be selected from a list of names recommended by employee organizations representing fire service employees with organization memberships exceeding

12,000, but not more than one fire service labor representative shall be selected from among persons recommended by any one of the employee organizations, unless each organization is represented on the membership of the board. The city government representative shall be selected from elected or appointed city chief administrative officers. The county government representative shall be selected from elected or appointed county chief administrative officers. The appointed members, except those first appointed, shall be appointed for a term of four years. Of the members first appointed seven shall be appointed for a term of two years and four shall be appointed for a term of four years. Any member chosen by the Governor to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member he or she is to succeed.

SEC. 234. Section 13821 of the Health and Safety Code is amended to read:

13821. Any incorporated or unincorporated territory, or any combination thereof, which does not include any timbered, brush, or grass-covered lands declared to be the responsibility of the state for fire protection by Article 3 (commencing with Section 4125) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, except as provided in this section, may be organized as a district pursuant to this part.

Upon the adoption of a resolution or upon receipt of a petition for the formation of or the annexation to a district, if the proposed formation or annexation contains an area declared by Article 3 (commencing with Section 4125) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code to be the fire protection responsibility of the state, the board of supervisors, in the case of formation, or the district board, in the case of annexation, shall file with the Director of Forestry a notice of the proposal including a map and legal land subdivision description of the proposed district or annexation. Upon formation of or annexation to a district, including those lands, the fire protection responsibility for timbered, brush and grass lands shall remain that of the state. The district shall have the fire protection responsibility for structures in the area. Commercial forest lands which are timbered lands declared to be the responsibility of the state for fire protection by Article 3 (commencing with Section 4125) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code shall not, however, be included within a district, except in counties of the 18th class, as specified by Section 28039 of the Government Code.

This section applies to districts formed after September 14, 1961, and to annexations to districts in existence on such date.

SEC. 235. Section 13991 of the Health and Safety Code is amended to read:

13991. The district board may on its own motion, or upon the filing of a petition with the district board signed by 51 percent of the taxpayers, or the owners of 51 percent of the property, in each case within the territory proposed to be formed into a zone or to be

annexed to, or detached from, a zone, based on assessed valuation, in a specific area, the district board shall, by resolution, initiate proceedings for the creation of a special fire protection zone in the district or for the annexation of territory to, or the detachment of territory from, an established special fire protection zone in the district, for any one or more of the following purposes:

(a) Paying for the installation of capital improvements such as fire mains, fireplugs, or any other similar improvement, which is of sole benefit to the territory in a zone.

(b) Paying for water and related costs or specific charges to the district which are of sole benefit to the territory in a zone.

(c) Purchase of equipment or employment of personnel over and above the equipment and personnel which the district can afford to furnish to a zone out of its general district tax.

(d) Payment by the taxpayers of a zone which has been annexed to a city of the costs of fire protection services provided by the Department of Forestry, pursuant to contract with the city, for grass-, brush-, and forest-covered lands in that zone.

SEC. 236. Section 17922.5 of the Health and Safety Code is amended to read:

17922.5. Any state or local agency which issues building permits shall require, as a condition of issuing any building permit where the working conditions of the construction would require an employer to obtain a permit from the Division of Occupational Safety and Health pursuant to Chapter 6 (commencing with Section 6500) of Part 1 of Division 5 of the Labor Code, that proof be submitted showing that the employer has received such a permit from the Division of Occupational Safety and Health.

SEC. 237. Section 17925 of the Health and Safety Code is amended to read:

17925. Except as provided in Section 17922.6, any person, firm, corporation, or governmental agency that opposes the application of any applicable building standard published in the State Building Standards Code or any other rule or regulation adopted by the commission within a particular local area may request a hearing before the local appeals board regarding the matter. If the local appeals board determines after the hearing that because of local conditions or factors it is not reasonable for the building standard, rule, or regulation to be applied in the local area, the building standard, rule, or regulation shall have no application within that local area. A copy of the determination of the local appeals board, together with a report of the local conditions upon which the determination is based, shall be filed with the department pursuant to Section 17958.7.

SEC. 238. Section 25810 of the Health and Safety Code is amended to read:

25810. The department is designated as the agency responsible for the issuance of licenses. In carrying out its duties under this section, the department shall enter into an agreement with the

Division of Occupational Safety and Health and may enter into agreements with other state and local agencies to conduct technical evaluations of license applications prior to issuance of licenses. The agreements shall also include provisions for conducting inspections in accordance with Section 25820.

SEC. 239. Section 25811 of the Health and Safety Code is amended to read:

25811. The department shall, for the protection of public health and safety do all of the following:

(a) Develop programs for evaluation of hazards associated with use of sources of ionizing radiation.

(b) Develop programs, with due regard for compatibility with federal programs, for licensing and regulation of byproduct, source, and special nuclear materials, and other radioactive materials.

(c) Except as provided in Section 18930, adopt and promulgate rules and regulations relating to control of other sources of ionizing radiation.

(d) Issue any rules and regulations which may be necessary in connection with proceedings under Article 4 (commencing with Section 25815).

(e) Collect and disseminate information relating to control of sources of ionizing radiation, including all of the following:

(1) Maintenance of a file of all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions, and revocations.

(2) Maintenance of a file of all rules and regulations relating to regulation of sources of ionizing radiation, pending or promulgated, and proceedings thereon.

(3) Disseminate information regarding the evaluation of hazards associated with the use of sources of ionizing radiation.

Nothing in this chapter shall be construed as precluding the Division of Occupational Safety and Health from adopting and enforcing rules and regulations relating to matters within its jurisdiction consistent with, in furtherance of, and designed to implement the provisions of this chapter and the rules and regulations adopted thereunder.

SEC. 240. Section 33436 of the Health and Safety Code is amended to read:

33436. Express provisions shall be included in all deeds, leases and contracts which the agency proposes to enter into with respect to the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of any land in a redevelopment project in substantially the following form:

(a) In deeds the following language shall appear—"The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry

in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

(b) In leases the following language shall appear—"The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, marital status, national origin, or ancestry, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

(c) In contracts entered into by the agency relating to the sale, transfer, or leasing of land or any interest therein acquired by the agency within any survey area or redevelopment project the foregoing provisions in substantially the forms set forth shall be included and the contracts shall further provide that the foregoing provisions shall be binding upon and shall obligate the contracting party or parties and any subcontracting party or parties, or other transferees under the instrument.

SEC. 241. Section 34354.5 of the Health and Safety Code is amended to read:

34354.5. Notwithstanding Section 34354 or any other provision of law, the rate of interest on any indebtedness or obligation of a housing authority which is payable to the federal government or any agency or instrumentality thereof or on any indebtedness or obligation of a housing authority which is guaranteed by the federal government or any instrumentality thereof may be at a rate higher than the limitation established in Section 34354, or any other law, if the rate is the rate established by the federal government or any instrumentality thereof. Any such indebtedness or obligation shall be in any form and denomination, have any maturity and be subject to any conditions which may be prescribed by the federal government or agency or instrumentality thereof.

SEC. 242. Section 37850 of the Health and Safety Code is amended to read:

37850. "Area housing plan" means a plan meeting the legal requirements for a local housing element, required by Section 65302 of the Government Code, and which is adopted by an area housing

council.

SEC. 243. Section 41809 of the Health and Safety Code is amended to read:

41809. Notwithstanding Sections 41508 and 41800, open outdoor fires may be used to dispose of Russian thistle (Salsola kali) when authorized by a chief of a fire department of fire protection agency of a city, county, or fire protection district, the Director of Forestry or his duly authorized representative, or a county agricultural commissioner, or an air pollution control officer.

SEC. 244. Section 41813 of the Health and Safety Code is amended to read:

41813. Notwithstanding any other provision of this division, in the San Bernardino County Air Pollution Control District, Group 2 solid waste, as defined in Section 2521 of Title 23 of the California Administrative Code, for a period not to exceed six months from the effective date of this section, may be disposed of by means of an air curtain destructor. The authority provided by this section applies only to an existing solid waste disposal site in the upper desert area which receives less than 50 tons of solid waste for disposal per day. The use of the air curtain destructor shall be monitored by the San Bernardino County Air Pollution Control District and the state board. Within nine months after the effective date of this section, the district shall file a report with the County of San Bernardino and the state board regarding the extent to which the air curtain destructor meets the emission rules, regulations, and orders of the district and the state board.

At the end of the six-month experimental period, the air curtain destructor may continue to be used if the state board makes a finding that the public health and safety will not be adversely affected by continued use. The state board, in cooperation with San Bernardino County, shall establish a list of toxic materials that will be removed from the solid waste prior to use of the air curtain destructor.

There shall be no liability on the part of the state board for any injury occurring as a result of the use of the air curtain destructor under the provisions of this section.

SEC. 245. Section 41957 of the Health and Safety Code is amended to read:

41957. The Division of Occupational Safety and Health of the Department of Industrial Relations is the only agency responsible for determining whether any gasoline vapor control system, or component thereof, creates a safety hazard other than a fire hazard.

If the division determines that a system, or component thereof, creates a safety hazard other than a fire hazard, that system or component may not be used until the division has certified that the system or component, as the case may be, does not create that hazard.

The division, in consultation with the state board, shall adopt the necessary rules and regulations for the certification if the certification is required.

SEC. 246. Section 41958 of the Health and Safety Code is amended to read:

41958. To the maximum extent practicable, the rules and regulations adopted pursuant to Sections 41956 and 41957 shall allow flexibility in the design of gasoline vapor control systems and their components. The rules and regulations shall set forth the performance standards as to safety and measurement accuracy and the minimum procedures to be followed in testing the system or component for compliance with the performance standards.

The State Fire Marshal, the Division of Occupational Safety and Health, and the Division of Measurement Standards shall certify any system or component which complies with their adopted rules and regulations. Any one of the state agencies may certify a system or component on the basis of results of tests performed by any entity retained by the manufacturer of the system or component or by the state agency. The requirements for the certification of a system or component shall not require that it be tested, approved, or listed by any private entity.

SEC. 247. Section 41959 of the Health and Safety Code is amended to read:

41959. Certification testing of gasoline vapor control systems and their components by the state board, the State Fire Marshal, the Division of Measurement Standards, and the Division of Occupational Safety and Health may be conducted simultaneously.

SEC. 248. Section 41960 of the Health and Safety Code is amended to read:

41960. Certification of a gasoline vapor recovery system for safety and measurement accuracy by the State Fire Marshal and the Division of Measurement Standards and, if necessary, by the Division of Occupational Safety and Health shall permit its installation wherever required in the state, if the system is also certified by the state board.

Except as otherwise provided in subdivision (f) of Section 41954, no local or regional authority shall prohibit the installation of a certified system without obtaining concurrence from the state agency responsible for the aspects of the system which the local or regional authority disapproves.

SEC. 249. Section 41961 of the Health and Safety Code is amended to read:

41961. The State Fire Marshal, the Division of Measurement Standards, and the Division of Occupational Safety and Health may charge a reasonable fee for certification of a gasoline vapor control system or a component thereof, not to exceed their respective estimated costs therefor. Payment of the fee may be made a condition of certification.

SEC. 253. Chapter 9 (commencing with Section 50735) of Part 2 of Division 31 of the Health and Safety Code, as added by Chapter 1042 of the Statutes of 1979, is repealed. The repeal made by this section shall not affect the existence or validity of Chapter 9

(commencing with Section 50735) of Part 2 of Division 31 of the Health and Safety Code, as added by Chapter 1043 of the Statutes of 1979.

SEC. 254. Chapter 10 (commencing with Section 50775) of Part 2 of Division 31 of the Health and Safety Code, as added by Chapter 1042 of the Statutes of 1979, is repealed. The repeal made by this section shall not affect the existence or validity of Chapter 10 (commencing with Section 50775) of Part 2 of Division 31 of the Health and Safety Code, as added by Chapter 1043 of the Statutes of 1979.

SEC. 255. Section 50902 of the Health and Safety Code is amended to read:

50902. Appointed members of the board 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 order to achieve that diversity. The Governor shall select four of his or her six appointees from among the following categories: (1) an elected official of a city or county engaged in the planning or implementation of a housing, housing-assistance, or housing rehabilitation program; (2) a person experienced in residential real estate in the savings and loan, mortgage banking, or commercial banking industry; (3) a person experienced as a builder of residential housing; (4) a person experienced in organized labor in the residential construction industry; (5) a person experienced in the management of rental or cooperative housing occupied by lower income households; (6) a person experienced in manufactured housing finance and development; and (7) a person representing the public. Not more than one person from each category may serve on the board at any one time, except that two members may be appointed to represent the general public. The Governor shall also appoint two members who are residents of rental or cooperative housing financed by the agency or who are persons experienced in counseling, assisting, or representing tenants; provided, that only one appointment may be made during the term of any member appointed by the Senate Rules Committee prior to January 1, 1981. At least one of the members appointed by the Governor shall be a resident of a rural or nonmetropolitan area. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a person representing the general public. The terms of the members initially appointed by the Governor, the Senate Rules Committee, and the Speaker of the Assembly shall be as follows:

(a) An elected official of a city or county engaged in the planning or implementation of a housing, housing-assistance, or housing rehabilitation program—two years appointed by the Governor.

(b) Member experienced in residential real estate in the savings and loan mortgage banking or commercial banking industry—four years appointed by the Governor.

(c) Member who is experienced as a builder of residential

housing—six years appointed by the Governor.

(d) Member experienced in organized labor in the residential construction industry—two years appointed by the Governor.

(e) Member experienced in the management of rental or cooperative housing occupied by lower income households—four years appointed by the Governor.

(f) Member experienced in manufactured housing finance and development—two years appointed by the Governor.

(g) Members appointed by the Governor who are residents of rental or cooperative housing financed by the agency or are experienced in counseling, assisting, or representing tenants—six years and two years, respectively.

(h) Member appointed by the Speaker of the Assembly who represents the general public—four years.

(i) Member appointed by the Senate Rules Committee who represents the general public—six years.

The term of any member of the board appointed to serve subsequent to the expiration of an initial term shall be six years. Any person appointed to fill a vacancy on the board shall serve only for the remainder of the unexpired term. Members of the board shall, subject to continued qualification, be eligible for reappointment. If a member of the board ceases to meet the qualifications specified in this section, the membership of that person on the board shall be terminated.

SEC. 256. Section 51350.5 of the Health of Safety Code, as added by Chapter 1042 of the Statutes of 1979, is repealed. The repeal made by this section shall not affect the existence or validity of Section 51350.5 of the Health and Safety Code as added by Chapter 1043 of the Statutes of 1979.

SEC. 257. Section 51351 of the Health and Safety Code is amended to read:

51351. Notwithstanding any other provisions of this part, only the following types of housing developments and other residential structures are eligible for mortgage loans made with the proceeds of bonds:

(a) Housing developments and other residential structures financed with bonds of the agency guaranteed under Section 802 of Title VIII of the Federal Housing and Community Development Act of 1974.

(b) Housing developments and other residential structures financed with bonds of the agency that are guaranteed, or the time payment of principal and interest of which is insured, by an agency of the state or by a private insuring entity authorized to engage in that business.

(c) Housing developments and other residential structures, the mortgage loans on which presently are or are expected to be insured under a program utilizing federal coinsurance as authorized under Section 244 of Title III of the Federal Housing and Community Development Act of 1974 (P.L. 93-383).

(d) Housing developments and other residential structures, the bonds or mortgage loans on which are presently or are expected to be insured or guaranteed in whole or in part by an agency of the state, including the California Housing Finance Agency, a political subdivision of the state, or by a private insuring entity authorized to engage in that business, or by any combination thereof, in percentages determined by the agency.

(e) Housing developments and other residential structures, the mortgage loans on which are presently or are expected to be insured in whole or in part by the Federal Housing Administration or guaranteed in whole or in part by the United States Veterans Administration or by the Farmers Home Administration of the United States Department of Agriculture in percentages determined by the agency.

(f) Housing developments and other residential structures financed by a loan made by the agency to a qualified mortgage lender, if both of the following conditions are met:

(1) The loan to the qualified mortgage lender is a general obligation of the mortgage lender.

(2) The qualified mortgage lender is a member of, or a subsidiary of a member of, the Federal Deposit Insurance Corporation or of the Federal Savings and Loan Insurance Corporation.

(g) Housing developments and other residential structures financed by tax-exempt bonds for which a bond reserve fund is created which at least equals either the average annual debt service or the maximum annual interest on the bonds issued.

SEC. 258. Section 51858 of the Health and Safety Code is amended to read:

51858. The agency may initiate programs of coinsurance or reinsurance with, and may procure reinsurance from, any local agency or agency of the United States or private mortgage insurer in order to accomplish more effectively the purpose of this part. The agency may coinsure loans made or originated by approved lending institutions which are otherwise insurable under the provisions of this part.

SEC. 260. Section 779.8 of the Insurance Code is amended to read:

779.8. All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders delivered or issued for delivery in this state and the schedules of premium rates pertaining thereto shall be filed with the commissioner.

SEC. 261. Section 922.4 of the Insurance Code is amended to read:

922.4. Credit in accounting and financial statements on account of reinsurance ceded to a nonadmitted reinsurer other than an alien reinsurer shall be allowed only:

(a) Where it is demonstrated by the ceding insurer to the satisfaction of the commissioner that such reinsurer maintains the

standards and meets the financial requirements applicable to an admitted insurer, or

(b) To the extent of deposits by, or funds withheld from, such reinsurer pursuant to express provision therefor in the reinsurance contract as security for the payment of the obligations thereunder if such deposits or funds are held subject to withdrawal by, and under the control of, the ceding insurer or are placed in trust for such purposes in a bank which is a member of the Federal Reserve System if withdrawals from the trust cannot be made without the consent of the ceding insurer. With respect to credit life insurance and credit disability insurance, such deposits or funds shall be deposited in a bank located in California, notwithstanding the fact that the deposits or funds are held subject to withdrawal by, and under the control of, the ceding insurer.

(c) To the extent that the amount of a clean and irrevocable letter of credit issued for a term of one year conforming to the requirements set forth below, is a substitute for advances for claims and unearned premium obligations to be made by a foreign reinsurer in connection with its liability under a specific reinsurance agreement. The requirements are that such a clean and irrevocable letter of credit shall be issued under arrangements satisfactory to the commissioner as constituting security to the ceding insurer substantially equal to that of a deposit under subdivision (b), and that it shall be issued by a banking institution which is a member of the Federal Reserve System and of financial standing satisfactory to the commissioner.

As used in this section, the terms "deposits" and "funds" include securities authorized as general investments by Article 3 (commencing with Section 1170) of Chapter 2, but not to exceed current market value.

SEC. 262. Section 922.5 of the Insurance Code is amended to read:

922.5. Credit in accounting and financial statement permitted by this code on account of reinsurance ceded to an alien reinsurer other than one which complies with Article 2 (commencing with Section 1580) of Chapter 4 and includes in the statements required by that article all reserves and liabilities arising out of such reinsurance shall be allowed only:

(a) To the extent of the amount of deposits by, and funds withheld from, such alien reinsurer pursuant to express provision therefor in the reinsurance contract as security for the payment of the obligations thereunder if the deposits or funds are held subject to withdrawal by, and under the control of, the ceding insurer or are placed in trust for such purposes in a bank which is a member of the Federal Reserve System, if withdrawals from the trust cannot be made without the consent of the ceding insurer, or

(b) Where such alien reinsurer maintains sufficient assets in the United States for the protection of policyholders in the United States and operates its business in such manner as to satisfy the

commissioner that it maintains standard and financial condition reasonably comparable to those required of admitted insurers and that it is able to pay losses in the United States.

(c) To the extent that the amount of a clean and irrevocable letter of credit issued for a term of one year conforming to the requirements set forth below, is a substitute for advances for claims and unearned premium obligations to be made by an alien reinsurer in connection with its liability under a specific reinsurance agreement. The requirements are that such a clean and irrevocable letter of credit shall be issued under arrangements satisfactory to the commissioner as constituting security to the ceding insurer substantially equal to that of a deposit under subdivision (a), and that it shall be issued by a banking institution which is a member of the Federal Reserve System and of financial standing satisfactory to the commissioner.

SEC. 263. Section 1033 of the Insurance Code is amended to read:

1033. (a) Claims allowed in a proceeding under this article shall be given preference in the following order:

(1) Expense of administration.

(2) Unpaid charges due under the provisions of Section 736.

(3) Taxes due to the State of California.

(4) Claims having preference by the laws of the United States and by laws of this state.

(5) All claims of the California Insurance Guarantee Association and associations or entities performing a similar function in other states, together with claims for refund of unearned premiums and all claims of policyholders of an insolvent insurer that are not covered claims.

Claims excluded by paragraphs (3) (except claims for refund of unearned premiums), (4), (5), (7), and (8) of subdivision (c) of Section 1063.1 and subdivisions (g) and (h) of Section 1063.2 shall be excluded from this priority.

(6) All other claims.

(b) Upon the issuance of an order appointing a conservator or liquidator for any person under the provisions of either Section 1011 or 1016 or both such sections, the lien of taxes due to the State of California imposed by Article 4 (commencing with Section 12491) of Chapter 4 of Part 7 of Division 2 of the Revenue and Taxation Code shall become subordinate to the reasonable administrative expenses of the proceeding under the order.

SEC. 264. Section 1035.5 of the Insurance Code is amended to read:

1035.5. Notwithstanding the provisions of Article 14 (commencing with Section 1010), with regard only to those insurers subject to this article:

(a) Within 120 days of the issuance of an order directing the winding up and liquidation of the business of an insolvent insurer under Section 1016, the commissioner shall make application to the court for approval of a proposal to disburse the insurer's assets, from

time to time as such assets become available, to the California Insurance Guarantee Association and to any entity or person performing a similar function in another state.

(b) The proposal shall at least include the following provisions for:

(1) Reserving amounts for the payment of expenses of administration and the payment of claims of secured creditors (to the extent of the value of the security held) and claims falling within the priorities established in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 1033.

(2) Disbursement of the assets marshaled to date and subsequent disbursements of assets as they become available.

(3) Equitable allocation of disbursements to each of the associations entitled thereto.

(4) The securing by the commissioner from each of the associations entitled to disbursements pursuant to this section of an agreement to return to the commissioner such assets previously disbursed as may be required to pay claims of secured creditors and claims falling within the priorities established in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1033 in accordance with the priorities. No bond shall be required of any association.

(5) A full report to be made by the association to the commissioner accounting for all assets so disbursed to the association, all disbursements made therefrom, any interest earned by the association on the assets, and any other matter as the court may direct.

(c) The commissioner's proposal shall provide for disbursements to the associations in amounts estimated at least equal to the claim payments made or to be made by the associations for which such associations could assert a claim against the commissioner, and shall further provide that if the assets available for disbursement from time to time do not equal or exceed the amount of the claim payments made or to be made by the associations, then disbursements shall be in the amount of available assets. The reserves of the insolvent insurer on the date of the order of liquidation shall be used for purposes of determining the pro rata allocation of funds among eligible associations.

(d) Notice of such application shall be given to the associations in and to the commissioners of insurance of each of the states. Any such notice shall be deemed to have been given when deposited in the United States certified mails, first-class postage prepaid, at least 30 days prior to submission of such application to the court. Action on the application may be taken by the court provided the above required notice has been given and provided further that the commissioner's proposal complies with paragraphs (1) and (4) of subdivision (b).

SEC. 265. Section 1597 of the Insurance Code is amended to read:

1597. In respect of the appointment or substitution of a trustee in another state in which an admitted alien insurer is authorized to

transact insurance, in respect of withdrawal of trusteed assets held in the other state (except withdrawals as provided in Section 1596), and in respect of the amendment of such deed of trust not affecting the interests or security of the beneficiaries thereof, written approval under any provision in the deed of trust which requires such written approval by the official of such other state, supervising insurance therein, shall be deemed compliance with any applicable approval requirements of Sections 1595 and 1596. Where an alien insurer organized under the laws of the Dominion of Canada or of any province thereof maintains trusteed assets in another state and under the deed of trust written approval is required by an official supervising insurance in any state in which such insurer is authorized to transact insurance and in which it heretofore maintained and hereafter continues to maintain a general state deposit at least equal in amount to the deposit required by Section 1582, written approval by such official in respect of the appointment or substitution of a trustee thereunder, in respect of withdrawal of such trusteed assets (except withdrawals as provided in Section 1596), and in respect of the amendment of such deed of trust not affecting the interests or security of the beneficiaries thereof, shall also be deemed compliance with any applicable approval requirements of Sections 1595 and 1596. The alien insurer shall furnish proof of approvals authorized by this section to and notify the commissioner in writing of such appointment or substitution, of the nature and extent of such withdrawal, and of the text of such amendment.

SEC. 266. Section 1599 of the Insurance Code is amended to read:

1599. The commissioner shall require the payment of ten dollars ($10) in lawful money of the United States, in advance, as a fee for filing each certificate of a trustee required to be filed by Section 1592.

SEC. 267. Section 1751 of the Insurance Code is amended to read:

1751. The commissioner shall require in advance a fee for filing the following documents:

(a) Application for registration of change in membership of a copartnership licensed as:

(1) Insurance agent, twenty-four dollars ($24).

(2) Insurance broker, thirty-five dollars ($35).

(3) Life agent, resident, twenty-four dollars ($24).

(4) Life agent, nonresident, twenty-eight dollars ($28).

(b) Application for endorsement removing from any life agent's, insurance agent's or insurance broker's license issued to an organization the name of any natural person named thereon, five dollars ($5).

(c) First amendment to an application, five dollars ($5); a second and each subsequent amendment to an application, ten dollars ($10).

(d) Original application to be given the qualifying examination for a license of a fire and casualty licensee, seventeen dollars and fifty cents ($17.50) for each person to be examined.

(e) Original application to be given the qualifying examination for a license of a life licensee, or a license as a variable contract agent,

seventeen dollars and fifty cents ($17.50) for each person to be examined.

(f) Application for reexamination for any of the licenses mentioned in this section, seventeen dollars and fifty cents ($17.50) for each person to be reexamined.

(g) Application which includes a request for a certificate of convenience pursuant to Article 8 (commencing with Section 1685), twelve dollars and fifty cents ($12.50) in addition to, and not in lieu of, fees otherwise required.

(h) Application or request for approval of true or fictitious name pursuant to Section 1724.5 twenty dollars ($20), except that there shall be no fee when such name is contained in an original application.

(i) "A ratification of appointments of agents" whereby the surviving insurer in a merger or consolidation assumes responsibility for all agents then lawfully appointed for one of the constituent insurers and makes each its agent, sixty-five dollars ($65).

(j) An application or request for approval of:

(1) A training course pursuant to Section 1691, except when filed by a degree-conferring college or university, a public educational institution, or by a private nonprofit educational institution, sixty-five dollars ($65).

(2) An arrangement whereby an insurer may qualify certificate of convenience holders pursuant to Section 1691 by means of an approved course given on the insurer's behalf by a school or organization other than itself, thirty-five dollars ($35).

(k) A bond, pursuant to Article 5 (commencing with Section 1662) or Section 1760.5 or 1765, except when such bond constitutes part of an original application filing, ten dollars ($10).

(*l*) An application or request for a copy of, or a duplicate license, issued pursuant to Chapter 5 (commencing with Section 1621), 6 (commencing with Section 1760), 7 (commencing with Section 1800), or 8 (commencing with Section 1831) or Sections 12280 and 12280.2, ten dollars ($10).

(m) An application or request for clearance and cancellation notice of a current licensee of record, ten dollars ($10).

(n) An amended action notice pursuant to subdivision (e) of Section 1704, two dollars and fifty cents ($2.50).

SEC. 268. Section 10178 of the Insurance Code is amended to read:

10178. No insurer, union trust fund which administers health, medical, or surgical insurance, or employer which has an insurance company administering its health services program, shall deny, for the reason that the insured incurred no expense, a claim for hospital, medical or surgical services rendered by a nongovernmental charitable research hospital which makes no charge for its services in the absence of insurance. No expense-incurred, group hospital, medical or surgical policy issued, delivered, amended or renewed after the effective date of this section or union trust fund which

administers health, medical, or surgical insurance, or employer which has an insurance company administering its health services program, shall except, limit or reduce benefits for services rendered by a nongovernmental charitable research hospital because it does not charge for its services in the absence of insurance. No expense-incurred individual hospital, medical or surgical policy issued, delivered, or amended after the effective date of this section or union trust fund which administers health, medical, or surgical insurance, or employer which has an insurance company administering its health services program, shall except, limit, or reduce benefits for services rendered by a nongovernmental charitable research hospital because it does not charge for its services in the absence of insurance.

As used in this section, charitable research hospital means a hospital that meets all the following criteria:

(1) Is internationally recognized as devoting itself primarily to medical research.

(2) Expends not less than 10 percent of its operating budget in each fiscal year exclusively on medical research activities which are not directly related to the provision of services to patients.

(3) Derives not less than one-third of its gross revenues in each fiscal year from contributions, donations, grants, gifts, or other gratuitous forms from individuals, groups, persons, or entities unrelated to the hospital. Contributions, donations, grants, gifts or other gratuitous sources of revenue received as compensation for medical services provided patients shall not be considered for purposes of this subdivision.

(4) Accepts patients without regard to the patient's ability to pay for medical services.

(5) Not less than two-thirds of the patients admitted have a primary diagnosis or suspected disease or condition directly related to the specific area or areas in which the hospital conducts research. Patients admitted because of an emergent life-threatening condition who could not be safely transported to another hospital shall not be considered as patients for purposes of this section.

SEC. 269. Section 11512.18 of the Insurance Code, as added by Chapter 352 of the Statutes of 1980, is amended and renumbered to read:

11512.19. No plan issuing, providing, or administering an individual or group nonprofit hospital service plan entered into, amended, or issued on or after January 1, 1981, shall refuse to cover, or refuse to continue to cover, or limit the amount, extent, or kind of coverage available to an individual, or charge a different rate for the same coverage solely because of a physical or mental impairment, except where the refusal, limitation or rate differential is based on sound actuarial principles applied to actual experience, or, if insufficient actual experience is available, then to sound underwriting practices.

This section shall not apply to a health maintenance organization

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qualified pursuant to Title XIII of the federal Public Health Service Act if such organization gives public notice 30 days in advance, in a newspaper of general circulation published in the area served by the health maintenance organization, of its open enrollment period required by such act.

SEC. 270. Section 11512.18 of the Insurance Code, as added by Chapter 776 of the Statutes of 1980, is amended and renumbered to read:

11512.195. No hospital service contract or nonprofit hospital service plan that covers hospital, medical, or surgical expenses on a group or individual basis shall be issued, amended, delivered, or renewed in this state on or after January 1, 1981, if it contains any exclusion, reduction, or other limitation as to coverage, deductibles, or coinsurance provisions applicable solely to conditions attributable to diethylstilbestrol or exposure to diethylstilbestrol.

All contracts or plans subject to this section and issued, amended, delivered, or renewed in this state on or after January 1, 1981, shall be construed to be in compliance with this section, and any provision in any such contract which is in conflict with this section shall be of no force or effect.

SEC. 271. Section 11512.21 of the Insurance Code, as added by Chapter 90 of the Statutes of 1980, is amended and renumbered to read:

11512.22. No nonprofit hospital service plan shall deny a claim under a group contract for hospital, medical, surgical, dental, or optometric services for the sole reason that the individual served was confined in a city or county jail as a prisoner, or was a juvenile detained in any facility, if that individual is otherwise entitled to benefits under the group contract and incurs expense for the services so provided during confinement. This provision shall apply to any nonprofit hospital service plan entered into or renewed on or after July 1, 1980, whether or not the plan or group contract contains any provision terminating benefits under the plan upon an individual's confinement in a city or county jail or juvenile detention facility.

SEC. 272. Section 11551 of the Insurance Code is amended to read:

11551. As used in this article, the term "compensation" means workers' compensation insurance.

SEC. 273. Section 11558 of the Insurance Code is amended to read:

11558. The minimum reserve requirements prescribed by the commissioner in regulations promulgated pursuant to Section 923.5 for outstanding losses and loss expenses for each of the most recent three years for coverages included in the lines of business described in the annual statement as workers' compensation, liability other than automobile bodily injury, and automobile liability bodily injury shall be not less than the following:

(a) For workers' compensation, 65 percent of earned premiums during each year less the amount already paid for losses and expenses

incidental thereto incurred during each such year.

(b) For liability other than automobile bodily injury, and for automobile liability bodily injury, 60 percent of earned premiums during each year less the amount already paid for losses and expenses incidental thereto incurred during each such year.

The commissioner may prescribe the manner and form of reporting pertinent information concerning the reserves provided for in this section.

SEC. 274. Section 11580.2 of the Insurance Code is amended to read:

11580.2. (a) (1) No policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle, except for policies which provide insurance in the Republic of Mexico issued or delivered in this state by nonadmitted Mexican insurers, shall be issued or delivered in this state to the owner or operator of a motor vehicle, or shall be issued or delivered by any insurer licensed in this state upon any motor vehicle then principally used or principally garaged in this state, unless the policy contains, or has added to it by endorsement, a provision with coverage limits at least equal to the limits specified in subdivision (m) and in no case less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code insuring the insured, his or her heirs or his or her legal representative for all sums within such limits which he, she, or they, as the case may be, shall be legally entitled to recover as damages for bodily injury or wrongful death from the owner or operator of an uninsured motor vehicle. The insurer and any named insured, prior to or subsequent to the issuance or renewal of a policy, may, by agreement in writing, in the form specified in paragraph (2), delete the provision covering damage caused by an uninsured motor vehicle completely, or, with respect to a natural person or persons designated by name when operating a motor vehicle, agree to provide such coverage in an amount less than that required by subdivision (m) but not less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code. Any such agreements by any named insured or agreement for the amount of coverage shall be binding upon every insured to whom such policy or endorsement provisions apply while such policy is in force, and shall continue to be so binding with respect to any continuation, renewal, or replacement of such policy by the named insured, or with respect to reinstatement of such policy within 30 days of any lapse thereof. A policy shall be excluded from the application of this section if the only coverage with respect to the use of any motor vehicle is limited to the contingent liability arising out of the use of nonowned motor vehicles.

(2) The agreement specified in paragraph (1) shall be in the following form:

"The California Insurance Code requires an insurer to provide uninsured motorists coverage in each bodily injury liability insurance policy it issues covering liability arising out of the ownership,

maintenance, or use of a motor vehicle. Such section also permits the insurer and the applicant to delete such coverage completely or with respect to one or more natural persons designated by name when operating a motor vehicle or agree to provide such coverage in an amount less than that required by subdivision (m) of Section 11580.2 of the Insurance Code, but not less than the financial responsibility requirements. Uninsured motorists coverage insures the insured, his or her heirs, or legal representatives for all sums within the limits established by law, which such person or persons are legally entitled to recover as damages for bodily injury, including any resulting sickness, disease, or death, to him or her from the owner or operator of an uninsured motor vehicle not owned or operated by the insured."

Such agreement may contain additional statements not in derogation of or conflict with the foregoing. The execution of such agreement shall relieve the insurer of liability under this section while such agreement remains in effect.

(b) As used in subdivision (a), "bodily injury" includes sickness or disease, including death, resulting therefrom; "named insured" means only the individual or organization named in the declarations of the policy of motor vehicle bodily injury liability insurance referred to in subdivision (a); as used in subdivision (a), "insured" means the named insured and the spouse of the named insured and, while residents of the same household, relatives of either while occupants of a motor vehicle or otherwise, heirs and any other person while in or upon or entering into or alighting from an insured motor vehicle and any person with respect to damages he or she is entitled to recover for care or loss of services because of bodily injury to which the policy provisions or endorsement apply; "insured motor vehicle" means the motor vehicle described in the underlying insurance policy of which the uninsured motorist endorsement or coverage is a part, a temporary substitute automobile for which liability coverage is provided in the policy or a newly acquired automobile for which liability coverage is provided in the policy if the motor vehicle is used by the named insured or with his or her permission or consent, express or implied, and any other automobile not owned by the named insured or any resident of the same household while being operated by the named insured or his or her spouse if a resident of the same household, but "insured motor vehicle" shall not include any automobile while used as a public or livery conveyance. As used in this section, "uninsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance or use of which there is no bodily injury liability insurance or bond applicable at the time of the accident, or there is such applicable insurance or bond but the company writing the same denies coverage thereunder or refuses to admit coverage thereunder except conditionally or with reservation, or a motor vehicle used without the permission of the owner thereof if there is no bodily injury liability insurance or bond applicable at the time of the

accident with respect to the owner or operator thereof, or the owner or operator thereof be unknown, provided that, with respect to an "uninsured motor vehicle" whose owner or operator is unknown:

(1) The bodily injury has arisen out of physical contact of such automobile with the insured or with an automobile which the insured is occupying.

(2) The insured or someone on his or her behalf shall have reported the accident within 24 hours to the police department of the city where the accident occurred or, if the accident occurred in unincorporated territory then either the sheriff of the county where the accident occurred or the local headquarters of the California Highway Patrol, and have filed with the insurer within 30 days thereafter a statement under oath that the insured or his or her legal representative has or the insured's heirs have a cause of action arising out of such accident for damages against a person or persons whose identity is unascertainable and set forth facts in support thereof. As used in this section, the term "uninsured motor vehicle" shall not include an automobile owned by the named insured or any resident of the same household or self-insured within the meaning of the Safety Responsibility Law of the state in which the motor vehicle is registered or which is owned by the United States of America, Canada, a state or political subdivision of any such government or an agency of any of the foregoing, or a land motor vehicle or trailer operated on rails or crawler treads or while located for use as a residence or premises and not as a vehicle, or a farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads.

As used in this section, "uninsured motor vehicle" also means an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency. An insurer's solvency protection shall be applicable only to accidents occurring during a policy period in which its insured's motor vehicle coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one year of such accident. In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making such payment, shall to the extent thereof, be entitled to any proceeds which may be recoverable from the assets of the insolvent insurer through any settlement or judgment of such person against the insolvent insurer.

(c) The insurance coverage provided for in this section does not apply either as primary or as excess coverage to:

(1) To property damage sustained by the insured.

(2) To bodily injury of the insured while in or upon or while entering into or alighting from an automobile other than the described automobile if the owner thereof has insurance similar to that provided in this section.

(3) To bodily injury of the insured with respect to which the

insured or his or her representative shall, without the written consent of the insurer, make any settlement with or prosecute to judgment any action against any person who may be legally liable therefor.

(4) In any instance where it would inure directly or indirectly to the benefit of any workers' compensation carrier or to any person qualified as a self-insurer under any workers' compensation law, or directly to the benefit of the United States, or any state or any political subdivision thereof.

(5) To establish proof of financial responsibility as provided in subdivisions (a), (b), and (c) of Section 16054 of the Vehicle Code.

(6) To bodily injury of the insured while occupying a motor vehicle owned by an insured, unless the occupied vehicle is an insured motor vehicle.

(7) To bodily injury of the insured when struck by a vehicle owned by an insured.

(d) Subject to paragraph (2) of subdivision (c), the policy or endorsement may provide that if the insured has insurance available to him or her under more than one uninsured motorist coverage provision, any damages shall not be deemed to exceed the higher of the applicable limits of the respective coverages, and such damages shall be prorated between the applicable coverages as the limits of each coverage bears to the total of such limits.

(e) The policy or endorsement added thereto may provide that if the insured has valid and collectible automobile medical payment insurance available to him or her, the damages which he or she shall be entitled to recover from the owner or operator of an uninsured motor vehicle shall be reduced for purposes of uninsured motorist coverage by the amounts paid or due to be paid under such automobile medical payment insurance. This subdivision shall become operative on January 1, 1971.

(f) The policy or an endorsement added thereto shall provide that the determination as to whether the insured shall be legally entitled to recover damages, and if so entitled, the amount thereof, shall be made by agreement between the insured and the insurer or, in the event of disagreement, by arbitration. The arbitration shall be conducted by a single neutral arbitrator. An award or a judgment confirming an award shall not be conclusive on any party in any action or proceeding between (i) the insured, his or her insurer, his or her legal representative, or his or her heirs and (ii) the uninsured motorist to recover damages arising out of the accident upon which the award is based. If the insured has or may have rights to benefits, other than nonoccupational disability benefits, under any workers' compensation law, the arbitrator shall not proceed with the arbitration until the insured's physical condition is stationary and ratable. In those cases in which the insured claims a permanent disability, such claims shall, unless good cause be shown, be adjudicated by award or settled by compromise and release before the arbitration may proceed. Any demand or petition for arbitration

shall contain a declaration, under penalty of perjury, stating whether (i) the insured has a workers' compensation claim; (ii) such claim has proceeded to findings and award or settlement on all issues reasonably contemplated to be determined in that claim; and (iii) if not, what reasons amounting to good cause are grounds for the arbitration to proceed immediately. The provisions of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall be applicable to such determinations, and all rights, remedies, obligations, liabilities and procedures set forth in the article shall be available to both the insured and the insurer at any time after the accident, both before and after the commencement of arbitration, if any, with the following limitations:

(1) Whenever in the article, reference is made to the court in which the action is pending, or provision is made for application to the court or obtaining leave of court or approval by the court, the court which shall have jurisdiction for the purposes of this section shall be the superior court of the State of California, in and for any county which is a proper county for the filing of a suit for bodily injury arising out of the accident, against the uninsured motorist, or any county specified in the policy or an endorsement added thereto as a proper county for arbitration or action thereon.

(2) Any proper court to which application is first made by either the insured or the insurer under the provisions of the article for any discovery or other relief or remedy, shall thereafter be the only court to which either of the parties shall make any applications under the article with respect to the same accident, subject, however, to the right of the court to grant a change of venue after a hearing upon notice, upon any of the grounds upon which change of venue might be granted in an action filed in the superior court.

(3) A deposition pursuant to the provisions of Section 2016 of the Code of Civil Procedure may be taken without leave of court, except that leave of court, granted with or without notice and for good cause shown, must be obtained if the notice of the taking of the deposition is served by either party within 20 days after the accident.

(4) The provisions of paragraph (4) of subdivision (a) of Section 2019 of the Code of Civil Procedure shall not be applicable to discovery under this section.

(5) For the purposes of discovery under this section, the insured and the insurer shall each be deemed to be "a party to the record of any civil action or proceedings," where that phrase is used in paragraph (2) of subdivision (b) of Section 2019 of the Code of Civil Procedure.

(6) Interrogatories under the provisions of Section 2030 of the Code of Civil Procedure and requests for admission under Section 2033 of the Code of Civil Procedure may be served by either the insured or the insurer upon the other at any time more than 20 days after the accident without leave of court.

(7) Nothing in this section shall be construed to limit the rights of

any party to discovery in any action pending or which may hereafter be pending in any court.

(g) The insurer paying a claim under an uninsured motorist endorsement or coverage shall be entitled to be subrogated to the rights of the insured to whom such claim was paid against any person causing such injury or death to the extent that payment was made. Such action may be brought within three years from the date that payment was made hereunder.

(h) An insured entitled to recovery under the uninsured motorist endorsement or coverage shall be reimbursed within the conditions stated herein without being required to sign any release or waiver of rights to which he or she may be entitled under any other insurance coverage applicable; nor shall payment under this section to such insured be delayed or made contingent upon the decisions as to liability or distribution of loss costs under other bodily injury liability insurance or any bond applicable to the accident. Any loss payable under the terms of the uninsured motorist endorsement or coverage to or for any person may be reduced:

(1) By the amount paid and the present value of all amounts payable to him or her, his or her executor, administrator, heirs, or legal representative under any workers' compensation law, exclusive of nonoccupational disability benefits.

(2) By the amount the insured is entitled to recover from any other person insured under the underlying liability insurance policy of which the uninsured motorist endorsement or coverage is a part.

(i) No cause of action shall accrue to the insured under any policy or endorsement provision issued pursuant to this section unless within one year from the date of the accident one of the following occurs:

(1) Suit for bodily injury has been filed against the uninsured motorist, in a court of competent jurisdiction.

(2) Agreement as to the amount due under the policy has been concluded.

(3) The insured has formally instituted arbitration proceedings.

(j) Notwithstanding the provisions of subdivisions (b) and (i), in the event the accident occurs in any other state or foreign jurisdiction to which coverage is extended under the policy and the insurer of the tortfeasor becomes insolvent, any action authorized pursuant to the provisions of this section may be maintained within three months of the insolvency of the tortfeasor's insurer, but in no event later than the pertinent period of limitation of the jurisdiction in which the accident occurred.

(k) Notwithstanding the provisions of subdivision (i), any insurer whose insured has made a claim under his or her uninsured motorist coverage, and such claim is pending, shall, at least 30 days before the expiration of the applicable statute of limitation, notify its insured in writing of the statute of limitation applicable to such injury or death. Failure of the insurer to provide such written notice shall operate to toll any applicable statute of limitation or other time limitation for

a period of 30 days from the date such written notice is actually given.

(*l*) As used in subdivision (b), "public or livery conveyance," or terms of similar import, shall not include the operation or use of a motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing social service transportation as defined in subdivision (f) of Section 11580.1. This subdivision shall apply only to policies of insurance issued, amended, or renewed on or after January 1, 1976.

(m) Coverage provided under an uninsured motorist endorsement or coverage shall be offered with coverage limits equal to the limits of liability for bodily injury in the underlying policy of insurance, but shall not be required to be offered with limits in excess of the following amounts:

(1) A limit of thirty thousand dollars ($30,000) because of bodily injury to or death of one person in any one accident.

(2) Subject to the limit for one person set forth in paragraph (1), a limit of sixty thousand dollars ($60,000) because of bodily injury to or death of two or more persons in any one accident.

SEC. 275. Section 11600 of the Insurance Code is amended to read:

11600. An incorporated insurer issuing policies of liability, workers' compensation, or common carrier liability insurance, shall be governed by the paid-in capital and surplus requirements of Sections 700.01 to 700.05, inclusive.

SEC. 276. Section 11602 of the Insurance Code is amended to read:

11602. Any such insurer which on July 26, 1919, was authorized by its charter to transact liability insurance may transact workers' compensation and common carrier liability insurance as though expressly permitted by its charter to do so.

SEC. 277. Section 11656.9 of the Insurance Code is amended to read:

11656.9. To encourage and facilitate the participation of agencies, entities or institutions, public or private, in economic opportunity programs authorized under Public Law 88-452, insurers may insure the workers' compensation liability to enrollees of sponsoring agencies pursuant to Chapter 9 (commencing with Section 4201) of Part 1 of Division 4 of the Labor Code under a master policy, subject to the approval of the Insurance Commissioner.

SEC. 278. Section 11657 of the Insurance Code is amended to read:

11657. Subject to the provisions of Sections 11658, 11659, and 11660, limited workers' compensation policies may be issued insuring either the whole or any part of the liability of any employer for compensation. Subject to those provisions, any such policy may restrict or limit such insurance in any manner whatsoever.

SEC. 279. Section 11663 of the Insurance Code is amended to read:

11663. As between insurers of general and special employers, one which insures the liability of the general employer is liable for the entire cost of compensation payable on account of injury occurring in the course of and arising out of general and special employments unless the special employer had the employee on his or her payroll at the time of injury, in which case the insurer of the special employer is solely liable. For the purposes of this section, a self-insured or lawfully uninsured employer is deemed and treated as an insurer of his or her workers' compensation liability.

SEC. 280. Section 11690 of the Insurance Code is amended to read:

11690. Except in the case of the State Compensation Insurance Fund or as provided by Section 11715, every insurer desiring admission for workers' compensation insurance shall, as a prerequisite to such admission, maintain on file in the office of the commissioner a bond in favor of the commissioner as trustee for the beneficiaries of awards of compensation against the insurer, or against any other insurer upon a policy reinsured by the insurer, to the extent of such reinsurance.

SEC. 281. Section 11699 of the Insurance Code is amended to read:

11699. The bond shall be in an amount:

(a) Not less than the sum of the following amounts computed, less credits and deductions allowable with respect to reinsurance in admitted insurers, as of the close of the last preceding December 31st in respect to workers' compensation insurance written subject to the workers' compensation laws of this state:

(1) The aggregate of the present values at 4 percent interest, of the determined and estimated future payments upon compensation claims not included in paragraph (2), including in such claims both benefits and loss expenses.

(2) The aggregate of the amounts computed as follows: For each of the preceding three years take 65 percent of the earned compensation premiums for that year and deduct all loss and loss expense payments made upon claims incurred in the corresponding year from such 65 percent; except that the amount for each such year shall not be less than the present value at 4 percent interest of the determined and the estimated unpaid claims incurred in each such year, including both benefits and loss expenses.

(b) Not less than one hundred thousand dollars ($100,000).

(c) If the aggregate amount computed under subdivision (a) exceeds fifty thousand dollars ($50,000), not more than double such aggregate amount.

SEC. 282. Section 11710 of the Insurance Code is amended to read:

11710. The liability of the sureties, under and to the limit and amount of the bonds required by this article, shall be the entire liability of the principals named therein for the payment of awards of compensation rendered or to be rendered against the principals

under workers' compensation laws. Such surety's liability shall exist without regard to the time when the injury, upon which an award is based, occurs but shall not include any other liability of the insurer. A payment made under any such bond by such a surety shall not be applied otherwise than in satisfaction of such awards.

SEC. 284. Section 11715 of the Insurance Code is amended to read:

11715. (a) Any workers' compensation insurer may, in lieu of and for the same purpose as the bond required by Section 11690, and upon payment of the fee prescribed in this article, deposit with the commissioner cash or approved interest-bearing securities or approved preferred stocks readily convertible into cash, or investment certificates or share accounts issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation. Such deposit shall be made from time to time as demanded by the commissioner and may be made with the commissioner, State Treasurer, or a bank or trust company pursuant to the approval of the commissioner under such rules and regulations as he or she shall promulgate. Such deposit shall be maintained at an amount not less than twenty-five thousand dollars ($25,000), nor less than the reserves required of such insurer to be maintained under any of the provisions of Article 1 (commencing with Section 11550) of Chapter 1, relating to loss reserves on workers' compensation business of the insurer in this state, nor less than the sum of the amounts specified in subdivision (a) of Section 11699.

(b) Any workers' compensation insurer electing to bring itself within the provisions of subdivision (a) by submitting securities, stock, investment certificates, or share deposits registered in a depositor's name, shall execute and deliver in duplicate to the commissioner a power of attorney in favor of the commissioner for the purposes specified in Section 11690, supported by a resolution of the depositor's board of directors. Such power of attorney and directors' resolution shall be on forms approved by the commissioner, shall provide that the power of attorney cannot be revoked or withdrawn without the consent of the commissioner, and shall be acknowledged as required by law.

SEC. 285. Section 11716 of the Insurance Code is amended to read:

11716. Such deposit shall be security for the payment of the insurer's obligations on workers' compensation insurance transacted in this state in the same manner as is provided in this article for the use of the bond. Such deposit shall not be withdrawn except upon the written order of the commissioner to use the proceeds thereof in payment of workers' compensation claims, but shall be forthwith payable by the State Treasurer or such bank or trust company approved by the commissioner to the commissioner upon such order. No deposit so placed with a bank or trust company shall be subject to any lien or claim asserted by it or be subject to any disposition or

claim other than as is permitted by the commissioner. Irrespective of any other provisions of this code, the deposit shall be physically retained by the State Treasurer or such bank or trust company approved by the commissioner and only released in accordance with the provisions of this article.

SEC. 286. Section 11716.01 of the Insurance Code is amended to read:

11716.01. If the commissioner has been named conservator or liquidator of such insurer pursuant to Article 14 (commencing with Section 1010) of Chapter 1 of Part 2 of Division 1 and has determined that the insurer shall not continue to carry on its business as a workers' compensation insurer, the obligations of the surety on the bond and the proceeds of the deposit shall be used by the commissioner to pay or procure the payment of such obligations as set forth in this article. The obligations of the bond and the proceeds of the deposit shall in such event inure to the commissioner as a trust to be held separate and apart from all other assets of the insurer held by the commissioner. They shall be used only for the purposes set forth and in accordance with the procedures established in this article and shall only be subject to the orders of the court in which the conservation or liquidation proceedings are pending to the extent provided in this article.

SEC. 287. Section 11716.02 of the Insurance Code is amended to read:

11716.02. Where the commissioner is authorized to proceed under Section 11716.01 he or she may do either of the following:

(a) Subject to Sections 11716.6 to 11716.63, enter into reinsurance and assumption agreements with one or more admitted solvent workers' compensation insurers by the terms of which liability for all such obligations is reinsured and assumed by such insurer.

(b) Discharge such obligations himself or herself from the proceeds of such bond or deposit.

SEC. 288. Section 11716.61 of the Insurance Code is amended to read:

11716.61. (a) The reimbursement provision referred to in subdivision (c) of Section 11716.6 shall, in the event of a deposit, provide for the transfer of the securities in the deposit to the deposits of the reinsurers. Thereafter, except as provided in subdivision (b), the deposit of the reinsuring and assuming insurers shall be security for the payment of all of such obligations assumed by such agreement as well as such obligations on workers' compensation insurance transacted in this state by the reinsurer, provided, however, that in determining the amount which shall remain on deposit as security for such obligations which are reinsured and assumed the method prescribed by paragraph (1) of subdivision (a) of Section 11699 shall be used without any limitation as to time. In providing for the transfer of the securities the agreement may provide for their direct transfer to the deposit account of the reinsurers, or, if the securities deposited are in such denominations or units as to make the

equitable transfer to more than one reinsurer impossible, it may provide either for a formula under which such transfers may be made and differences in value reconciled by payments or credits among the reinsurers or for the sale of such securities by the commissioner and the reinvestment of the proceeds in other securities in amounts which can be so equitably transferred.

(b) If the obligations of one or more reinsurers are secured by a bond rather than by a deposit the agreement shall provide that any transfer shall be to a separate deposit to be maintained by such insurer in which event such separate deposit shall only be held as security for the obligations reinsured and assumed under the contract and not as security for such obligations on other workers' compensation insurance transacted in this state. The amount which shall remain in such separate deposit shall be determined as set forth in subdivision (a).

(c) The agreement shall provide that if it appears that the market value of the securities on deposit will exceed the obligations assumed by the reinsurers the commissioner may withhold the transfer of a portion of the deposit and may after a two-year period enter into a final settlement with the reinsurers with respect thereto at which time any excess in such deposit shall be transferred to the general assets of the insurer in liquidation or conservation.

SEC. 289. Section 11719 of the Insurance Code is amended to read:

11719. The commissioner may revoke the certificate of authority to transact workers' compensation insurance in this state of any insurer failing to comply with the requirements of this article.

SEC. 290. Section 11730 of the Insurance Code is amended to read:

11730. "Merit rating," as used in this article, means "schedule rating," in which the rate is varied according to physical conditions, and also means "experience rating," in which the California workers' compensation insurance experience of the particular insured is used as a factor in raising or lowering his rate.

Unless a different meaning is manifest, " workers' compensation insurance," as used in this article, also means employer's liability insurance incidental to and written in connection with workers' compensation insurance.

SEC. 291. Section 11732.1 of the Insurance Code is amended to read:

11732.1. The commissioner may, pursuant to all grants of authority contained in this article with respect to workers' compensation insurance and subject to all limitations therein, approve or issue as adequate for all admitted workers' compensation insurers a classification of risks and premium rates relating to employer's liability insurance incidental to and written in connection with workers' compensation insurance. Such classification and rates may be included in those for workers' compensation insurance or separate therefrom, and if issued or approved by the commissioner

shall be binding upon insurers to the same extent as are the classifications and rates issued or approved for workers' compensation insurance.

SEC. 292. Section 11732.3 of the Insurance Code is amended to read:

11732.3. No classification of risks and premium rates or system of merit rating shall permit a determination or modification of the premium or premium rate of a particular insured by reason of the combination of his or her California workers' compensation insurance premium or experience with his or her premiums or experience arising out of workers' compensation insurance written under the laws of any other jurisdiction.

SEC. 293. Section 11733 of the Insurance Code is amended to read:

11733. The commissioner shall not approve or issue any rating system or classification of risks and premium rates dealing with workers' compensation insurance covering mining or mining property unless such system or classification provides for separation of risks and rates as to types of mining employments having different hazards or loss experience in accordance with the hazard or loss experience involved. Such system or classification shall provide for separation at least of rates for office, surface and subsurface employment.

SEC. 294. Section 11738 of the Insurance Code is amended to read:

11738. Nothing in this article shall affect the right of any insurer to issue compensation participating policies. A refund by reason of a participating provision in a compensation policy shall not be made to policyholders by any insurer except from surplus accumulated from premiums on workers' compensation policies issued pursuant to laws of this state governing workers' compensation insurance.

SEC. 295. Section 11740 of the Insurance Code is amended to read:

11740. The commissioner may require every insurer issuing workers' compensation insurance under the law of this state to file with its annual statement a sworn report of its loss experience, in the detail and form as the commissioner prescribes.

SEC. 296. Section 11741 of the Insurance Code is amended to read:

11741. The commissioner may, after hearing, suspend or revoke any insurer's certificate of authority to write liability, workers' compensation and common carrier liability insurance for violating any of the provisions of this article.

SEC. 298. Section 11750 of the Insurance Code is amended to read:

11750. The purpose of this article is to promote the public welfare by regulating concert of action between insurers in collecting and tabulating rating information and other data that may be helpful in the making of adequate minimum rates for workers' compensation

insurance and for employers liability insurance incidental thereto and written in connection therewith for all admitted insurers and in submitting them to the commissioner for issuance or approval; to authorize and regulate the existence and cooperation of qualified rating organizations to one of which each workers' compensation insurer shall belong; to authorize and regulate cooperation between insurers, rating organizations and advisory organizations in rate making and other related matters to the end that the purposes of this chapter may be complied with and carried into effect.

SEC. 299. Section 11750.1 of the Insurance Code is amended to read:

11750.1. As used in this article, unless a different meaning is manifest, the term:

(a) "Insurer" means every insurer authorized to transact workers' compensation insurance and employer's liability insurance incidental thereto and written in connection therewith in this state, including the State Compensation Insurance Fund;

(b) "Rating organization" means any organization which has as its primary object or purpose the collecting of rating information, the making of rates, rating plans and rating systems for workers' compensation insurance and employer's liability insurance incidental thereto and written in connection therewith and presenting them to the commissioner for issuance or approval;

(c) "Insurance" means workers' compensation insurance and employer's liability insurance incidental thereto and written in connection therewith;

(d) "Willful" or "willfully" in relation to an act or omission which constitutes a violation of this article means with actual knowledge or belief that such act or omission constitutes such violation and with specific intent to commit such violation.

(e) "Advisory organization" means every person, group or organization, other than an insurer, whether located within or without this state, which prepares policy forms or underwriting rules incidental to or in connection with workers' compensation insurance and employer's liability insurance incidental thereto and written in connection therewith or which collects and furnishes to admitted insurers or rating organizations rating experience, loss or expense statistics or other statistical information and data relating to workers' compensation insurance and employer's liability insurance incidental thereto and written in connection therewith and acts in an advisory capacity to such insurers or rating organizations as distinguished from a ratemaking capacity. No duly authorized attorney at law acting in the usual course of his profession shall be deemed to be an advisory organization.

SEC. 300. Section 11750.2 of the Insurance Code is amended to read:

11750.2. The provisions of this article shall apply to all workers' compensation insurance and employer's liability insurance incidental thereto and written in connection therewith in this state,

except reinsurance.

SEC. 301. Section 11750.3 of the Insurance Code is amended to read:

11750.3. A rating organization may be organized pursuant to this article and maintained in this state for the following purposes:

(a) To provide reliable statistics and rating information in respect to workers' compensation insurance and employer's liability insurance incidental thereto and written in connection therewith.

(b) To collect and tabulate information and statistics for the purpose of developing minimum adequate premium rates to be submitted to the commissioner for issuance or approval.

(c) To formulate rules and regulations in connection with issued or approved rates and the administration of classifications and rating systems and to present same to the commissioner for approval.

(d) To inspect risks for classification or rate purposes and to furnish to the insurer and upon request of the employer and after notice to the insurer, to furnish to the employer full information concerning the rates applicable to the employer's insurance.

(e) To examine policies, daily reports, endorsements or other evidences of insurance for the purpose of ascertaining whether they comply with the provisions of law and to make reasonable rules governing their submission.

(f) Within one year after expiration of any workers' compensation insurance policy, to initiate test audits of insured employer's payrolls and insurer's audits of such payrolls to check the accuracy and reliability thereof, and to examine all records relative thereto and premises of insured employers so that the classifications of such employers and the charging of premium at not less than the applicable approved minimum premium rates applied to such payroll segregated in accordance with the applicable approved Manual of Rules, Classifications and Basic Rates for Workmen's Compensation Insurance can be assured.

(g) To exchange information and experience data with rating organizations, advisory organizations, and insurers in this and other states, in respect to ratemaking.

(h) To become a member or subscriber of any lawfully authorized ratemaking or advisory organization whenever membership in such organization is necessary or helpful to the rating organization.

(i) To perform all acts necessary, incidental or convenient to carry out the foregoing purposes or the provisions of this chapter relating to rating organizations.

SEC. 302. Section 11751.5 of the Insurance Code is amended to read:

11751.5. The commissioner, after notice and hearing, may promulgate reasonable rules and statistical plans, which may be modified from time to time and which shall be used thereafter in the recording and reporting by insurers of their loss and expense experience in order that the experiences of all insurers may be made available in such form and detail as may be necessary to aid the

commissioner in administering the provisions of Article 2 (commencing with Section 11730). The commissioner may designate any rating organization licensed under this article as his or her statistical agent to gather and compile such experience statistics and all licensed rating organizations shall report the experience of their members to such designated rating organization. Subject to reasonable rules approved by the commissioner, such designated rating organization shall make such experience statistics, when compiled, available to all licensed rating organizations and may make a reasonable charge to other rating organizations for the expense incurred by it in combining, tabulating and compiling the experience of all workers' compensation insurers.

SEC. 303. Section 11755 of the Insurance Code is amended to read:

11755. No person, insurer, rating or advisory organization shall willfully withhold information from, or knowingly give false or misleading information to, the commissioner or to any rating organization, which will affect the rates, rating systems or premiums for workers' compensation insurance and employer's liability insurance incidental thereto and written in connection therewith.

In the event of the refusal by any insured employer to permit an audit or an examination provided for in subdivision (f) of Section 11750.3, the commissioner shall, upon the verified petition of the rating organization concerned, take such action as the commissioner may be authorized to take pursuant to and subject to the provisions of this code and of the Government Code.

SEC. 304. Section 11770 of the Insurance Code is amended to read:

11770. The State Compensation Insurance Fund is continued in existence, to be administered by its board of directors for the purpose of transacting workers' compensation insurance, and insurance against the expense of defending any suit for serious and willful misconduct, against an employer or his agent, and insurance to employees and other persons of the compensation fixed by the workers' compensation laws for employees and their dependents. Any appropriation made therefrom or thereto before the effective date of this code shall continue to be available for the purposes for which it was made.

The board of directors of the State Compensation Insurance Fund is composed of the Director of Industrial Relations, who is chairman thereof, and four members who shall be appointed by the Governor. The term of office of the members of the board, other than that of the director, shall be four years and they shall hold office until the appointment and qualification of their successors. The terms of the first four members so appointed shall expire as follows: one on January 15, 1946; one each on January 15, 1947, January 15, 1948, and January 15, 1949. Each member shall receive his actual and necessary traveling expenses incurred in the performance of his duty as a member and, except the Director of Industrial Relations, twenty-five

dollars ($25) for each day of his actual attendance at meetings of the board. In order to qualify for membership on the board, each member other than the director shall have been a policyholder or the employee of a policyholder in the State Compensation Insurance Fund for one year prior to his appointment, and must continue in such status during the period of his membership.

SEC. 305. Section 11778 of the Insurance Code is amended to read:

11778. The fund may transact workers' compensation insurance required or authorized by law of this state to the same extent as any other insurer.

SEC. 306. Section 11780 of the Insurance Code is amended to read:

11780. The fund may also insure an employer against his or her liability for damages under the laws of the State of California arising out of bodily injury to or death of the employer's employees occurring within the State of California if the fund also issues workers' compensation insurance to the employer as to his or her employees.

SEC. 307. Section 11784 of the Insurance Code is amended to read:

11784. In conducting the business and affairs of the fund, the manager of the fund may:

(a) Enter into contracts of workers' compensation insurance.

(b) Sell annuities covering compensation benefits.

(c) Decline to insure any risk in which the minimum requirements of the industrial accident prevention authorities with regard to construction, equipment and operation are not complied with, or which is beyond the safe carrying of the fund. Otherwise he or she shall not refuse to insure any workers' compensation risk under state law, tendered with the premium therefor.

(d) Reinsure any risk or any part thereof.

(e) Cause to be inspected and audited the payrolls of employers applying to the fund for insurance.

(f) Make rules for the settlement of claims against the fund and determine to whom and through whom the payments of compensation are to be made.

(g) Contract with physicians, surgeons and hospitals for medical and surgical treatment and the care and nursing of injured persons entitled to benefits from the fund.

SEC. 308. Section 11840 of the Insurance Code is amended to read:

11840. The insurance contracts or policies of the State Compensation Insurance Fund may be either limited or unlimited. The insurance contracts or policies may be issued for like periods as are allowed by law to other workers' compensation insurers or, in the form of stamps or tickets or otherwise, for one month, for any number of months less than one year, for one day, for any number of days less than one month or during the performance of any

particular work, job or contract. The rates charged shall be proportionately greater for a shorter than for a longer period and a minimum premium charge shall be fixed in accordance with a reasonable rate for insuring one person for one day.

SEC. 309. Section 11846 of the Insurance Code is amended to read:

11846. The policies may likewise be sold to self-employing persons and to casual employees. The insureds, for the purpose of the insurance, shall be deemed to be employees within the meaning of the workers' compensation laws.

SEC. 310. Section 11871 of the Insurance Code is amended to read:

11871. The State Compensation Insurance Fund may enter into a master agreement with the Department of General Services to render services in the adjustment and disposition of claims for workers' compensation to any state agencies, including any officer, department, division, bureau, commission, board or authority, not insured with the fund.

Such master agreement shall provide for rendition of such services at a uniform rate to all agencies, except that the rate for the California Highway Patrol may be fixed independently of the uniform rate.

The fund may, in accordance with the agreement, adjust and dispose of claims for workers' compensation made by an officer or employee of any state agency not insured with the fund.

The fund may make all expenditures, including payment to claimants for medical care or for adjustment or settlement of claims, necessary to the adjustment and final disposition of claims. The agreement shall provide that the state agency whose officer or employee is a claimant shall reimburse the fund for the expenditures and for the actual cost of services rendered.

The fund may in its own name, or in the name of the state agency for which the services are performed, do any and all things necessary to recover on behalf of the state agency for which it renders service any and all amounts which an employer might recover from third persons under Chapter 5 (commencing with Section 3850) of Part 1 of Division 4 of the Labor Code, or which an insurer might recover pursuant to Section 11662 including the right to commence and prosecute actions, to file, pursuant to Chapter 5 (commencing with Section 3850) of Part 1 of Division 4 of the Labor Code, liens for whatever sums would be recoverable by suit against a third person, to intervene in other court proceedings, and to compromise claims and actions before or after commencement of suit or after entry of judgment when in the opinion of the fund full collection cannot be enforced.

SEC. 311. Section 12401.3 of the Insurance Code is amended to read:

12401.3. The following standards shall apply to the making and use of rates pertaining to all the business of title insurance to which

the provisions of this article are applicable:

(a) Rates shall not be excessive or inadequate, as herein defined, nor shall they be unfairly discriminatory.

No rate shall be held excessive unless (1) the rate is unreasonably high for the insurance or other services provided, and (2) a reasonable degree of competition does not exist in the particular phase of the business of title insurance to which the rate is applicable.

No rate shall be held to be inadequate unless (1) the rate is unreasonably low for the insurance or other services provided and (2) the continued use of the rate endangers the solvency of the person or entity using it, or unless (3) the rate is unreasonably low for the insurance or other services provided and the use of the rate by the person or entity using it has, or if continued will have, the effect of destroying competition or creating a monopoly. However, no rate or rate classification shall be held to be inadequate for the reason that a rate within a rating classification is less than the cost of the risk and expense elements assigned to smaller insurances within that classification, and the excess of the costs may be charged against larger insurances within the classification without rendering the rate or rate classification unfairly discriminatory.

(b) Consideration shall be given, to the extent applicable, to past and prospective loss experience within and outside this state, to a reasonable margin for profit and contingencies, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other factors, including judgment factors, deemed relevant within and outside this state.

(c) The systems of expense provisions included in the rates for use by any title insurer, underwritten title company, or controlled escrow company may differ from those of other title insurers, underwritten title companies, or controlled escrow companies to reflect the operating methods of the person or entity with respect to any kind of insurance, or other service, or with respect to any combination thereof.

(d) For the establishment of rates, risks, and services in the business of title insurance may be grouped by classifications into the various types of title policies or services offered. The classifications may be further divided to produce rates for individual risks or services within a classification. Those classifications or further divisions thereof may be established based upon any one or more of the following: (1) the size of a transaction and its effect upon the continuing solvency of the person or entity using the rate in question if a loss should occur; (2) expense elements, including the management time that would ordinarily be expended in a typical transaction of a particular size; (3) the geographic location of a transaction, including variations in risk and expense elements attributable thereto; (4) the individual experience of the person or entity using the rate in question; and (5) any other reasonable considerations. Those classifications or further divisions thereof shall apply to all risks and services in the business of title insurance under

the same or under substantially the same circumstances or conditions.

SEC. 312. Section 12973.9 of the Insurance Code is amended to read:

12973.9. Whenever by the provisions of this code a form of policy or certificate and any endorsement, rider, application, amendment, fill-in material, classification of rates, certificate or premium to be used therewith, is required to be filed with, submitted to, or approved by the commissioner, fees as provided for by this section shall be paid to the commissioner to cover the expenses of processing and indexing the same and maintaining copies of the same.

The required fee shall be prescribed by the commissioner for each type document submitted, depending on its nature and the kind of processing required. The commissioner may prescribe different fees for different types of documents, and in the case of documents submitted for approval or authorization of use, shall prescribe a fee only for the final approval or authorization for use, if any. The commissioner shall determine the fee, or fees, by estimating in advance the commissioner's total costs of performing these services for all types of documents for a specified period of time, estimating the total number of documents of various kinds which will be submitted for processing during such time and equitably distributing the total cost on a per document basis. The commissioner shall, after notice and hearing, promulgate such reasonable rules and regulations as are necessary to establish the standard or standards by which the commissioner shall determine the original fee schedule or any amended fee schedule. Any rule or regulation shall be promulgated in accordance with the procedure provided in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and shall be effective 90 days after adoption by the commissioner, except the first fee schedule adopted by the commissioner under such regulation may be retroactive to the effective date of this section.

All fees received by the commissioner under this section shall be remitted to the credit of the Insurance Fund pursuant to the provisions of Section 12975.7.

Without in any manner affecting the applicability of this section to any other provisions of this code, it is expressly provided herein that the provisions of this section apply to the forms required to be filed, submitted, or approved under the following sections of this code: 779.8, 795.5, 1320, 9080.1, 10205, 10225, 10270, 10270.1, 10270.5, 10270.57, 10270.9, 10270.93, 10290, 10292, 10506, 11027, 11029, 11066, 11069, 11513, 11522, 11658, 12250, and 12640.18.

SEC. 313. Section 98.1 of the Labor Code is amended to read:

98.1. (a) Within 15 days after the hearing is concluded, the Labor Commissioner shall file in the office of the division a copy of the order, decision, or award. The order, decision, or award shall include a summary of the hearing and the reasons for the decision. Upon filing of the order, decision, or award, the Labor Commissioner shall

serve a copy of the decision personally or by certified mail on the parties. The notice shall also advise the parties of their right to appeal the decision or award and further advise the parties that failure to do so within the period prescribed by this chapter shall result in the decision or award becoming final and enforceable as a judgment by the appropriate municipal or superior court, in accordance with the appropriate rules of jurisdiction.

(b) For the purpose of this section, an award shall include any sums found owing, damages proved, and any penalties awarded pursuant to the provisions of this code.

(c) All awards granted pursuant to a hearing under this chapter shall accrue interest on all due and unpaid sums at the same rate as judgments in civil actions, except that no interest shall accrue on those sums during the course of a court appeal. The interest will run from the date of notice of the award or decision.

SEC. 314. Section 1299 of the Labor Code is amended to read:

1299. Every person, or agent or officer thereof, employing, either directly or indirectly through third persons, minors shall keep on file all permits and certificates, either to work or to employ, issued under the provisions of this article or of Part 27 (commencing with Section 48000) of the Education Code. The files shall be open at all times to the inspection of the school attendance and probation officers, the State Board of Education, and the officers of the Division of Labor Standards Enforcement.

SEC. 315. Section 3093 of the Labor Code is amended to read:

3093. (a) This section applies only when voluntarily requested by the parties to a collective bargaining agreement or by an employer, his or her association, or a union, or its representative where there is no collective bargaining agreement.

(b) Nothing in this section may be construed in any way so as to compel, regulate, interfere with, or duplicate the provisions of any established training programs which are operated under the terms of any collective bargaining agreements or unilaterally by any employer or bona fide labor union.

(c) Services contemplated under this section may be provided only when voluntarily requested and shall be denied when it is found that existing prevailing conditions in the area and industry would in any way be lowered or adversely affected.

(d) The California Apprenticeship Council in cooperation with the Department of Education, the Employment Development Department, and the Board of Governors of the California Community Colleges may foster and promote on-the-job training programs other than apprenticeship as follows: (1) programs for journeymen in the apprenticeable occupations to keep them abreast of current techniques, methods, and materials and opportunities for advancement in their industries; (2) programs in other than apprenticeable occupations for workers entering the labor market for the first time or workers entering new occupations by reason of having been displaced from former occupations by reason of

economic, industrial, technological scientific changes, or developments; (3) the programs shall be in accord with and agreed to by the parties to any applicable collective bargaining agreements and where appropriate will include joint employer-employee cooperation in the programs.

(e) The Division of Apprenticeship Standards when requested may foster and promote voluntary on-the-job training programs in accordance with this section, and assist employers, employees and other interested persons and agencies in the development and carrying out of the programs. The Division of Apprenticeship Standards shall cooperate in these functions with the Department of Education, the Employment Development Department, and the Board of Governors of the California Community Colleges and other governmental agencies. The Division of Apprenticeship Standards may cooperate with the Department of Corrections and the Department of the Youth Authority in the development of training programs for inmates and releasees of correctional institutions.

(f) The programs, where appropriate, may include related and supplemental classroom instruction offered and administered by state and local boards responsible for vocational education.

(g) The activities and services of the Division of Apprenticeship Standards in training programs under this section shall be performed without curtailing or in any way interfering with the division's activities and services in apprenticeship.

(h) The Division of Apprenticeship Standards may contract with, and receive reimbursements from, appropriate federal, state, and other governmental agencies.

(i) The vocational education activities and services of the Department of Education, the Board of Governors of the California Community Colleges, and local public school districts shall not be abridged or abrogated through implementation of this section.

(j) "On-the-job training" as used in this section refers exclusively to training confined to the needs of a specific occupation and conducted at the jobsite for employed workers.

(k) "Journeyman," as used in this section, means a person who has either (1) completed an accredited apprenticeship in his craft, or (2) who has completed the equivalent of an apprenticeship in length and content of work experience and all other requirements in the apprenticeship standards for the craft which has workers classified as journeymen in an apprenticeable occupation.

(*l*) Nothing in this section shall be construed to require prior approval, ratification, or reference of any training program to the Division of Apprenticeship Standards or the Department of Industrial Relations.

SEC. 316. Section 3097 of the Labor Code is amended to read:

3097. The Department of Industrial Relations, Division of Apprenticeship Standards, shall provide services to the Employment Development Department, as requested by and contracted for, with that department. Those federal funds which are available to the

Department of Industrial Relations, Division of Apprenticeship Standards, for the purpose of developing and maintaining apprenticeship and on-the-job training programs for eligible persons described in Section 10500 of the Unemployment Insurance Code, shall be directed to the support of the Employment Development Department clients.

The Division of Apprenticeship Standards shall continue in the Department of Industrial Relations but shall exert maximum effort to persuade sponsors of its registered, nonfederally funded, voluntary apprenticeship and on-the-job training programs to accept to the maximum possible extent the eligible persons as described in Section 10500 of the Unemployment Insurance Code.

The Employment Development Department may request, within the limitations of the funds available to it for this purpose, assignment of at least one Division of Apprenticeship Standards consultant to each area designated by the Director of Employment Development. Such apprenticeship consultant services, when funded and requested, shall be provided to the area offices of the Employment Development Department.

SEC. 317. Section 3600.3 of the Labor Code is amended to read:

3600.3. (a) For the purposes of Section 3600, an off-duty peace officer, as defined in subdivision (b), who is performing, within the jurisdiction of his or her employing agency, a service he or she would, in the course of his or her employment, have been required to perform if he or she were on duty, is performing a service growing out of and incidental to his or her employment and is acting within the course of his or her employment if, as a condition of his or her employment, he or she is required to be on call within the jurisdiction during off-duty hours.

(b) As used in subdivision (a), "peace officer" means those employees of the Department of Forestry named as peace officers for purposes of subdivision (c) of Section 830.3 of the Penal Code.

(c) This section does not apply to any off-duty peace officer while he or she is engaged, either as an employee or as an independent contractor, in any capacity other than as a peace officer.

SEC. 318. Section 4724 of the Labor Code is amended to read:

4724. The person or persons to whom the special death benefit is payable pursuant to Section 4722 shall file a claim therefor with the State Board of Control, which shall be processed pursuant to the provisions of Chapter 3 (commencing with Section 900) of Part 2 of Division 3.6 of Title 1 of the Government Code.

SEC. 319. Section 6305 of the Labor Code is amended to read:

6305. (a) "Occupational safety and health standards and orders" means standards and orders adopted by the standards board pursuant to Chapter 6 (commencing with Section 140) of Division 1 and general orders heretofore adopted by the Industrial Safety Board or the Industrial Accident Commission.

(b) "Special order" means any order written by the chief or the chief's authorized representative to correct an unsafe condition,

device, or place of employment which poses a threat to the health or safety of an employee and which cannot be made safe under existing standards or orders of the standards board. These orders shall have the same effect as any other standard or order of the standards board, but shall apply only to the employment or place of employment described in the written order of the chief's authorized representative.

SEC. 320. Section 7804 of the Labor Code is repealed.

SEC. 321. Section 375 of the Penal Code is amended to read:

375. (a) It shall be unlawful to throw, drop, pour, deposit, release, discharge or expose, or to attempt to throw, drop, pour, deposit, release, discharge or expose in, upon or about any theater, restaurant, place of business, place of amusement or any place of public assemblage, any liquid, gaseous or solid substance or matter of any kind which is injurious to person or property, or is nauseous, sickening, irritating or offensive to any of the senses.

(b) It shall be unlawful to manufacture or prepare, or to possess any liquid, gaseous, or solid substance or matter of any kind which is injurious to person or property, or is nauseous, sickening, irritating or offensive, to any of the senses with intent to throw, drop, pour, deposit, release, discharge or expose the same in, upon or about any theater, restaurant, place of business, place of amusement, or any other place of public assemblage.

(c) Any person violating any of the provisions hereof shall be punished by imprisonment in the county jail for not less than three months and not more than one year, or by a fine of not less than five hundred dollars ($500) and not more than two thousand dollars ($2,000), or by both such fine and imprisonment.

(d) Any person who, in violating any of the provisions of subdivision (a), willfully employs or uses any liquid, gaseous or solid substance which may produce serious illness or permanent injury through being vaporized or otherwise dispersed in the air or who, in violating any of the provisions of subdivision (a), willfully employs or uses any tear gas, mustard gas or any of the combinations or compounds thereof, or willfully employs or uses acid or explosives, shall be guilty of a felony and shall be punished by imprisonment in the state prison.

SEC. 322. Section 384a of the Penal Code is amended to read:

384a. Every person who within the State of California willfully or negligently cuts, destroys, mutilates, or removes any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or portion of any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, growing upon state or county highway rights-of-way, or who removes leaf mold thereon; provided, however, that the provisions of this section shall not be construed to apply to any employee of the state or of any political subdivision thereof engaged in work upon any state, county, or public road or highway while performing work under the supervision of the state or of any political subdivision thereof, and

every person who willfully or negligently cuts, destroys, mutilates, or removes any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or portions of any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, growing upon public land or upon land not his or her own, or leaf mold on the surface of public land, or upon land not his or her own, without a written permit from the owner of the land signed by the owner or the owner's authorized agent, and every person who knowingly sells, offers, or exposes for sale, or transports for sale, any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or portion of any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or leaf mold, so cut or removed from state or county highway rights-of-way, or removed from public land or from land not owned by the person who cut or removed the same without the written permit from the owner of the land, signed by the owner or the owner's authorized agent, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars ($500) or by imprisonment in a county jail for not more than six months or by both fine and imprisonment.

The written permit required under this section shall be signed by the landowner, or the landowner's authorized agent, and acknowledged before a notary public, or other person authorized by law to take acknowledgments. The permit shall contain the number and species of trees and amount of shrubs or ferns or herbs or bulbs or cacti or flowers, or huckleberry or redwood greens, or portions of any tree or shrub and shall contain the legal description of the real property as usually found in deeds and conveyances of the land on which cutting or removal, or both, shall take place. One copy of the permit shall be filed in the office of the sheriff of the county in which the land described in the permit is located. The permit shall be filed prior to commencement of cutting of the trees or shrub or fern or herb or bulb or cactus or flower or huckleberry or redwood green or portions of any tree or shrub authorized by the permit. The permit required by this section need not be notarized or filed with the office of the sheriff of the county where trees are to be removed when five or less trees or five or less pounds of shrubs or boughs are to be cut or removed.

Any county or state firewarden, or personnel of the Department of Forestry as designated by the Director of Forestry, and personnel of the United States Forest Service as designated by the Regional Forester, Region 5, of the United States Forest Service, or any peace officer of the State of California, may enforce the provisions hereof and may confiscate any and all such shrubs, trees, ferns or herbs or bulbs or cacti or flowers, or huckleberry or redwood greens or leaf mold, or parts thereof unlawfully cut or removed or knowingly sold, offered, or exposed or transported for sale as provided in this section.

The provisions of this section do not apply to any tree or shrub, or fern or herb or bulb or cactus or flower, or greens declared by law

to be a public nuisance.

The provisions of this section do not apply to the necessary cutting or trimming of any trees, shrubs, or ferns or herbs or bulbs or cacti or flowers, or greens if done for the purpose of protecting or maintaining an electric powerline, telephone line, or other property of a public utility.

The provisions of this section do not apply to persons engaged in logging operations, or in suppressing fires.

The provisions of this section do not apply to any act regulated by the provisions of Division 23 (commencing with Section 70500) of the Food and Agricultural Code.

SEC. 323. Section 384i of the Penal Code is amended to read:

384i. (a) Sections 384a to 384f, inclusive, shall not apply to maintenance and construction activities of public agencies and their employees.

(b) Sections 384b to 384f, inclusive, shall not apply to native desert plants described in subdivision (b) of Section 384b, that have been propagated and cultivated by human beings and which are being transported under Section 6922 or 6923 of the Food and Agricultural Code, pursuant to a valid nursery stock certificate.

SEC. 324. Section 626.11 of the Penal Code is amended to read:

626.11. (a) Any evidence seized by a teacher, official, employee, or governing board member of any state university, state college, or community college, or by any person acting under his direction or with his consent in violation of standards relating to rights under the Fourth Amendment to the United States Constitution or under Section 13 of Article I of the State Constitution to be free from unreasonable searches and seizures, or in violation of state or federal constitutional rights to privacy, or any of them, is inadmissible in administrative disciplinary proceedings.

(b) Any provision in an agreement between a student and an educational institution specified in subdivision (a) relating to the leasing, renting, or use of a room of any student dormitory owned or operated by the institution by which the student waives a constitutional right under the Fourth Amendment to the United States Constitution or under Section 13 of Article I of the State Constitution, or under state or federal constitutional provision guaranteeing a right to privacy, or any of them, is contrary to public policy and void.

(c) Any evidence seized by a person specified in subdivision (a) after a nonconsensual entry not in violation of subdivision (a) into a dormitory room, which evidence is not directly related to the purpose for which such entry was initially made, is not admissible in administrative disciplinary proceedings.

SEC. 325. Section 653k of the Penal Code is amended to read:

653k. Every person who carries upon his person, and every person who sells, offers for sale, exposes for sale, loans, transfers, or gives to any other person a switch-blade knife having a blade over two inches in length is guilty of a misdemeanor.

For the purposes of this section a "switch-blade knife" is a knife having the appearance of a pocketknife, and shall include a spring-blade knife, snap-blade knife, gravity knife or any other similar type knife, the blade or blades of which are two or more inches long and which can be released automatically by a flick of a button, pressure on the handle, flip of the wrist or other mechanical device, or is released by the weight of the blade or by any type of mechanism whatsoever.

SEC. 326. Section 653o of the Penal Code is amended to read:

653o. (a) It is unlawful to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of any alligator, crocodile, polar bear, leopard, ocelot, tiger, cheetah, jaguar, sable antelope, wolf (Canis lupus), zebra, whale, cobra, python, sea turtle, colobus monkey, kangaroo, vicuna, sea otter, free-roaming feral horse, dolphin or porpoise (Delphinidae), Spanish lynx, or elephant.

Any person who violates any provision of this section is guilty of a misdemeanor and shall be subject to a fine of not less than one thousand dollars ($1,000) and not to exceed five thousand dollars ($5,000) or imprisonment in the county jail for not to exceed six months, or both such fine and imprisonment, for each violation.

(b) The prohibitions against importation for commercial purposes, possession with intent to sell, and sale of the species listed in this section are severable. A finding of the invalidity of any one or more prohibitions shall not affect the validity of any remaining prohibitions.

SEC. 327. Section 859 of the Penal Code is amended to read:

859. When the defendant is charged with the commission of a public offense over which the superior court has original jurisdiction, by a written complaint subscribed under oath and on file in a court within the county in which the public offense is triable, he or she shall, without unnecessary delay, be taken before a magistrate of the court in which such complaint is on file. The magistrate shall immediately deliver to the defendant a copy of the complaint, inform the defendant that he or she has the right to have the assistance of counsel, ask the defendant if he or she desires the assistance of counsel, and allow the defendant reasonable time to send for counsel. However, in a capital case, the court shall inform the defendant that the defendant must be represented in court by counsel at all stages of the preliminary and trial proceedings and that such representation will be at the defendant's expense if the defendant is able to employ counsel or at public expense if he or she is unable to employ counsel, inquire of him or her whether he or she is able to employ counsel and, if so, whether the defendant desires to employ counsel of the defendant's choice or to have counsel assigned for him or her, and allow the defendant a reasonable time to send for his or her chosen or assigned counsel. The magistrate must, upon the request of the defendant, require a peace officer to take a message to any counsel whom the defendant may name, in the

judicial district in which the court is situated. The officer shall, without delay and without a fee, perform that duty. If the defendant desires and is unable to employ counsel, the court shall assign counsel to defend him or her; in a capital case, if the defendant is able to employ counsel and either refuses to employ counsel or appears without counsel after having had a reasonable time to employ counsel, the court shall assign counsel to defend him or her. If it appears that the defendant may be a minor, the magistrate shall ascertain whether such is the case, and if the magistrate concludes that it is probable that the defendant is a minor, he or she shall immediately either notify the parent or guardian of the minor, by telephone or messenger, of the arrest, or appoint counsel to represent the minor. Upon the first court appearance of counsel, or upon a determination by a magistrate that the defendant can represent himself or herself, the prosecuting attorney shall, within two calendar days, deliver to, or make accessible for inspection and copying by, the defendant or counsel, copies of police, arrest and crime reports. Portions of such reports containing privileged information need not be disclosed if the defendant or counsel has been notified that privileged information has not been disclosed. If the charges against the defendant are dismissed prior to the time the above-mentioned documents are delivered or made accessible, the prosecuting attorney need not deliver or make accessible such documents unless otherwise so compelled by law.

SEC. 328. Section 871.5 of the Penal Code is amended to read:

871.5. If an action, or a portion thereof, is dismissed by a magistrate pursuant to Section 859b, 861, 871, or 1385, the prosecutor may make a motion, with notice to the defendant and magistrate, in the superior court within 10 days after the dismissal to compel the magistrate to reinstate the complaint or a portion thereof and to reinstate the custodial status of the defendant under the same terms and conditions as when the defendant last appeared before the magistrate, on the ground that, as a matter of law, the magistrate erroneously dismissed the action or a portion thereof.

The superior court shall hear and determine the motion on the basis of the record of the proceedings before the magistrate. If the motion is litigated to decision by the people, they shall be prohibited from refiling the action, or the portion thereof, which was dismissed.

If, within 10 days after the magistrate has dismissed the action or a portion thereof, the prosecuting attorney files a written request for a transcript of the proceedings with the clerk of the magistrate, the reporter shall immediately transcribe his or her shorthand notes pursuant to Section 869 and file with the clerk of the superior court an original plus one copy, and as many copies as there are defendants (other than a fictitious defendant). The reporter shall be entitled to compensation in accordance with the provisions of Section 869. The clerk of the superior court shall deliver a copy of the transcript to the prosecuting attorney immmediately upon its receipt and shall deliver a copy of the transcript to each defendant (other than a

fictitious defendant) upon his or her demand without cost.

When a court has ordered the resumption of proceedings before the magistrate, the magistrate shall resume the proceedings within 10 days after the superior court has entered an order directing the reinstatement of the complaint, or a portion thereof, or within 10 days after the remittitur is filed in the superior court. Upon receipt of the remittitur, the superior court shall forward a copy to the magistrate.

Pursuant to paragraph (9) of subdivision (a) of Section 1238 the people may take an appeal from the denial of the motion by the superior court to reinstate the complaint or a portion thereof. If the motion to reinstate the complaint is granted, the defendant may seek review thereof only pursuant to Sections 995 and 999a. The review may only be sought in the event the defendant is held to answer pursuant to Section 872.

Nothing contained herein shall preclude a magistrate, upon the resumption of proceedings, from considering a motion made pursuant to Section 1318.

SEC. 329. Section 894 of the Penal Code is amended to read:

894. Sections 200, 201a, and 202.5 of the Code of Civil Procedure specify the exemptions and the excuses which relieve a person from liability to serve as a grand juror.

SEC. 330. Section 1170.6 of the Penal Code is amended to read:

1170.6. The Judicial Council shall continually study and review the statutory sentences and the operation of existing criminal penalties and shall report to the Governor and to the appropriate policy committees of the Legislature its analysis regarding this subject matter and as to all proposed legislation affecting felony sentences. The review and analysis shall take into consideration all of the following:

(a) The nature of the offense with the degree of danger the offense presents to society.

(b) The penalty of the offense as compared to penalties for offenses that are in their nature more serious.

(c) The penalty of the offense as compared to penalties for the same offense in other jurisdictions.

(d) The penalty of the offense as compared to recommendations for sentencing suggested by national commissions and other learned bodies.

SEC. 331. Section 1203.4a of the Penal Code is amended to read:

1203.4a. (a) Every defendant convicted of a misdemeanor and not granted probation shall, at any time after the lapse of one year from the date of pronouncement of judgment, if he or she has fully complied with and performed the sentence of the court, is not then serving a sentence for any offense and is not under charge of commission of any crime and has, since the pronouncement of judgment, lived an honest and upright life and has conformed to and obeyed the laws of the land, be permitted by the court to withdraw his or her plea of guilty or 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 accusatory pleading against such defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense of which he has been convicted, except as provided in Section 13555 of the Vehicle Code. The defendant shall be informed of the provisions of this section, either orally or in writing, at the time he or she is sentenced. The defendant may make such application and change of plea in person or by attorney, or by the probation officer authorized in writing; provided, that in any subsequent prosecution of such defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if relief had not been granted pursuant to this section.

This subdivision applies to convictions which occurred before as well as those occurring after, the effective date of this section.

(b) Subdivision (a) does not apply to any misdemeanor falling within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, or to any infraction.

SEC. 332. Section 1413 of the Penal Code is amended to read:

1413. (a) The clerk or person having charge of the property section for any police department in any incorporated city or town, or for any sheriff's department in any county, shall enter in a suitable book a description of every article of property alleged to be stolen or embezzled, and brought into the office or taken from the person of a prisoner, and shall attach a number to each article, and make a corresponding entry thereof. He may engrave or imbed an identification number in property described in Section 537e for the purposes thereof.

(b) The clerk or person in charge of the property section may, upon satisfactory proof of the ownership of property held pursuant to Section 1407, and upon presentation of proper personal identification, deliver it to the owner. Such delivery shall be without prejudice to the state or to the person from whom custody of the property was taken or to any other person who may have a claim against the property. Prior to such delivery such clerk or person in charge of the property section shall make and retain a complete photographic record of such property. The person to whom property is delivered shall sign, under penalty of perjury, a declaration of ownership, which shall be retained by the clerk or person in charge of the property section. This subdivision shall not apply to any property subject to forfeiture under any provision of law. This subdivision shall not apply unless the clerk or person in charge of the property section has served upon the person from whom custody of the property was taken a notice of a claim of ownership and a copy of the satisfactory proof of ownership tendered and has allowed such person reasonable opportunity to be heard as to why the property should not be delivered to the person claiming ownership.

If the person upon whom a notice of claim and proof of ownership

has been served does not respond asserting a claim to the property within 15 days from the date of receipt of the service, the property may be disposed of in a manner not inconsistent with the provisions of this section.

(c) The magistrate before whom the complaint is laid, or who examines the charge against the person accused of stealing or embezzling the property, or the court before which a trial is had for stealing or embezzling it, shall upon application by the person from whom custody of the property was taken, review the determination of the clerk or person in charge of the property section, and may order the property taken into the custody of the court upon a finding that the person to whom the property was delivered is not entitled thereto. Such court shall make its determination in the same manner as a determination is made when the matter is before the court pursuant to Sections 1408 to 1410, inclusive.

(d) The clerk or person in charge of the property section is not liable in damages for any official action performed hereunder in good faith.

SEC. 333. Section 1551.2 of the Penal Code is amended to read:

1551.2. Proceedings for the commitment of a person charged under Sections 1551 and 1551.1 shall be similar to those provided in this code for the commitment of a person charged with a public offense in this state except that an exemplified copy of an indictment found, an information, a verified complaint, or other judicial proceedings against that person in the state in which he or she is charged or alleged to have committed the offense may be received as evidence before the magistrate.

SEC. 334. Section 1567 of the Penal Code is amended to read:

1567. When it is necessary to have a person imprisoned in the state prison brought before any court, or a person imprisoned in a county jail brought before a court sitting in another county, an order for that purpose may be made by the court and executed by the sheriff of the county where it is made. The order shall be signed by the judge or magistrate and sealed with the seal of the court, if any. The order shall be to the following effect:

County of _____ (as the case may be).

The people of the State of California to the warden of _____ (or sheriff of _____, as the case may be):

An order having been made this day by me, that A. B. be produced in this court as witness in the case of _____, you are commanded to deliver him or her into the custody of _____.

Dated this _____ day of _____, 19____.

SEC. 335. Section 2903 of the Penal Code is amended to read:

2903. (a) In any case in which a woman offender can be sentenced to imprisonment in the county jail, or be required to serve a term of imprisonment therein as a condition of probation, or has already been so sentenced or imprisoned, the court which tried the offender may, with the consent of the offender and on application of

the sheriff or on its own motion, with the consent of the offender, commit the offender to the sheriff with directions for placement in the California Institution for Women in lieu of placement in the county jail if the court finds that the local detention facilities are inadequate for the rehabilitation of the offenders and if the court concludes that the offender will benefit from that treatment and care as is available at that institution and the county has entered into a contract with the state under subdivision (b). The offenders may be received by the Director of Corrections and imprisoned in the California Institution for Women in accordance with the commitment of the court by which tried. The prisoners so confined shall be subject in all respects to discipline, diagnosis, and treatment as though committed under the laws of this state concerning felony prisoners.

(b) The Director of Corrections may enter into contracts, with the approval of the Director of General Services, with any county in this state, upon request of the board of supervisors thereof, wherein the Department of Corrections agrees to furnish diagnosis and treatment services and detention for selected women county prisoners. The county shall reimburse the state for the cost of the services, the cost to be determined by the Director of Finance. In any contract entered into pursuant to this subdivision, the county shall agree to pay that amount which is reasonably necessary for payment of an allowance to each released or paroled prisoner for transportation to the prisoner's county of residence or county where employment is available, and may agree to provide suitable clothing and a cash gratuity to the prisoners in the event that they are discharged from that institution because of parole or completion of the term for which they were sentenced. Each county auditor shall include in his state settlement report rendered to the Controller in the months of January and June the amounts due under any contract authorized by this section, and the county treasurer, at the time of settlement with the state in those months, shall pay to the State Treasurer upon order of the Controller, the amounts found to be due.

(c) The Department of Corrections shall accept the women county prisoners if it believes that they can be materially benefited by the confinement, care, treatment and employment and if adequate facilities to provide the care are available. None of those persons shall be transported to any facility under the jurisdiction of the Department of Corrections until the director has notified the referring court that the person may be transported to the California Institution for Women and the time at which she can be received.

(d) The sheriff of the county in which an order is made placing a woman county prisoner pursuant to this section, or any other peace officer designated by the court, shall execute the order placing the person in the institution or returning her therefrom to the court. The expenses of the peace officer incurred in executing the order is a charge upon the county in which the court is situated.

(e) The Director of Corrections may return to the committing

authority any woman prisoner transferred pursuant to this section when that person is guilty of any violation of rules and regulations of the California Institution for Women or the Department of Corrections.

(f) No woman prisoner placed in the California Institution for Women pursuant to this section shall thereafter be deemed to have been guilty of a felony solely by virtue of such placement, and she shall have the same rights to parole and to time off for good behavior as she would have had if she had been confined in the county jail.

SEC. 336. Section 5006 of the Penal Code is amended to read:

5006. All moneys now held for the benefit of prisoners including that known as the Inmate Canteen Fund of the California Institution for Men, and the Inmate Welfare Fund of the California Institution for Women, and the Trust Contingent Fund of the State Prison at Folsom, and the S.P.L. Commissary, Canteen Account, Hobby Association, Camp Account, Library Fund, News Agency of the State Prison at San Quentin, the Prisoners' Fund, and the Prisoners' Employment Fund, shall be deposited in the Inmate Welfare Fund of the Department of Corrections, in the State Treasury, which fund is hereby created. The money in the fund shall be used for the benefit, education, and welfare of inmates of prisons and institutions under the jurisdiction of the Department of Corrections, including but not limited to the establishment, maintenance, employment of personnel for, and purchase of items for sale to inmates at canteens maintained at the state institutions, and for the establishment, maintenance, employment of personnel and necessary expenses in connection with the operation of the hobby shops at institutions under the jurisdiction of the Department of Corrections.

There shall be deposited in the Inmate Welfare Fund all net proceeds from the operation of canteens and hobby shops and any moneys which may be assigned to the state prison by prisoners for deposit in the fund. The moneys in the fund shall constitute a trust held by the Director of Corrections for the benefit and welfare as herein defined of all of the inmates of institutions and prisons under the jurisdiction of the Department of Corrections.

The Department of Finance shall conduct a biennial audit of the Inmate Welfare Fund to include an audit report which shall summarize expenditures from the fund by major categories. At the end of each intervening fiscal year, a statement of operations shall be prepared which shall contain the same information as would be provided in the biennial audit. At least one copy of any statement of operations or audit report shall be placed in each library maintained by the Department of Corrections and shall be available there to any inmate.

SEC. 337. Section 5007 of the Penal Code is amended to read:

5007. The Director of Corrections may invest any money in the Inmate Welfare Fund that in his opinion is not necessary for immediate use, with the approval of the Department of Finance, and interest earned and other increment derived from investments

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made pursuant to this section shall be paid into the Inmate Welfare Fund of the Department of Corrections.

SEC. 338. Section 5008 of the Penal Code is amended to read:

5008. The Director of Corrections shall deposit any funds of inmates in his possession in trust with the Treasurer pursuant to Section 16305.3 of the Government Code, except that the Director of Corrections, when specifically authorized on a separate written form by the inmate and subject to the approval of the Department of Finance, may deposit such funds in interest-bearing bank accounts or invest or reinvest such funds in any of the securities which 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. The director shall deposit the interest or increment accruing on such funds in the Inmate Welfare Fund. Any interest or increment accruing on the funds of a parolee shall be deposited in his or her account.

SEC. 339. Section 13301 of the Penal Code is amended to read:

13301. As used in this article:

(a) "Record" means the master local summary criminal history information as defined in subdivision (a) of Section 13300, or a copy thereof.

(b) "A person authorized by law to receive a record" means any person or public agency authorized by a court, statute, or decisional law to receive a record.

SEC. 340. Section 13843 of the Penal Code is amended to read:

13843. (a) Allocation and award of funds made available under this chapter shall be made upon application to the Office of Criminal Justice Planning. All applications shall be reviewed and evaluated by the crime resistance task force in accordance with its established criteria, policy, and procedures. Applications deemed appropriate for funding consideration and those deemed not appropriate for funding will be transmitted, with explanatory comments, to the Executive Director of the Office of Criminal Justice Planning.

(b) The Executive Director of the Office of Criminal Justice Planning is authorized to allocate and award funds to communities developing citizen involvement and crime resistance programs in compliance with the policies and criteria developed by the California Crime Resistance Task Force as set forth in Sections 13844 and 13845. Applications receiving funding under this section shall be selected from among those deemed appropriate for funding by the crime resistance task force. Comprehensive crime prevention programs for the elderly as set forth in paragraph (1) of subdivision (a) of Section 13844 shall, in the aggregate, be included among program activities in local assistance grants receiving not less than 50 percent of funds available under this chapter.

(c) No single award of funds under this chapter shall exceed a maximum of one hundred twenty-five thousand dollars ($125,000) for a 12-month grant period. It is intended that at least eight local

project awards will be supported with funds made available under this chapter.

(d) Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the Community Crime Resistance Program, be made available to support crime resistance programs in local law enforcement agencies.

(e) Within 90 days following the effective date of this chapter and in consultation with the California Crime Resistance Task Force, the executive director shall prepare and issue written program and administrative guidelines and procedures for the California Community Crime Resistance Program, consistent with this chapter. In addition to all other formal requirements that may apply to the enactment of such guidelines and procedures, a complete and final draft of them shall be submitted no later than 60 days following the effective date of this chapter to the Chairpersons of the Criminal Justice Committee of the Assembly and the Judiciary Committee of the Senate of the California Legislature.

(f) Annually, commencing November 1, 1978, the executive director shall prepare a report to the Legislature describing in detail the operation of the program and results obtained from the California Community Crime Resistance Program.

SEC. 341. Section 732 of the Probate Code is amended to read:

732. (a) Pursuant to subdivision (b), an attachment lien may be converted into a judgment lien upon property of the estate subject to the attachment lien in either of the following cases:

(1) Where the judgment debtor dies after entry of judgment in an action in which the property was attached.

(2) Where a judgment is entered after the death of the defendant in an action in which the property was attached.

(b) To convert the attachment lien into a judgment lien, after entry of judgment in the action in which the property was attached and prior to the expiration of the attachment lien, the levying officer shall serve an abstract of the judgment and a notice that the attachment lien has become a judgment lien upon the person holding property pursuant to the attachment or shall record or file an abstract of the judgment and a notice that the attachment lien has become a judgment lien in any office where the writ and notice of attachment are recorded or filed. If the attached property is real property, the plaintiff or the plaintiff's attorney may record the required abstract and notice with the same effect as if recorded by the levying officer. The judgment lien has the same priority as the attachment lien.

(c) After the death of the decedent, any one or more members of the decedent's family who were supported in whole or in part by the decedent may claim an exemption provided in Section 487.020 of the Code of Civil Procedure for property levied upon pursuant to the attachment if the right to the exemption exists at the time the exemption is claimed. The executor or administrator of the decedent's estate may claim the exemption on behalf of such

member or members of the decedent's family. The claim of exemption may be made at any time prior to the time the abstract and notice has been served, recorded, or filed under subdivision (b) with respect to the property claimed to be exempt. The claim of exemption shall be made in the same manner as an exemption is claimed under Section 482.100 of the Code of Civil Procedure.

SEC. 342. Section 2313 of the Public Resources Code is amended to read:

2313. Within 90 days after the posting of his or her notice of location upon a lode mining claim, placer claim, tunnel right or location, or millsite claim or location, the locator shall record, in the office of the county recorder of the county in which the claim is situated, a true copy of the notice together with a statement by the locator of the markings of the boundaries as required by this chapter and the character of the markings, which statement also shall include the section or sections, township, range, and meridian of the United States survey within which all, or any part, of the claim is located.

Any person who willfully makes a false statement with respect to any mining claim on the posted location notice or on the recorded notice, or accompanying statement, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding one hundred dollars ($100) or by imprisonment in the county jail not exceeding six months, or by both that fine and imprisonment.

SEC. 343. Section 2708 of the Public Resources Code is amended to read:

2708. Any city or county that has adopted an ordinance requiring the installation of accelerographs in structures shall be exempted from Section 2705, if both of the following have occurred:

(a) A minimum of one structure has been instrumented with three accelerographs installed in accordance with the ordinance prior to January 20, 1972.

(b) A written request has been sent to the State Geologist by the governing body of the city or county that it be exempted.

SEC. 344. Section 2760 of the Public Resources Code is amended to read:

2760. The board shall not adopt or revise the state policy, unless a public hearing is first held respecting its adoption or revision. At least 30 days prior to the hearing, the board shall give notice of the hearing by publication pursuant to Section 6061 of the Government Code.

SEC. 345. Section 3311 of the Public Resources Code is amended to read.

3311. In those suits, a restraining order shall not be issued ex parte, and a temporary or permanent injunction issued in the proceedings shall not be refused or dissolved or stayed pending appeal upon the giving of any bond or undertaking or otherwise, but otherwise the procedure, including the procedure on appeal, shall be conformable with the provisions of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

In the proceedings, the findings of the supervisor, unless set aside, or except to the extent modified, by the director, shall constitute prima facie evidence of the unreasonable wastage of gas therein found to be occurring or threatened.

SEC. 346. Section 3470 of the Public Resources Code is amended to read:

3470. (a) All rules and regulations of the board shall be adopted, amended, and repealed in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The board shall adopt rules in accordance with subdivision (a) governing contents of, and fees for, applications for registrations under this article and procedures for review of applications and for approval, renewal, denial, and revocation of registrations. These rules shall provide for joint registrations for persons requiring more than one authorization under this article or other provisions administered by the board. The board shall also adopt rules prescribing provision of receipts, the keeping of records, and the filing of reports by registrants.

(c) The board shall register an applicant if it determines that the proposed means for collection, transport, transfer, storage, recycling, use, or disposal is operationally safe, environmentally sound, and consistent with this article and shall impose terms in connection with the registration requiring the registration holder to install or effect controls, processes, or practices necessary to insure continuous compliance with existing laws and regulations. A registration shall be valid until revoked.

(d) The board shall coordinate activities and functions with all other state agencies, including, but not limited to, the State Department of Health Services, the Department of Water Resources, and the State Water Resources Control Board, in order to avoid duplication in reporting and information gathering.

(e) The board shall prepare and submit an annual report to the Legislature, based in part on information submitted in accordance with Sections 3467, 3468, and 3469, summarizing information on used oil collection and recycling and registrations, analyzing the effectiveness of the provisions of this article in implementing the policies prescribed in Section 3463, and making recommendations for necessary changes in the provisions or their administration.

SEC. 347. Section 4143 of the Public Resources Code is amended to read:

4143. The Legislature hereby finds and declares that the maintenance of the economic well-being of the state and the public health and safety require that the state, through the department, obtain full utilization of all equipment, personnel, and buildings under the jurisdiction of the Director of Forestry. In order to obtain these benefits, the director, in accordance with policy determined by the board, may provide personnel for and operate such fire stations, statewide, as he deems necessary to provide the best possible fire

protection. Personnel or equipment shall not be assigned to any location or assigned pursuant to Section 4144 if the assignment would not meet policy and standards established by the board. The standards shall be designed to assure that the striking force and efficiency of the department in its primary mission of wildland fire protection will not be reduced or impaired. The policy and standards shall be designed to assure that the department will not need any additional funds to operate its programs.

The normal assignment of fire resources of the department to southern California during periods of critical fire weather conditions or during major wildland fires shall not be impaired and shall receive priority over agreements made with specified counties pursuant to Section 4144.

SEC. 348. Section 4186 of the Public Resources Code is amended to read:

4186. All money which is received by this state pursuant to the Clarke-McNary Act and which is regularly allotted by the federal government according to an annual formula shall be paid into the General Fund. Any supplemental money received from the federal government pursuant to the Clarke-McNary Act for use by the department for specially designated projects shall be authorized by the Director of Finance for augmentation of the subitem captioned "Reimbursements" of the principal item of appropriation from the General Fund for the support of the department contained in the Budget Act for the fiscal year during which the supplemental money is received. However, the Director of Finance may not authorize the augmentation sooner than 30 days after notification in writing of the necessity therefor to the chairman of the committee in each house which considers appropriations and to the Chairman of the Joint Legislative Budget Committee or sooner than any lesser time which the chairman of that committee, or his designee, may in each instance determine.

SEC. 349. Section 4423.1 of the Public Resources Code is amended to read:

4423.1. Burning under permit or other uses of open fire by any person on public or private lands, except within incorporated cities, may be suspended or otherwise prohibited by proclamation. Any of the following public officers may issue a proclamation, which shall be applicable within their respective jurisdictions:

(a) The director.

(b) Any county fire warden with the approval of the director.

(c) The federal officers directing activities within California of the United States Bureau of Land Management, the National Park Service, and the United States Forest Service.

The proclamation may be issued when in the judgment of the issuing public official the menace of destruction by fire to life, improved property, or natural resources is, or is forecast to become, extreme due to critical fire weather, fire suppression forces being heavily committed to control fires already burning, acute dryness of

the vegetation, or other factors that may cause the rapid spread of fire. A proclamation shall be effective on issuance or at a time specified therein and remain in effect until an order of termination is issued. The proclamation shall declare the conditions that necessitate its issuance, designate the geographic area to which it applies, require that all or specified uses of open fire or burning under permit be suspended until the conditions necessitating the proclamation abate, and identify the public official issuing the proclamation. The proclamation shall be immediately released to the news media serving the area affected. Upon termination of a proclamation, the public shall be given immediate notice thereof through the news media serving the area affected thereby.

The proclamation may be issued without complying with provisions of Chapters 3.5 (commencing with Section 11340) and 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 350. Section 4431 of the Public Resources Code is amended to read:

4431. During any time of the year when burning permits are required in an area pursuant to this article, no person shall use or operate or cause to be operated in the area any portable saw, auger, drill, tamper, or other portable tool powered by a gasoline-fueled internal combustion engine on or near any forest-covered land, brush-covered land, or grass-covered land, within 25 feet of any flammable material, without providing and maintaining at the immediate locations of use or operation of the saw or tool, for firefighting purposes one serviceable round point shovel, with an overall length of not less than 46 inches, or one serviceable fire extinguisher. The Director of Forestry shall by administrative regulation specify the type and size of fire extinguisher necessary to provide at least minimum assurance of controlling fire caused by use of portable power tools under various climatic and fuel conditions.

The required fire tools shall at no time be farther from the point of operation of the powersaw or tool than 25 feet with unrestricted access for the operator from the point of operation.

SEC. 351. Section 4438 of the Public Resources Code is amended to read:

4438. Waste flammable material incident to the processing of forest products may be disposed of by means of fire in an enclosed device effective in preventing the spread of sparks or fire, situated in an area cleared of grass, grain, brush, slash, litter, and snags for a distance of 100 feet surrounding the device or by landfill or other methods which meet applicable state and local fire safety and air and water quality standards. The disposal shall be done in compliance with regulations established by the director, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, or the purpose of eliminating the potential of fire or other safety hazards resulting from spontaneous combustion or other ignition sources.

A burning permit shall be obtained for the use of the device pursuant to Section 4423 and all other provisions of law.

SEC. 352. Section 4446 of the Public Resources Code is amended to read:

4446. Every person shall exercise reasonable care in the disposal of flammable material so that the material does not cause the inception of or spread of uncontrolled fire. A person shall not burn any flammable material in any incinerator within any state responsibility area, within any area receiving fire protection by the director by contract, or upon federal lands administered by the United States Department of Agriculture or Department of the Interior, unless all of the following minimum requirements are complied with:

(a) The area within 10 feet of the exterior of the incinerator is maintained free and clear of all flammable material and vegetation.

(b) A screen constructed of a nonflammable material, with no greater than ¼-inch mesh, or metal doors, close or cover each opening in the exterior of an incinerator to prevent the escape of flames, sparks, ashes, or other burning material which might cause an uncontrolled fire.

(c) A permit is obtained prior to burning for the use of the incinerator pursuant to Section 4423 and all other applicable provisions of law.

This section does not apply to the disposal of flammable material incident to the processing of forest products.

SEC. 353. Section 4476 of the Public Resources Code is amended to read:

4476. Any contract which is entered into pursuant to this article shall do all of the following:

(a) Vest in the director the final authority to determine the time during which wildland fuel and structural fire hazards may be burned to minimize the risk of escape of a fire set in a prescribed burning operation and to facilitate maintenance of air quality.

(b) Clearly state the obligation of each party to the contract to provide, maintain, and repair equipment and indicate the number of each type of equipment to be provided and the duration of its availability.

(c) Designate an officer of the department as the fire boss with final authority to approve and amend the plan and formula applicable to the prescribed burning operation, to determine that the site has been prepared and the crew and equipment are ready to commence the operation, and to supervise the work assignments of departmental employees and all persons furnished by the person contracting with the department until the prescribed burning is completed and all fire is declared to be out.

(d) Provide that any personnel furnished by the person contracting with the department to assist in any aspect of site preparation or prescribed burning shall be agents of the person contracting with the department for all purposes of worker

compensation. However, any volunteer recruited or used by the department to suppress a wildland fire originating or spreading from a prescribed burning operation is an employee of the department for all purposes of worker compensation.

(e) Specify the value assigned to the materials, services, or equipment furnished by the person contracting with the department in lieu of payment of all or part of that person's share of the actual costs.

(f) Specify the director's estimate of total actual costs and the share of the costs of each party to the contract. The person contracting with the department shall, prior to the commencement of any work by the department, place on deposit, in an interest-bearing escrow or trust account with a California-licensed financial institution, an amount equal to the depositor's estimated share of the actual costs, less the value of materials, services, or equipment specified pursuant to subdivision (e). The deposit shall be subject to an escrow or trust instruction that final disbursement of the principal amount on deposit may only be made upon the signatures of both the depositor and the director or by court order; however, interest earned on that account shall accrue to the depositor and may be separately disbursed from the principal amount upon request of the depositor. Upon completion of the contract, the director shall determine the actual costs incurred by the state in the performance of the contract, excluding any costs to the department for suppressing any wildland fire originating or spreading from the prescribed burning operation. The costs shall be certified by the director and approved by the depositor, then submitted to the trustee for disbursement. Funds on deposit in excess of the depositor's share of actual costs shall be returned by the trustee to the depositor. If the amount of the depositor's share of actual costs is more than the amount on deposit, the director shall submit an itemized statement showing the balance due, and the person contracting with the department shall, within 90 days of the submittal of the statement, make payment to the director of the balance due.

(g) Provide that the department shall purchase a third party liability policy of insurance which provides coverage against loss resulting from a wildland fire sustained by any person or public agency, including the federal government. The amount of the policy shall be determined by the director. The policy shall name the person contracting with the department and the department as joint policy holders. The policy premium shall be included as an actual cost incurred by the state in the performance of the contract. A certificate of insurance covering each policy shall be attached to and become a part of the contract.

SEC. 354. Section 4551 of the Public Resources Code is amended to read:

4551. The board shall adopt district forest practice rules and regulations for each district in accordance with the policies set forth

in Article 1 (commencing with Section 4511) of this chapter and pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to assure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish, and wildlife, and water resources, including, but not limited to, streams, lakes, and estuaries.

SEC. 355. Section 4554 of the Public Resources Code is amended to read:

4554. Except for emergency regulations or orders of repeal adopted pursuant to Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, the board shall not adopt or revise rules, regulations, or resource conservation standards unless a public hearing is first held respecting their adoption or revision. At least 30 days prior to the hearing, the board shall give notice of the hearing by publication pursuant to Section 6061 of the Government Code.

SEC. 356. Section 4555 of the Public Resources Code is amended to read:

4555. If the director determines that a substantial question exists concerning whether the intent of this chapter is currently provided for by the rules and regulations of the board, and that approval of a timber harvesting plan which has been filed could result in immediate, significant, and long-term harm to the natural resources of the state, the director may withhold decision on a timber harvesting plan. However, within five days of that action, the director shall notify the board of that action. Within 30 days of the receipt of the notice, the board shall, after a public hearing, make a determination as to whether or not the intent of this chapter has been provided for in the rules and regulations of the board. The determination shall be conclusive.

If the board finds that the intent of this chapter has not been provided for in the rules and regulations, the board shall act to amend the rules by emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The director shall act upon the plan within five days of the board's action. Emergency regulations adopted pursuant to this section shall be effective for no more than 120 days. The regulations may be made permanent if the board acts to adopt or revise its rules and regulations pursuant to procedures established in this article for the adoption of other than emergency regulations.

SEC. 357. Section 4582.8 of the Public Resources Code is amended to read:

4582.8. (a) Within 10 days after a timber harvesting plan is deemed in conformance under Section 4582.7, or within 10 days after receipt of a notice of timber operations pursuant to subdivision (b), the director shall transmit copies thereof to the State Board of Equalization and the assessor of the county in which the timber subject to the harvesting plan or notice is located.

Within 10 days after receipt of a copy of the timber harvesting plan or notice, the county assessor shall assign the appropriate tax rate area designations to the plan or notice and transmit copies thereof to the timber owner listed in the timber harvesting plan or notice and to the State Board of Equalization.

(b) Within 10 days of harvesting timber on land not subject to a timber harvesting plan, including public lands of a federal agency, each timber owner or operator shall notify the county assessor of the location of the harvest and the assessor shall assign the appropriate tax rate area designations and shall transmit copies thereof to the timber operator, if the land from which the timber is to be harvested is public land of a federal agency, or to the timber owner, if the land is timberland, as defined in Section 51100 of the Government Code, and to the State Board of Equalization.

SEC. 358. Section 4621.2 of the Public Resources Code is amended to read:

4621.2. (a) If the timberlands which are to be devoted to uses other than the growing of timber are zoned as timberland preserve zones under Section 51112 or 51113 of the Government Code, the application shall specify the proposed alternate use and shall include any information which the board determines to be necessary to evaluate the proposed alternate use. The board shall approve the application for conversion only if the board makes all of the following written findings:

(1) The conversion would be in the public interest.

(2) The conversion would not have a substantial and unmitigated adverse effect upon the continued timber-growing use or open-space use of other land zoned as timberland preserve and situated within one mile of the exterior boundary of the land upon which immediate rezoning is proposed.

(3) The soils, slopes, and watershed conditions would be suitable for the uses proposed if the conversion were approved.

(b) The existence of an opportunity for an alternative use of the land is not alone sufficient reason for conditionally approving an application for conversion. Conversion shall be considered only if there is no proximate and suitable land which is not zoned timberland preserve for the alternate use not permitted within a timberland preserve zone.

(c) The uneconomic character of the existing use is not sufficient reason for the conditional approval of conversion. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable timber-growing use to which the land may be put.

(d) The board shall establish and publish a rate schedule of fees to be paid by the landowner for the cost of processing the application and recording the necessary documentation.

(e) If the board delegates its responsibilities under this section to the director pursuant to Section 4627, the director shall make the written findings required by subdivision (a). If the director denies

a conversion, the applicant may request a hearing before the board within 15 days of the denial. The hearing shall be scheduled within 60 days from the filing of the appeal.

SEC. 359. Section 4656 of the Public Resources Code is amended to read:

4656. This chapter does not interfere with the reasonable use of state forests for hunting, fishing, recreation and camping, except as otherwise provided by law.

The use of state forest lands for grazing and mining purposes shall be permitted pursuant to regulations established by the board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The use and development of water facilities for irrigation and power shall be permitted as provided by law.

SEC. 360. Section 4656.1 of the Public Resources Code is amended to read:

4656.1. The board may establish rules and regulations, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the preservation, protection, and use of state forests and for the promotion and protection of public health and safety within state forests.

SEC. 361. Section 5003.7 of the Public Resources Code is amended to read:

5003.7. (a) For due, owing, and unpaid charges or fees for water, sewage, gas, electricity, garbage, or other utility services furnished by the Department of Parks and Recreation or the Department of General Services to real property, the department shall have a lien on that real property upon filing a notice of lien with the county recorder.

(b) The notice of lien shall contain all of the following:

(1) A description of the subject real property.

(2) The total amount of the lien.

(3) The type of service furnished.

(4) The period during which service was furnished, the amount owing for the period of service, and the date upon which the amount became due.

(5) A verified statement that notice of the delinquent charges or fees was mailed, postage prepaid, to the owner of record, to any other known owner, and to the person in possession of the subject real property at their last known address at least 30 days prior to the filing of the notice of lien with the county recorder.

(c) The lien shall not extend to delinquent charges or fees incurred more than four years prior to the filing of the notice of lien. The lien shall, except as provided in subdivision (e), continue in effect for four years after the filing of the notice of lien, unless sooner extinguished by payment, satisfaction, or merger in judgment of foreclosure.

(d) Within four years after the notice of lien is filed of record, an

action to foreclose the lien may, notwithstanding any other provision of law, be brought in the name of the people in any court having jurisdiction to hear and dispose of actions to foreclose mechanics' liens for like amounts. If the action is commenced in a court of competent jurisdiction in Sacramento County, the court is the proper court for trial, without regard to the residence of the defendants.

(e) Upon recording of lis pendens, the notice of lien shall continue in effect until the recording of the abstract of judgment thereon, unless the lien be otherwise extinguished, but not in any event in excess of 10 years from the date of recording of the notice of lien. The lien of abstract shall take priority from the date of recordation of the notice of lien.

(f) The Director of Parks and Recreation or the Director of General Services, as the case may be, or the Attorney General may execute and file those notices, releases, and satisfaction, as may be necessary or convenient in carrying out this section.

SEC. 362. Section 5019.10 of the Public Resources Code is amended to read:

5019.10. The Department of Parks and Recreation may enter into contracts with persons, firms, or corporations to construct, maintain, and operate concessions within the state park areas for the safety and convenience of the general public in the use and enjoyment of the state park system. The approval of the Director of General Services is not required, notwithstanding Section 11005.2 of the Government Code or other provisions of law, unless the contract authorizes occupancy of the state park system for a period of more than one year.

SEC. 363. Section 5019.53 of the Public Resources Code is amended to read:

5019.53. State parks consist of relatively spacious areas of outstanding scenic or natural character, oftentimes also containing significant historical, archaeological, ecological, geological, or other such values. The purpose of state parks shall be to preserve outstanding natural, scenic, and cultural values, indigenous aquatic and terrestrial fauna and flora, and the most significant examples of such ecological regions of California as the Sierra Nevada, northeast volcanic, great valley, coastal strip, Klamath-Siskiyou Mountains, southwest mountains and valleys, redwoods, foothills and low coastal mountains, and desert and desert mountains.

Each state park shall be managed as a composite whole in order to restore, protect, and maintain its native environmental complexes to the extent compatible with the primary purpose for which the park was established.

Improvements undertaken within state parks shall be for the purpose of making the areas available for public enjoyment and education in a manner consistent with the preservation of natural, scenic, cultural, and ecological values for present and future generations. Improvements may be undertaken to provide for

recreational activities including, but not limited to, camping, picknicking, sightseeing, nature study, hiking, and horseback riding, so long as such improvements involve no major modification of lands, forests, or waters. Improvements which do not directly enhance the public's enjoyment of the natural, scenic, cultural, or ecological values of the resource, which are attractions in themselves, or which are otherwise available to the public within a reasonable distance outside the park, shall not be undertaken within state parks.

State parks may be established in either the terrestrial or underwater environments of the state.

SEC. 364. Section 5093.62 of the Public Resources Code is amended to read:

5093.62. Nothing in this chapter shall affect the jurisdiction or responsibility of the state with regard to fish and wildlife. Hunting and fishing may be permitted on lands and waters administered as parts of the system under applicable state or federal laws and regulations.

SEC. 365. Section 6332 of the Public Resources Code is amended to read:

6332. The commission shall:

(a) Adopt and enforce such rules and regulations as may be necessary or convenient to carry out the purposes of this article in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, in accordance with the following requirements:

(1) All data such as survey notes and factual and historical materials which have been obtained by investigation and survey and considered in connection with the establishment of each ungranted tideland parcel boundary shall be perpetuated, filed, indexed, and made available in the office of the commission for public inspection and use upon request.

(2) Surveys of ungranted tideland boundary lines made by the state, or made under contract with the state, or adopted by the state, shall sufficiently tie the surveyed boundary lines to record monuments disclosed by the public records in the office of the county recorder of the county in which the land so surveyed is located to the extent that adjoining property owners and officials of the local agency and others may determine the relation of the surveyed boundary lines to record title boundaries without additional survey.

(3) United States Coast and Geodetic Survey data shall be used in areas where available to establish boundary lines which are required under the title circumstances to be established in accordance with federal law. In areas where tideland boundary lines are required to be established under title circumstances which require the application of California law, available United States Coast and Geodetic Survey data shall be used but corrected as required. Consideration shall be given in each survey to any seiche condition which may exist in the surveyed area.

(4) Consideration shall be given to the effect of any prior accretion and erosion in each surveyed area. Consideration shall also be given to the confirmation of title boundaries of lands claimed to be in private or public ownership, which lands support improvements of long standing authorized by governmental action.

(5) Boundary lines so established and surveyed shall take into consideration any statutes of limitations applicable to the validity of patents, and the finality of boundary line agreements and boundary and exchange agreements adopted prior to, or on or after, January 1, 1976, and whether entered into pursuant to Section 6307 or 6357, or any other statutes of this state, or otherwise.

(6) When establishing and surveying the line of ordinary high water, the then existing location of that line shall be used unless there is clear and convincing evidence that that location is not the last natural position of the line according to applicable federal or state laws.

(b) Contract with all agencies, public and private, as the commission may deem necessary for the rendition and affording of services and facilities to the commission pursuant to this article and for all other purposes related thereto.

(c) Do all other acts necessary to carry out the requirements and purposes of this article within the limit of its authority conferred by law, including this article.

SEC. 366. Section 9104 of the Public Resources Code is amended to read:

9104. The members of the commission shall receive no compensation for their services as members, but each shall be allowed reasonable and necessary expenses incurred in attendance at meetings of the commission or when otherwise engaged in the work of the commission at its direction.

SEC. 367. Section 9183 of the Public Resources Code is amended to read:

9183. The petition shall be signed and validated by either of the following:

(a) Not less than 100 landowners or a majority if there are less than 200 landowners in the proposed area.

(b) If a majority of the total landowners owning a majority of the private lands within the proposed district sign the petition and if, at the hearing as provided in Article 4 (commencing with Section 9211), the board of supervisors finds it is in the public interest and welfare to form such a district, it may, by an order entered on its minutes, declare that to be its finding, and may further declare and order that the territory within the boundaries fixed by the board shall be organized as a district and declared duly formed without an election. The order shall name the district and appoint the first board of five directors; the board of directors shall then proceed to organize and shall be governed by all the rest of the provisions of this division.

SEC. 368. Section 13111 of the Public Resources Code is amended to read:

13111. The provisions of the Elections Code relating to the qualifications of electors, the manner of voting, the duties of election officers, the canvassing of returns, and all other particulars in respect to the management of general elections so far as they may be applicable shall govern all district elections except:

(a) To the extent that the provisions of the Elections Code pertaining to the conduct of local elections are inconsistent with the provisions of that code pertaining to general elections, the provisions pertaining to local elections shall control.

(b) Inconsistent provisions of this division shall control over any provisions of the Elections Code.

SEC. 369. Section 21080.5 of the Public Resources Code is amended to read:

21080.5. (a) When the regulatory program of a state agency, board, or commission requires a plan or other written documentation, containing environmental information and complying with the requirements of paragraph (3) of subdivision (d), to be submitted in support of any of the activities listed in subdivision (b), the plan or other written documentation may be submitted in lieu of the environmental impact report required by this division if the Secretary of the Resources Agency has certified the regulatory program pursuant to this section.

(b) The provisions of this section shall apply only to regulatory programs or portions thereof which involve either of the following:

(1) The issuance to a person of a lease, permit, license, certificate, or other entitlement for use.

(2) The adoption or approval of standards, rules, regulations or plans for use in the regulatory program.

(c) A regulatory program certified pursuant to this section is exempt from Chapter 3 (commencing with Section 21100) and Chapter 4 (commencing with Section 21150) and Section 21167.

(d) In order to qualify for certification pursuant to this section, a regulatory program shall require utilization of an interdisciplinary approach which will ensure the integrated use of the natural and social sciences in decisionmaking and shall meet all of the following criteria:

(1) The enabling legislation of the regulatory program shall:

(A) Include protection of the environment among its principal purposes.

(B) Contain authority for the administering agency to promulgate rules and regulations for the protection of the environment, guided by standards set forth in the enabling legislation.

(2) The rules and regulations adopted by the administering agency shall:

(A) Require that an activity will not be approved or adopted as proposed, if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

(B) Include guidelines for the orderly evaluation of proposed activities and the preparation of the plan or other written documentation in a manner consistent with the environmental protection purposes of the regulatory program.

(C) Require the administering agency to consult with all public agencies which have jurisdiction, by law, with respect to the proposed activity.

(D) Require that final action on the proposed activity include the written responses of the issuing authority to significant environmental points raised during the evaluation process.

(E) Require the filing of a notice of the decision by the administering agency on the proposed activity with the Secretary of the Resources Agency. The notices shall be available for public inspection, and a list of the notices shall be posted on a weekly basis in the office of the Resources Agency. Each list shall remain posted for a period of 30 days.

(F) Require notice of the filing of the plan or other written documentation to be made to the public and to any person who requests, in writing, notification. The notification shall be made in a manner that will provide the public or any person with sufficient time to review and comment on filing.

(3) The plan or other written documentation required by the regulatory program shall:

(A) Include a description of the proposed activity with alternatives to the activity, and mitigation measures to minimize any significant adverse environmental impact.

(B) Be available for a reasonable time for review and comment by other public agencies and the general public.

(e) The Secretary of the Resources Agency shall certify a regulatory program which the secretary determines meets all the qualifications for certification set forth in this section, and withdraw certification on determination that the regulatory program has been altered so that it no longer meets the qualifications. Certification and withdrawal of certification shall occur only after compliance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

In determining whether or not a regulatory program meets the qualifications for certification set forth in this section, the inquiry of the Secretary of the Resources Agency shall extend only to the question of whether the regulatory program meets the generic requirements of subdivision (d). The inquiry shall not extend to individual decisions to be reached under such regulatory program, including the nature of specific alternatives or mitigation measures which might be proposed to lessen any significant adverse environmental effects of the activity.

If the Secretary of the Resources Agency determines that the regulatory program submitted for certification does not meet the qualifications for certification set forth in this section, the secretary shall adopt findings setting forth the reasons for that determination.

(f) After a regulatory program has been certified pursuant to this section, any proposed change in the program which could affect compliance with the qualifications for certification specified in subdivision (d) may be submitted to the Secretary of the Resources Agency for review and comment. The scope of the secretary's review shall extend only to the question of whether the regulatory program meets the generic requirements of subdivision (d). The review shall not extend to individual decisions to be reached under the regulatory program, including specific alternatives or mitigation measures which might be proposed to lessen any significant adverse environmental effects of the activity. The secretary shall have 30 days after receipt of the proposed change to notify the state agency, board, or commission whether the proposed change will alter the regulatory program so that it no longer meets the qualification for certification established in this section and will result in a withdrawal of certification as provided in this section.

(g) Any action or proceeding to attack, review, set aside, void, or annul a determination or decision of a state agency, board, or commission approving or adopting a proposed activity under a regulatory program which has been certified pursuant to this section, on the basis that the plan or other written documentation prepared pursuant to paragraph (3) of subdivision (d) does not comply with this section shall be commenced no later than 30 days from the date of the filing of notice of the approval or adoption of the activity.

(h) Any action or proceeding to attack, review, set aside, void, or annul a determination of the Secretary of the Resources Agency to certify a regulatory program pursuant to this section, on the basis that the regulatory program does not comply with this section, shall be commenced within 30 days after certification by the secretary.

In any action brought under this subdivision, the inquiry shall extend only to whether there was a prejudicial abuse of discretion by the Secretary of the Resources Agency. Abuse of discretion is established if the secretary has not proceeded in a manner required by law or if the determination is not supported by substantial evidence.

(i) For purposes of this section, any county agricultural commissioner shall be considered a state agency.

SEC. 370. Section 21083 of the Public Resources Code is amended to read:

21083. The Office of Planning and Research shall prepare and develop proposed guidelines for the implementation of this division by public agencies. The guidelines shall include objectives and criteria for the orderly evaluation of projects and the preparation of environmental impact reports and negative declarations in a manner consistent with this division.

The guidelines shall specifically include criteria for public agencies to follow in determining whether or not a proposed project may have a "significant effect on the environment." The criteria shall require a finding that a project may have a "significant effect on the

environment" if any of the following conditions exist:

(a) A proposed project has the potential to degrade the quality of the environment, curtail the range of the environment, or to achieve short-term, to the disadvantage of long-term, environmental goals.

(b) The possible effects of a project are individually limited but cumulatively considerable. As used in this subdivision, "cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

(c) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

The guidelines shall also include procedures for determining the lead agency pursuant to Section 21165.

The guidelines shall also include criteria for public agencies to use in determining when a proposed project is of sufficient statewide, regional, or areawide environmental significance that it should be submitted to appropriate state agencies for review and comment prior to completion of an environmental impact report or negative declaration thereon.

The Office of Planning and Research shall develop and prepare the proposed guidelines as soon as possible and shall transmit them immediately to the Secretary of the Resources Agency. The Secretary of the Resources Agency shall certify and adopt the guidelines pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, which shall become effective upon the filing thereof. However, the guidelines shall not be adopted without compliance with Sections 11346.4, 11346.5, and 11346.8 of the Government Code.

SEC. 371. Section 21087 of the Public Resources Code is amended to read:

21087. The Office of Planning and Research shall periodically review the guidelines adopted pursuant to Section 21083 and shall recommend proposed changes or amendments to the Secretary of the Resources Agency. Changes or amendments to the guidelines shall be adopted by the secretary in conformance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 372. Section 25210 of the Public Resources Code is amended to read:

25210. The commission may hold any hearings and conduct any investigations in any part of the state necessary to carry out its powers and duties prescribed by this division and, for those purposes, has the same powers as are conferred upon heads of departments of the state by Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 373. Section 25213 of the Public Resources Code is amended to read:

25213. The commission shall adopt rules and regulations, as

necessary, to carry out the provisions of this division in conformity with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The commission shall make available to any person upon request copies of proposed regulations, together with summaries of reasons supporting their adoption.

SEC. 374. Section 25502 of the Public Resources Code is amended to read:

25502. Each person proposing to construct a thermal powerplant 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 forecasts adopted pursuant to Sections 25216.3 and 25309. 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. 375. Section 25964 of the Public Resources Code is amended to read:

25964. After 24 months after an intermittent ignition device has been certified by the commission, no person shall sell or offer for sale in this state any new gas appliances, as defined in Section 25950, without obtaining the proper seal of certification from the commission, unless the commission otherwise permits such action. Beginning 24 months after an intermittent ignition device has been certified by the commission, no city or county, city and county, or state agency shall issue a permit for any building to be equipped with any new gas appliance, as defined in Section 25950, unless such building permit shows that the gas appliance complies with this chapter. However, any new gas appliance which does not comply with this chapter may be installed if the appliance was purchased pursuant to a contract executed prior to June 17, 1978, and if the building permit was approved prior to July 8, 1978.

SEC. 376. Section 26004 of the Public Resources Code is amended to read:

26004. There is in the state government the California Alternative Energy Source Financing Authority. The authority constitutes a public instrumentality and the exercise by the authority of powers conferred by this division is the performance of an essential public function.

The authority shall consist of five members: the Director of Finance, the Chairman of the State Energy Resources Conservation and Development Commission, the President of the Public Utilities

Commission, the Controller, and the Treasurer who shall serve as the chairman of the authority.

The Director of Finance, the Chairman of the State Energy Resources Conservation and Development Commission, and the President of the Public Utilities Commission may each designate a deputy or clerk in his agency to act for him and represent him at all meetings of the authority.

The first meeting of the authority shall be convened by the Treasurer.

SEC. 377. Section 26563 of the Public Resources Code is amended to read:

26563. The notice shall set forth the time, date, and place of the hearing, briefly describe the purpose thereof, and indicate where the plan of control may be reviewed or duplicated, at a cost not to exceed the cost of duplication. The notice shall also set forth the address where objections to the proposed formation may be mailed or otherwise delivered up to and including the time of the hearing.

SEC. 378. Section 26703 of the Public Resources Code is amended to read:

26703. To carry out the provisions of this division, the Office of Appropriate Technology activities shall do all of the following:

(a) Investigate and evaluate the capital outlay projects proposed by the Governor and enacted by the Legislature, and ensure that they include all feasible resource and energy conserving features which are cost effective, as determined by life cycle cost analysis.

(b) Provide technical assistance and advice to the Legislature and all state agencies concerning the status of developing technologies and the opportunities for use by the state.

(c) Inform and assist citizens and local governments to use or adopt innovative and energy conserving technologies which will save money through lowered capital and operating costs.

(d) Coordinate its efforts with other state agencies, local governments, and private businesses in order to prevent duplication of research and program activities.

(e) Deliver to the Legislature an annual summary of the accomplishments of the office.

SEC. 379. Section 30168 of the Public Resources Code, as added by Chapter 170 of the Statutes of 1980, is amended and renumbered to read:

30169. (a) The Legislature hereby finds and declares that a dispute exists as to the proper location of the inland boundary of the coastal zone in the area commonly known as Aliso Viejo and that, after extensive review of the history of this boundary segment, the criteria utilized to establish the boundary in 1976, and the relevant topographical information, it is possible to reach differing conclusions of equal validity regarding the proper location of the coastal zone boundary. The Legislature further finds that it is not possible to determine objectively which ridgeline feature in the Aliso Viejo area most closely approximates the boundary criteria utilized

by the Legislature in 1976, and that it is in the best public interest to resolve the current boundary dispute in order to avoid further delay in the completion of the local coastal program for Orange County. The Legislature further finds that a timely resolution of this boundary dispute can best be accomplished by adjusting the coastal zone boundary in the manner set forth in this section and within the general framework of Section 30103 and consistent with the need to protect the coastal resources of the Aliso Viejo area and to carry out the requirements of Section 30213.

(b) In the Aliso Creek area of Orange County approximately 286 acres are added and approximately 1,020 acres are excluded as specifically shown on maps 28A and 28B dated April 15, 1980, and filed on April 22, 1980, with the office of the Secretary of State and which are on file in the office of the commission. The maps are hereby adopted by reference. The changes made in the inland boundary of the coastal zone by this section are in addition to any changes made by any map referred to in Section 30150, except to the extent that the changes made by this section affect a segment of the boundary previously changed by the map, in which case the changes made by this section shall supersede any of those previous changes.

(c) The executive director of the commission may adjust the precise location of the inland boundary of the coastal zone not more than 100 yards in either a seaward or landward direction in order to conform the precise boundary location to the specific limits of development adjacent to the coastal zone boundary as shown on maps 28A and 28B. However, in any subdivided area, the executive director may adjust the precise location of the inland boundary of the coastal zone not more than 100 feet in a landward direction in order to include any development of the first row of lots immediately adjacent to the boundary as shown on those maps, where the executive director determines that the adjustment is necessary to ensure that adequate controls will be applied to the development in order to minimize any potential adverse effects on the coastal zone resources. The executive director shall prepare a detailed map showing any of the changes and shall file a copy of the map with the county clerk.

(d) Prior to the adoption and approval of a drainage control plan by the County of Orange for the Aliso Viejo Planned Community (as designated by Amendment No. L. U. 79-1 to the Land Use Element of the Orange County General Plan), the county shall consult with the executive director of the commission to ensure that any drainage control facilities located outside the coastal zone are adequate to provide for no increase in peak runoff, by virtue of the development of the Aliso Viejo Planned Community, which would result in adverse impacts on coastal zone resources.

(e) On or before January 31, 1981, the commission shall, after public hearing and in consultation with the County of Orange, certify or reject a local coastal program segment prepared and submitted by the county on or before August 1, 1980, for the

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following parcel in the Aliso Creek area: land owned by the Aliso Viejo Company, a California corporation, as of April 22, 1980, within the coastal zone as amended by this section. The local coastal program required by this subdivision shall, for all purposes of this division, constitute a certified local coastal program segment for that parcel in the County of Orange. The segment of the county's local coastal program for the parcel may be amended pursuant to this division relating to the amendment of local coastal programs. If the commission neither certifies nor rejects the submitted local coastal program within the time limit specified in this subdivision, the land added to the coastal zone by this section shall no longer be subject to this division. It is the intent of the Legislature in enacting this subdivision, that a procedure to expedite the preparation and adoption of a local coastal program for that land be established so that the public and the affected property owner know as soon as possible what uses are permissible.

(f) The commission, through its executive director, shall enter into a binding and enforceable agreement with Aliso Viejo Company, and the agreement shall be recorded as a covenant to run with the land with no prior liens other than tax and assessment liens restricting the Aliso Viejo Planned Community. The agreement shall provide for all of the following:

(1) The Aliso Viejo Company shall provide at least 1,000 units of for-sale housing to moderate-income persons at prices affordable to a range of households earning from 81 to 120 percent of the median income for Orange County as adjusted for family size pursuant to the commission's housing guidelines on affordable housing dated January 22, 1980, and July 16, 1979, and any additional provisions as agreed to between the commission and the Aliso Viejo Company as referred to in this subdivision.

For purposes of this subdivision, median income constitutes the figure most recently established by the Department of Housing and Urban Development at the time the public report for the units, or any portion thereof, is issued by the Department of Real Estate. The affordable units required by this subdivision shall be priced equally over the moderate-income range and shall reflect a reasonable mix as to size and number of bedrooms.

(2) The 1,000 units provided pursuant to this subdivision shall be sold subject to controls on resale substantially as provided in the commission's housing guidelines on affordable housing, dated January 22, 1980, and July 16, 1979, and any additional provisions as agreed to between the commission and the Aliso Viejo Company as referred to in this subdivision. On or before entering the agreement provided for herein, the Aliso Viejo Company shall enter into an agreement, approved by the executive director of the commission, with the Orange County Housing Authority or any other appropriate housing agency acceptable to the executive director of the commission to provide for the administration of the resale controls including the qualification of purchasers.

(3) The 1,000 units provided pursuant to this subdivision may be dispersed throughout the Aliso Viejo Planned Community, and shall be completed and offered for sale prior to, or simultaneously with, other units in the overall project, so that at any time at least 7½ percent of the units constructed shall be resale-controlled until the 1,000 units are completed.

(4) The Department of Housing and Community Development and the County of Orange shall be third party beneficiaries to the agreement provided in this subdivision and shall have the power to enforce any and all provisions of the agreement.

(5) This agreement may only be amended upon the determination of the Aliso Viejo Company or its successors or assigns, the commission, the Department of Housing and Community Development, and the County of Orange that the change is necessary in order to prevent adverse effects on the supply of low- and moderate-income housing opportunities and to improve the methods of providing the housing at continually affordable prices.

The Legislature hereby finds and declares that, because the Aliso Viejo Company, in addition to the 1,000 units of controlled housing provided in this subdivision, will provide for 2,000 units of subsidized affordable housing for low income persons and 2,000 affordable housing units for moderate income persons pursuant to the company's housing program, the purposes of Section 30213 will be met by enactment of this subdivision. The Legislature further finds and declares that the general provisions of this subdivision are specifically described and set forth in letters by Aliso Viejo Company and the executive director of the commission published in the Journals of the Senate and the Assembly of the 1979–80 Regular Session, and it is the intent of the Legislature that the commission and Aliso Viejo Company conform the agreement provided in this subdivision to the specific provisions described in the letters.

(g) Notwithstanding any other provision of law, the application of this division by the commission to the development or use of any infrastructure necessary and appropriate to serve development within the portions of the Aliso Viejo Planned Community located inland of the coastal zone as amended by this section, shall be strictly limited to addressing direct impacts on coastal zone resources and shall be carried out in a manner that assures that the infrastructure will be provided. Furthermore, the commission shall amend without conditions its prior permit No. A-61-76 to provide for its release of sewer outfall flow limitations necessary and appropriate to serve the Aliso Viejo Planned Community located inland of the coastal zone as amended by this subdivision. For purposes of this subdivision, "infrastructure" means those facilities and improvements necessary and appropriate to develop, construct, and serve urban communities, including but not limited to, streets, roads, and highways; transportation systems and facilities; schools; parks; water and sewage systems and facilities; electric, gas, and communications systems and facilities; and drainage and flood control systems and

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facilities. Notwithstanding this subdivision, the commission may limit, or reasonably condition, the use of the transit corridor in Aliso Creek Valley to transit uses, uses approved by the commission that will serve the Aliso Greenbelt Project prepared by the State Coastal Conservancy, the provision of access to and from the sewage treatment works in Aliso Creek Valley, emergency uses, and drainage and flood control systems and facilities and other services approved pursuant to this subdivision.

(h) This section shall become operative only when the commission and Aliso Viejo Company have entered into the binding and enforceable agreement provided for in this section, and the agreement has been duly recorded with the county recorder of Orange County.

SEC. 380. Section 30170.6 of the Public Resources Code, as added by Chapter 1103 of the Statutes of 1980, is amended and renumbered to read:

30170.7. Notwithstanding Section 17 of Chapter 1330 of the Statutes of 1976, as amended by Section 29 of Chapter 1331 of the Statutes of 1976, any map dated September 12, 1979, and filed on September 14, 1979, with the office of the Secretary of State, or any provision of Section 30170, the inland boundary of the coastal zone in that portion of the County of San Diego known as Green Valley is generally described by a line commencing on the existing coastal zone boundary at a point on the westerly right-of-way of El Camino Real that is 1,000 feet southeasterly of the mean high tide line of Batiquitos Lagoon; westerly for 3,000 feet along a line 1,000 feet southerly from the mean high tide line of Batiquitos Lagoon; southerly for 6,500 feet along a line 3,000 feet westerly of El Camino Real; and easterly to a point in the vicinity of the intersection of El Camino Real and Olivenhain Road on the existing coastal zone boundary.

This section shall not become operative if, within six months following submission to the regional commission, the commission approves, or approves with conditions, pursuant to Section 30512 that portion of the County of San Diego's land use plan of its proposed local coastal program that applies to the land area described in this section.

SEC. 381. Section 30302 of the Public Resources Code is amended to read:

30302. The six regional commissions shall be constituted as follows:

(a) The North Coast Regional Commission for Del Norte, Humboldt, and Mendocino Counties shall consist of the following members:

(1) One supervisor and one city councilperson from each county.

(2) Six representatives of the public.

(b) The North Central Coast Regional Commission for Sonoma, Marin, and San Francisco Counties shall consist of the following members:

(1) One supervisor and one city councilperson from Sonoma County and Marin County.

(2) Two supervisors of the City and County of San Francisco.

(3) One delegate of the Association of Bay Area Governments.

(4) Seven representatives of the public.

(c) The Central Coast Regional Commission for San Mateo, Santa Cruz, and Monterey Counties shall consist of the following members:

(1) One supervisor and one city councilperson from each county.

(2) One delegate of the Association of Bay Area Governments.

(3) One delegate of the Association of Monterey Bay Area Governments.

(4) Eight representatives of the public.

(d) The South Central Coast Regional Commission for San Luis Obispo, Santa Barbara, and Ventura Counties shall consist of the following members:

(1) One supervisor and one city councilperson from each county.

(2) Six representatives of the public.

(e) The South Coast Regional Commission of Los Angeles and Orange Counties shall consist of the following members:

(1) One supervisor from each county.

(2) One city councilperson from the City of Los Angeles nominated by majority vote of the city council and appointed by the president of the city council.

(3) One city councilperson from Los Angeles County from a city other than Los Angeles.

(4) One city councilperson from Orange County.

(5) One delegate of the Southern California Association of Governments.

(6) Six representatives of the public.

(f) The San Diego Coast Regional Commission for San Diego County, shall consist of the following members:

(1) Two supervisors from San Diego County and two city councilpersons from San Diego County, at least one of whom shall be from a city which lies, in whole or in part, within the coastal zone.

(2) One city councilperson from the City of San Diego, selected by the city council of that city.

(3) One member of the San Diego Comprehensive Planning Organization.

(4) Six representatives of the public.

SEC. 382. Section 30339 of the Public Resources Code is amended to read:

30339. The commission and each regional commission shall:

(a) Ensure full and adequate participation by all interested groups and the public at large in the commission's and each regional commission's work program.

(b) Ensure that timely and complete notice of commission and regional commission meetings and public hearings is disseminated to all interested groups and the public at large.

(c) Advise all interested groups and the public at large as to

effective ways of participating in commission and regional commission proceedings.

(d) Recommend to any local government preparing or implementing a local coastal program and to any state agency that is carrying out duties or responsibilities pursuant to this division, additional measures to assure open consideration and more effective public participation in its programs or activities.

SEC. 383. Section 30340.5 of the Public Resources Code is amended to read:

30340.5. (a) It is the policy of the state that no less than 50 percent of funds received by the state from the federal government pursuant to the Federal Coastal Zone Management Act of 1972 (16 U.S.C. Section 1451, et seq.), shall be used for the preparation, review, approval, certification, and implementation of local coastal programs.

(b) Any local government subject to this division may claim reimbursement of costs incurred as a direct result of the operation of or any requirement promulgated pursuant to this division. Notwithstanding any other provision of law, claims for reimbursement of mandated costs directly attributable to the operation of this division shall only be submitted, reviewed, and approved in the manner set forth in this section.

(c) Claims pursuant to this section shall be submitted to the executive director of the commission no later than August 31. The executive director shall review the claims in accordance with the provisions of this section and shall submit all the claims to the Controller within 60 days after receipt of a claim but in no event later than October 31.

(d) All claims submitted pursuant to this section shall be filed on forms approved and prepared by the commission in consultation with the Controller. The forms shall specify the information needed to enable the executive director of the commission and the Controller to make the determinations required by subdivision (e). The forms shall clearly set forth information requirements for the evaluation of the following categories of costs:

(1) Costs for work relating to the preparation, review, and approval of local coastal programs or any portion thereof.

(2) Costs for work which is not covered by paragraph (1).

The claim forms required by this section shall provide for claims of actual costs incurred during the fiscal year preceding submittal and for the costs the claimant local government estimates will be incurred during the then current fiscal year.

(e) The executive director shall review and evaluate each claim submitted pursuant to this section and shall determine whether:

(1) The costs claimed are not paid for or reimbursed from any other source of state or federal funding.

(2) The costs are for work which is the direct result of and is mandated by the operation of this division or by the commission or whether the work is optional.

(3) With respect to costs specified in paragraph (1) of subdivision (d), the work done or to be done is reasonable and necessary for the preparation and approval of a local coastal program pursuant to a local coastal program work program approved by the commission, or for work which is not part of an approved work program if the work can be shown to be necessary for the completion of a certifiable local coastal program or if new information or other circumstances cause the commission to require that the work be carried out.

(f) The executive director of the commission shall submit to the Controller, on behalf of each claimant local government, all claims submitted pursuant to this section together with his or her recommendation whether the Controller should allow or deny, in whole or in part, the claim. The executive director's recommendation shall be based on his or her determinations made pursuant to subdivision (e). If the executive director fails to make a recommendation by the time claims are required to be submitted to the Controller as provided in subdivision (c), the executive director is deemed to have recommended approval of the claim.

(g) Section 2231 of the Revenue and Taxation Code shall apply to claims filed pursuant to this section. However, where a conflict between Section 2231 of the Revenue and Taxation Code and this section occurs, the conflict shall be resolved in a manner that best carries out the purposes of this section. The Controller shall apply the criteria of subdivision (e) in determining whether to allow or deny, in whole or in part, any claim and shall consider the recommendations of the executive director of the commission.

SEC. 384. Section 30700 of the Public Resources Code is amended to read:

30700. For purposes of this division, notwithstanding any other provisions of this division except as specifically stated in this chapter, this chapter shall govern those portions of the Ports of Hueneme, Long Beach, Los Angeles, and San Diego Unified Port District located within the coastal zone, but excluding any wetland, estuary, or existing recreation area indicated in Part IV of the coastal plan.

SEC. 385. Section 34056 of the Public Resources Code is amended to read:

34056. (a) After completing the evaluation, review, and classification of an application, the State Coastal Conservancy shall forward the application to the California Coastal Commission for a determination as to its consistency with the approved land use plan of the applicable local coastal program.

(b) Applications which are determined by the Executive Director of the California Coastal Commission to be consistent with the approved land use plan of the applicable local coastal program shall be returned to the State Coastal Conservancy for the purpose of disbursing grants consistent with priorities and criteria developed pursuant to Section 34054. No grant may be disbursed until the land use plan of a local coastal program has been approved.

SEC. 386. Section 1901 of the Public Utilities Code is amended to

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read:

1901. Copies of all official documents and orders filed or deposited according to law in the office of the commission, certified by a commissioner or by the executive director or an assistant executive director under the official seal of the commission to be true copies of the originals, shall be evidence in like manner as the originals.

SEC. 387. Section 1902 of the Public Utilities Code is amended to read:

1902. Every order, authorization, or certificate issued or approved by the commission under the following provisions of this part shall be in writing and entered on the records of the commission:

(a) Sections 764 to 767, inclusive.
(b) Sections 816 to 829, inclusive.
(c) Sections 851 to 853, inclusive.
(d) Sections 1001 to 1010, inclusive.
(e) Sections 1201 to 1220, inclusive.

Any order, authorization, or certificate, or a copy thereof, or a copy of the record thereof, certified by a commissioner or by the executive director or the assistant executive director under the official seal of the commission to be a true copy of the original, may be recorded in the office of the recorder of any county, or city and county, in which is located the principal place of business of any public utility affected thereby, or in which is situated any property of any such public utility, and that record is public notice. A certificate under the seal of the commission that any order, authorization, or certificate has not been modified, stayed, suspended, or revoked may also be recorded in the same offices in the same manner and with like effect.

SEC. 388. Section 5503.5 of the Public Utilities Code is amended to read:

5503.5. Notwithstanding the provisions of Section 5503, the commission shall require less accident insurance than that required of commercial air operators pursuant to Section 5503, of persons who fulfill all the following requirements:

(a) That conduct nonstop sightseeing flights that begin and end at the same airport and are conducted within a 25-mile radius of that airport.

(b) Engage in passenger-carrying airlift sponsored by a charitable organization, and for which the passengers make a donation to the organization.

(c) The flight is conducted from a public airport adequate for the aircraft used, or from another airport that has been approved for the operation by a Federal Aviation Administration inspector.

(d) Each pilot in command has logged at least 200 hours of flight time within the previous four years.

(e) No acrobatic or formation flights are conducted.

(f) Each aircraft used is certificated in the standard category and complies with the 100-hour inspection requirement of Title 14, Code of Federal Regulations, Section 91.169.

(g) The flight is made under visual flying rules during the day.

SEC. 389. Section 21675 of the Public Utilities Code is amended to read:

21675. (a) The commission shall formulate a comprehensive land use plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission plan shall include a long-range master plan that reflects the anticipated growth of the airport during at least the next 20 years. In formulating a land use plan, the commission may develop height restrictions on buildings, may specify use of land, and may determine building standards, including soundproofing adjacent to airports, within the planning area.

(b) The commission may include, within its plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding any federal military airport for all the purposes specified in subdivision (a). This subdivision does not give the commission any jurisdiction or authority over the territory or operations of any military airport.

(c) The planning boundaries shall be established by the commission after hearing and consultation with the involved agencies.

SEC. 390. Section 27091 of the Public Utilities Code is amended to read:

27091. From and after the date of annexation the board shall levy upon all of the property in the territory annexed any taxes, tolls, or charges which are necessary to provide funds for the payment of the indebtedness assumed by the territory or otherwise necessary to comply with the terms and conditions of the annexation, all in addition to the general district taxes authorized elsewhere in this division to be levied and collected.

SEC. 391. Section 29038 of the Public Utilities Code is amended to read:

29038. The rates and charges for service furnished pursuant to this part shall be fixed by a two-thirds vote of the board and shall be reasonable. Insofar as practicable, the rates shall be fixed so as to result in revenue which will be sufficient to do all of the following:

(a) Pay the operating expenses of the district.

(b) Provide for repairs, maintenance, and depreciation of works owned or operated by the district.

(c) Provide for the purchase, lease, or acquisition of rolling stock, including provisions for interest, sinking funds, reserve funds, or other funds required for the payment of any obligations incurred by the district for the acquisition of rolling stock.

(d) After making any current allocation of funds required for the foregoing purposes and by the terms of any indebtedness incurred under Articles 6 (commencing with Section 29240) and 7 (commencing with Section 29250) of Chapter 8, provide funds for

any purpose the board deems necessary and desirable to carry out the purposes of this part.

SEC. 392. Section 29171 of the Public Utilities Code is amended to read:

29171. Coupon bonds may be issued in denominations of one thousand dollars ($1,000), or multiples thereof, as the district may determine. Coupon bonds of different denominations shall be exchangeable for coupon bonds of other denominations or for registered bonds on terms and conditions as the district may determine, including provisions for the authentication of any bonds issued upon the exchange by the registration agent or other agents appointed by the district for that purpose.

SEC. 393. Section 29750 of the Public Utilities Code is amended to read:

29750. If district bonds for the acquisition or construction of rapid transit facilities have not been voted by the electors within five years of the creation of the district, the board of directors may call an election for the purpose of submitting to the voters of the district the question of whether the district will be dissolved. Upon the filing with the secretary of the district of a petition signed by voters within the district equal in number to at least 25 percent of the total vote cast in the district for all candidates for Governor at the last preceding general election at which a Governor was elected, asking that the question of dissolution of the district be submitted to the voters of the district, the board shall call an election for that purpose.

SEC. 394. Section 29753 of the Public Utilities Code is amended to read:

29753. The ballots for the election shall contain substantially the instructions required to be printed on ballots for use at general state and county elections and in addition the following:

Shall the San Francisco Bay Area Rapid Transit District be dissolved?	YES	
	NO	

SEC. 395. Section 50218 of the Public Utilities Code is amended to read:

50218. The district's taxes so levied shall be collected at the same time and in the same manner as county taxes. When collected the net amount, ascertained as provided in this article, shall be paid to the treasurer of the district, under the general requirements and penalties provided by law for the settlement of other taxes.

SEC. 396. Section 99117 of the Public Utilities Code is amended to read:

99117. All accrued interest and premiums received on the sale of bonds shall be placed in the fund to be used for the payment of principal of and interest on the bonds and the remainder of the proceeds of the bonds shall be placed in the treasury to the credit of

the proper benefit fund and applied exclusively to the purposes for which the debt was incurred. However, when those purposes have been accomplished any moneys remaining in the benefit fund shall be (a) transferred to the fund to be used for the payment of principal of and interest on the bonds, or (b) placed in a fund to be used for the purchase of outstanding bonds of the benefit district from time to time in the open market at those prices and in the manner, either at public or private sale or otherwise, as the legislative body or board of supervisors may determine. Bonds so purchased shall be canceled immediately.

SEC. 397. Section 99 of the Revenue and Taxation Code is amended to read:

99. (a) For the purposes of the computations required by this chapter:

(1) In the case of a jurisdictional change, other than a city incorporation or a formation of a district as defined in Section 2215, the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 97, or the annual tax increment determined pursuant to Section 98, for local agencies whose service area or service responsibility would be altered by the jurisdictional change, as determined pursuant to subdivision (b) or (c).

(2) In the case of a city incorporation or a formation of a district as defined in Section 2215, the auditor shall assign the allocation of property tax revenues determined pursuant to Section 54790.3 of the Government Code to the newly formed city or district and shall make the adjustment as determined by Section 54790.3 of the Government Code in the allocation of property tax revenue determined pursuant to Section 96 or 97 for each local agency whose service area or service responsibilities would be altered by the incorporation or formation.

(b) Upon the filing of an application or a resolution pursuant to the Municipal Organization Act (Part 2 (commencing with Section 35000) of Division 2 of Title 4 of the Government Code) or the District Reorganization Act of 1965 (Part 1 (commencing with Section 56000) of Division 1 of Title 6 of the Government Code), but prior to the issuance of a certificate of filing, the executive officer shall give notice of the filing to the assessor and auditor of each county within which the territory subject to the jurisdictional change is located. The notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change.

(1) (A) The county assessor shall provide to the county auditor, within 30 days of the notice of filing, a report which identifies the assessed valuations for the territory subject to the jurisdictional change and the tax rate area or areas in which the territory exists.

(B) The auditor shall estimate the amount of property tax revenue generated within the territory which is the subject of the jurisdictional change during the current fiscal year.

(2) The auditor shall estimate what proportion of the property tax revenue determined pursuant to paragraph (1) is attributable to

each local agency pursuant to Section 96 or 97, and Section 98, notwithstanding the provisions of Section 98.6.

(3) Within 45 days of notice of the filing of an application or resolution, the auditor shall notify the governing body of each local agency whose service area or service responsibility will be altered by the amount of, and allocation factors with respect to, property tax revenue estimated pursuant to paragraph (2) which is subject to a negotiated exchange.

(4) Upon receipt of the estimates pursuant to paragraph (3) the local agencies shall commence negotiations to determine the amount of property tax revenues to be exchanged between and among the local agencies. Such negotiation period shall not exceed 30 days.

The exchange may be limited to an exchange of property tax revenues from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years.

During any negotiation period, all revenue from the annual tax increment which has not yet been distributed to the local agencies for the fiscal year or years in which negotiations take place shall be impounded. The auditor shall determine the amount of revenue, attributable to the annual tax increment, to be impounded based on the estimate made pursuant to paragraph (2).

(5) In the event that a jurisdictional change would affect the service area or service responsibility of one or more special districts, the board of supervisors of the county or counties in which the districts are located shall, on behalf of the district or districts, negotiate any exchange of property tax revenues.

(6) Notwithstanding any other provision of law, the executive officer shall not issue a certificate of filing pursuant to Section 54791 of the Government Code until such local agencies included in the property tax revenue exchange negotiation, within the 30-day negotiation period, present resolutions adopted by each county and city whereby each such county and city agrees to accept the exchange of property tax revenues.

(7) In the event that the commission modifies the proposal or its resolution of determination, any local agency whose service area or service responsibility would be altered by the proposed jurisdictional change may request, and the executive officer shall grant, 15 days for the affected agencies, pursuant to paragraph (4), to renegotiate an exchange of property tax revenues. Notwithstanding the time period specified in paragraph (4), if the resolutions required pursuant to paragraph (6) are not presented to the executive officer within the 15-day period, all proceedings of the jurisdictional change shall automatically be terminated.

(8) No later than the date on which the certificate of completion of the jurisdictional change is recorded with the county recorder, the

executive officer shall notify the auditor or auditors of the exchange of property tax revenues and the auditor or auditors shall make the appropriate adjustments as provided in subdivision (a).

(c) Whenever a jurisdictional change is not required to be reviewed and approved by a local agency formation commission, the local agencies whose service area or service responsibilities would be altered by the proposed change, shall give notice to the State Board of Equalization and the assessor and auditor of each county within which the territory subject to the jurisdictional change is located. The notice shall specify each local agency whose service area or responsibility will be altered by the jurisdictional change and request the auditor and assessor to make the determinations required pursuant to paragraphs (1) and (2) of subdivision (b). Upon notification by the auditor of the amount of, and allocation factors with respect to, property tax subject to exchange, the local agencies, pursuant to the provisions of paragraphs (4), (5), and (6) of subdivision (b), shall determine the amount of property tax revenues to be exchanged between and among such local agencies. Notwithstanding any other provision of law, no jurisdictional change shall become effective until each county and city included in the negotiations agrees, by resolution, to accept the negotiated exchange of property tax revenues. The exchange may be limited to an exchange of property tax revenue from the annual tax increment generated in the area subject to the jurisdictional change and attributable to the local agencies whose service area or service responsibilities will be altered by the proposed jurisdictional change. The final exchange resolution shall specify how the annual tax increment shall be allocated in future years. Upon the adoption of the resolutions required pursuant to this section, the adopting agencies shall notify the auditor who shall make the appropriate adjustments as provided in subdivision (a).

(d) With respect to adjustments in the allocation of property taxes pursuant to this section, a county and any local agency or agencies within the county may develop and adopt a master property tax transfer agreement. The agreement may be revised from time to time by the parties subject to the agreement.

(e) Except as otherwise provided in subdivision (f), for the purpose of determining the amount of property tax to be allocated in 1979–80 and thereafter for those local agencies which were affected by a jurisdictional change which was filed with the State Board of Equalization after January 1, 1978, but on or before January 1, 1979, the auditor shall impound all revenue from the annual tax increment attributable to the tax rate area or areas within the territory subject to the jurisdictional change for such affected local agencies, until such local agencies determine by resolution the amount of property tax revenues to be exchanged between and among such affected agencies and notify the auditor of the determination.

(f) For the purpose of determining the amount of property tax to

be allocated in 1979–80 and thereafter, for a city incorporation which was filed pursuant to Sections 54900 to 54904 after January 1, 1978, but on or before January 1, 1979, the amount of property tax revenue considered to have been received by such jurisdiction for the 1978–79 fiscal year shall be equal to two-thirds of the amount of property tax revenue projected in the final local agency formation commission staff report pertaining to such incorporation multiplied by the proportion that the total amount of property tax revenue received by all jurisdictions within the county for the 1978–79 fiscal year bears to the total amount of property tax revenue received by all jurisdictions within the county for the 1977–78 fiscal year. Except, however, in the event that the final commission report did not specify the amount of property tax revenue projected for such incorporation, the commission shall by October 10, determine pursuant to Section 54790.3 of the Government Code, the amount of property tax to be transferred to the city.

The provisions of this subdivision shall also apply to the allocation of property taxes for the 1980–81 fiscal year and thereafter for incorporations approved by the voters in June 1979.

(g) For the purpose of the computations made pursuant to this section, in the case of a district formation which was filed pursuant to Sections 54900 to 54904, inclusive, of the Government Code after January 1978, but before January 1, 1979, the amount of property tax to be allocated to the district for the 1979–80 fiscal year and each fiscal year thereafter shall be determined pursuant to Section 54790.3 of the Government Code.

(h) For the purposes of the computations required by this chapter, in the case of a jurisdictional change, other than a change requiring an adjustment by the auditor pursuant to subdivision (a), the auditor shall adjust the allocation of property tax revenue determined pursuant to Section 96 or 97, or the annual tax increment determined pursuant to Section 98, for each local school district, community college district, or county superintendent of schools whose service area or service responsibility would be altered by such jurisdictional change, as determined as follows:

(1) The governing body of each such district, county superintendent of schools, or county whose service areas or service responsibilities would be altered by the change shall determine the amount of property tax revenues to be exchanged between and among such affected jurisdictions. The determination shall be adopted by each affected jurisdiction by resolution. For the purpose of negotiation, the county auditor shall furnish the parties and the county board of education with an estimate of the property tax revenue subject to negotiation.

(2) In the event that affected jurisdictions are unable to agree, within 60 days after the effective date of the jurisdictional change, and if all the jurisdictions are wholly within one county, the county board of education shall, by resolution, determine the amount of property tax revenue to be exchanged. If the jurisdictions are in

more than one county, the State Board of Education shall, by resolution, within 60 days after the effective date of the jurisdictional change, determine the amount of property tax to be exchanged.

(3) Upon adoption of any resolution pursuant to this subdivision, the adopting jurisdictions or State Board of Education shall notify the county auditor who shall make the appropriate adjustments as provided in subdivision (a).

(i) For purposes of subdivision (h), the annexation by a community college district of territory within a county not previously served by a community college district is an alteration of service area. The community college district and the county shall negotiate the amount, if any, of property tax revenues to be exchanged. In the negotiations, there shall be taken into consideration the amount of revenue received from the timber yield tax and forest reserve receipts by the community college district in the area not previously served. In no event shall the property tax revenue to be exchanged exceed the amount of property tax revenue collected prior to such annexation for the purposes of paying tuition expenses of residents enrolled in the community college district, adjusted each year by the percentage change in population and the percentage change in cost of living, or per capita personal income, whichever is lower, less the amount of revenue received by the community college district in the annexed area from the timber yield tax and forest reserve receipts.

SEC. 398. Section 232 of the Revenue and Taxation Code, as added by Chapter 14 of the Statutes of 1974, is amended and renumbered to read:

234. Seed potatoes of a grower, which are personal property, held on the lien date for subsequent planting in field form and planted during the assessment year by the grower shall be exempt from taxation. This section does not apply to plant nurseries.

SEC. 399. Section 485 of the Revenue and Taxation Code is amended to read:

485. If, after written request by the assessor, any person fails to comply with any provision of law for furnishing information required by Section 480, the assessor, based upon information in his possession, shall estimate the value of the property and, based upon this estimate, promptly assess the property.

SEC. 400. Section 4836.5 of the Revenue and Taxation Code is amended to read:

4836.5. In the event any correction authorized under this article has the effect of increasing the assessment, the board of supervisors shall apply a tax rate to such increase at whatever tax rate was in existence in the year in which the error was made and shall apply the assessment ratio that was in existence in the year in which the error was made. All increased amounts of taxes shall be entered on the roll prepared or being prepared for the current assessment year and shall thereafter be treated and collected like other taxes on the roll; provided, however, that if the correction affects taxes on the secured

roll for any year and subsequent to the entry of the original assessment but prior to the date of the correction the real property on which the taxes constitute a lien has been transferred or conveyed to a bona fide purchaser for value or becomes subject to a bona fide encumbrance for value, the increased amount of taxes shall not create, impose or constitute a lien on the real property and shall be entered on the unsecured roll in the name of the assessee at the time the error was made and shall thereafter be treated and collected like other taxes on the roll.

The entry on the unsecured roll shall be followed with "Correction to account or Parcel Number _____ for the 19__–19__ assessment year pursuant to Section(s) _____ of the Revenue and Taxation Code." The foregoing entry may be made on a document separate from the roll if reference is made on the roll to the document wherein the entry is made.

SEC. 401. The heading of Chapter 6 (commencing with Section 5801) of Part 12 of Division 1 of the Revenue and Taxation Code, as added by Chapter 1759 of the Statutes of 1971, is repealed. The repeal made by this section shall not affect the existence or validity of the heading of Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code, as added by Chapter 285 of the Statutes of 1980.

SEC. 402. Section 6486 of the Revenue and Taxation Code is amended to read:

6486. The board shall give to the retailer or person storing, using, or consuming tangible personal property written notice of its determination. The notice shall be placed in a sealed envelope, with postage paid, addressed to the retailer or person storing, using, or consuming tangible personal property at his or her address as it appears in the records of the board. The giving of notice shall be deemed complete at the time of the deposit of the notice in the United States Post Office, or a mailbox, sub-post office, substation or mail chute or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering it to the person to be served and service is complete at the time of delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

SEC. 403. Section 6593 of the Revenue and Taxation Code, as added by Chapter 1194 of the Statutes of 1980, is amended and renumbered to read:

6594. Notwithstanding any other provision of this part, no interest or penalties shall be assessed against any person for failure to make payments of any taxes on leases of personal property to the United States government while the board is enjoined from collecting such taxes by order of the United States District Court for the Central District of California in the case of United States of

America v. California State Board of Equalization, No. CV 79-03359-R, provided that payment of any applicable taxes is made within 60 days after the board is no longer enjoined from collecting such taxes.

SEC. 404. Section 7396 of the Revenue and Taxation Code is amended to read:

7396. All money received in payment of the tax imposed by this chapter shall be deposited in the State Treasury to the credit of the Motor Vehicle Fuel Account in the Transportation Tax Fund, and after the payment of any refunds authorized by this part, the balance remaining shall be transferred to the Aeronautics Account in the State Transportation Fund for allocation pursuant to Section 8352.3.

SEC. 405. The heading of Article 4 (commencing with Section 14791) of Chapter 12 of Part 8 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 406. Section 15556 of the Revenue and Taxation Code is amended to read:

15556. In determining the value of any estate or interest in property to the beneficial enjoyment or possession of which there is a donee presently entitled, no allowance is made on account of any contingent incumbrance on the estate or interest, nor on account of any contingency upon the happening of which the estate or interest, or some part of it, might be abridged, defeated, or diminished.

SEC. 407. Section 17153 of the Revenue and Taxation Code is amended to read:

17153. Gross income does not include wages, fees, or salary of an employee of a foreign country (including a consular or other officer, or a nondiplomatic representative) received as compensation for official services to that country if all of the following conditions are met:

(a) The employee is not a citizen of the United States.

(b) The services are of a character similar to those performed by employees of the United States in foreign countries.

(c) The foreign country and political subdivisions thereof do not tax the wages, fees, or salaries of employees of the United States performing similar services in that country.

SEC. 408. Section 17203 of the Revenue and Taxation Code is amended to read:

17203. (a) There shall be allowed as a deduction all interest paid or accrued within the taxable year on indebtedness. However, no deduction shall be allowed to the extent that it is connected with income not taxable under this part. The proper apportionment and allocation of the deduction with respect to taxable and nontaxable income shall be determined under rules and regulations prescribed by the Franchise Tax Board.

(b) (1) If personal property or educational services are purchased under a contract—

(A) Which provides that payment of part or all of the purchase price is to be made in installments; and

(B) In which carrying charges are separately stated but the interest charge cannot be ascertained;

then the payments made during the taxable year under the contract shall be treated for purposes of this section as if they included interest equal to 6 percent of the average unpaid balance under the contract during the taxable year. For purposes of the preceding sentence, the average unpaid balance is the sum of the unpaid balance outstanding on the first day of each month beginning during the taxable year, divided by 12.

For purposes of this paragraph, the term "educational services" means any service (including lodging) which is purchased from an educational institution (as defined in subdivision (c) of Section 17150) and which is provided for a student of such institution.

(2) In the case of any contract to which paragraph (1) applies, the amount treated as interest for any taxable year shall not exceed the aggregate carrying charges which are properly attributable to such taxable year.

(c) The amendments made in subdivision (b) shall apply to payments made during taxable years beginning after December 31, 1963.

(d) (1) The amount of investment interest (as defined in subparagraph (D) of paragraph (3)) otherwise allowable as a deduction under this part shall be limited, in the following order, to—

(A) Ten thousand dollars ($10,000) (five thousand dollars ($5,000), in the case of a separate return by a married individual), plus

(B) The amount of the net investment income (as defined in subparagraph (A) of paragraph (3)), plus the amount (if any) by which the deductions allowable under this section (determined without regard to this subdivision) and Section 17202, paragraphs (1) and (2) of subdivision (a) of Section 17204 or Section 17252 attributable to property of the taxpayer subject to a net lease exceeds the rental income produced by such property for the taxable year.

In the case of a trust, the ten thousand dollars ($10,000) amount specified in subparagraph (A) shall be zero.

(2) The amount of disallowed investment interest for any taxable year shall be treated as investment interest paid or accrued in the succeeding taxable year.

(3) For purposes of this subdivision—

(A) The term "net investment income" means the excess of investment income over investment expenses. If the taxpayer has investment interest for the taxable year to which this subdivision (as in effect before the enactment of the amendments made in this subdivision in the 1977–78 Legislative Session) applies, the amount of the net investment income taken into account under this subdivision shall be the amount of such income (determined without regard to this sentence) multiplied by a fraction, the numerator of which is the excess of the investment interest for the taxable year

over the investment interest to which such prior provision applies, and the denominator of which is the investment interest for the taxable year.

(B) The term "investment income" means—

(i) The gross income from interest, dividends, rents, and royalties,

(ii) The capital gain attributable to the disposition of property held for investment and held for not more than one year, and

(iii) Any amount treated under Sections 18211, 18212 to 18218, inclusive, and 18221 as gain from the sale or exchange of property which is neither a capital asset nor property described in Sections 18181 and 18182 but only to the extent such income, gain, and amounts are not derived from the conduct of a trade or business.

(C) The term "investment expenses" means the deductions allowable under Section 17202, paragraph (1) or (2) of subdivision (a) of Section 17204, Sections 17207, 17208 to 17211.7, inclusive, 17217 to 17221, inclusive, 17252, or 17681 directly connected with the production of investment income. For purposes of this subparagraph, the deduction allowable under Sections 17208 to 17211.5, inclusive, with respect to any property may be treated as the amount which would have been allowable had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property, and the deduction allowable under Section 17681 with respect to any property may be treated as the amount which would have been allowable had the taxpayer determined the deduction under Section 17681 without regard to Sections 17683 to 17688, inclusive, for each taxable year for which the taxpayer has held the property.

(D) The term "investment interest" means interest paid or accrued on indebtedness incurred or continued to purchase or carry property held for investment.

(E) The term "disallowed investment interest" means with respect to any taxable year, the amount not allowable as a deduction solely by reason of the limitation in paragraph (1).

(4) (A) For purposes of this subdivision, property subject to a lease shall be treated as property held for investment, and not as property used in a trade or business, for a taxable year, if—

(i) For such taxable year the sum of the deductions of the lessor with respect to such property which are allowable solely by reason of Section 17202 (other than rents and reimbursed amounts with respect to such property) is less than 15 percent of the rental income produced by such property, or

(ii) The lessor is either guaranteed a specified return or is guaranteed in whole or in part against loss of income.

(B) In the case of a partnership, each partner shall, under regulations prescribed by the Franchise Tax Board, take into account separately his or her distributive share of the partnership's investment interest and the other items of income and expense taken into account under this subdivision.

(C) For purposes of this subdivision, interest paid or accrued on

indebtedness incurred or continued in the construction of property to be used in a trade or business shall not be treated as investment interest.

(5) This subdivision shall not apply with respect to investment interest, investment income, and investment expenses attributable to a specific item of property, if the indebtedness with respect to such property—

(A) Is for a specified term, and

(B) Was incurred before December 17, 1969, or is incurred after December 16, 1969, pursuant to a written contract or commitment which, on such date and at all times thereafter prior to the incurring of such indebtedness, is binding on the taxpayer.

For taxable years beginning after December 31, 1976, the paragraph shall be applied on an allocation basis rather than a specific item basis.

(6) For purposes of subparagraph (A) of paragraph (4)—

(A) If a parcel of real property of the taxpayer is leased under two or more leases, clause (i) of subparagraph (A) of paragraph (4) shall, at the election of the taxpayer, be applied by treating all leased portions of such property as subject to a single lease; and

(B) At the election of the taxpayer, clause (i) of subparagraph (A) of paragraph (4) shall not apply with respect to real property of the taxpayer which has been in use for more than five years.

An election under subparagraph (A) or (B) shall be made at such time and in such manner as the Franchise Tax Board prescribes by regulations.

(7) (A) In the case of any 50-percent-owned corporation or partnership, the ten thousand dollar ($10,000) figure specified in paragraph (1) shall be increased by the lesser of—

(i) Fifteen thousand dollars ($15,000), or

(ii) The interest paid or accrued during the taxable year on investment indebtedness incurred or continued in connection with the acquisition of the interest in such corporation or partnership.

In the case of a separate return by a married individual, seven thousand five hundred dollars ($7,500) shall be substituted for the fifteen thousand dollars ($15,000) figure in clause (i).

(B) This paragraph shall apply with respect to indebtedness only if the taxpayer, his or her spouse, and his or her children own 50 percent or more of the total value of all classes of stock of the corporation or 50 percent or more of all capital interests in the partnership, as the case may be.

(e) (1) The amendments made in subdivision (d) by the First Extraordinary Session of the 1971 Legislature and the Regular Session of the 1972 Legislature shall apply to taxable years beginning after December 31, 1971.

(2) Except as provided in paragraph (3), the amendments made in subdivision (d) by the 1977–78 Legislature shall apply to taxable years beginning after December 31, 1976.

(3) In the case of indebtedness attributable to a specific item of

property which—

(A) Is for a specified term, and

(B) Was incurred before September 11, 1975, or is incurred after September 10, 1975, pursuant to a written contract or commitment which on September 11, 1975, and at all times thereafter before the incurring of such indebtedness, is binding on the taxpayer.

The amendments made by this section at the 1977–78 Regular Session of the Legislature shall not apply, but subdivision (d) of Section 17203 (as in effect before the enactment of these amendments) shall apply. For purposes of the preceding sentence, so much of the net investment income (as defined in subparagraph (A) of paragraph (3) of subdivision (d) of Section 17203) for any taxable year as is not taken into account under subdivision (d) of Section 17203, as amended by these amendments, by reason of the last sentence of subparagraph (A) of paragraph (3) of subdivision (d), shall be taken into account for purposes of applying such section as in effect before the date of enactment of these amendments with respect to interest on indebtedness referred to in the preceding sentence.

SEC. 409. Section 17206 of the Revenue and Taxation Code is amended to read:

17206. (a) There shall be allowed as a deduction any loss sustained during the taxable year and not compensated for by insurance or otherwise.

(b) For purposes of subdivision (a), the basis for determining the amount of the deduction for any loss shall be the adjusted basis provided in Section 18041 for determining the loss from the sale or other disposition of property.

(c) In the case of an individual, the deduction under subdivision (a) shall be limited to—

(1) Losses incurred in a trade or business;

(2) Losses incurred in any transaction entered into for profit, though not connected with a trade or business; and

(3) Losses of property not connected with a trade or business, if the losses arise from fire, storm, shipwreck, or other casualty, or from theft. A loss described in this paragraph shall be allowed only to the extent that the amount of loss to the individual arising from each casualty, or from each theft, exceeds one hundred dollars ($100). For purposes of the one hundred dollars ($100) limitation of the preceding sentence, a husband and wife making a joint return under Section 18402 for the taxable year in which the loss is allowed as a deduction shall be treated as one individual. No loss described in this paragraph shall be allowed if, at the time of filing the return, the loss has been claimed for inheritance tax purposes in the inheritance tax return.

(d) Losses from wagering transactions shall be allowed only to the extent of the gains from the transactions.

(e) For purposes of subdivision (a), any loss arising from theft shall be treated as sustained during the taxable year in which the

taxpayer discovers the loss.

(f) Losses from sales or exchanges of capital assets shall be allowed only to the extent allowed in Section 18152.

(g) (1) If any security which is a capital asset becomes worthless during the taxable year, the loss resulting therefrom shall, for purposes of this part, be treated as a loss from the sale or exchange, on the last day of the taxable year, of a capital asset.

(2) For purposes of this subdivision, the term "security" means—

(A) A share of stock in a corporation;

(B) A right to subscribe for, or to receive, a share of stock in a corporation; or

(C) A bond, debenture, note, or certificate, or other evidence of indebtedness, issued by a corporation or by a government or political subdivision thereof, with interest coupons or in registered form.

SEC. 410. Section 17253 of the Revenue and Taxation Code is amended to read:

17253. There shall be allowed as a deduction the following amounts, not compensated for by insurance or otherwise—

(a) The amount by which the amount of the expenses paid during the taxable year (reduced by any amount deductible under subdivision (b)) for medical care of the taxpayer, his spouse, and dependents (as defined in Section 17056) exceeds 3 percent of the adjusted gross income, and

(b) An amount (not in excess of one hundred fifty dollars ($150)) equal to one-half of the expenses paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

(c) As used in this section, "expenses" includes any amount paid, as required under the parental reimbursement regulation in Title 17 of the California Administrative Code, as certified by the State Department of Developmental Services.

SEC. 411. Section 17482 of the Revenue and Taxation Code is amended to read:

17482. (a) No gain or loss shall be recognized on an exchange consisting of the relinquishment or extinguishment of stock or securities in a corporation the plan or reorganization of which is approved by the court in a proceeding described in Section 17481, in consideration of the acquisition solely of stock or securities in a corporation organized or made use of to effectuate such plan of reorganization.

(b) If an exchange would be within the provisions of subdivision (a) if it were not for the fact that the property received in exchange consists not only of property permitted by subdivision (a) to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

SEC. 412. Section 17631 of the Revenue and Taxation Code is amended to read:

17631. An organization described in Section 17501 shall be exempt from taxation under this part unless such exemption is denied under Sections 17635 to 17639, inclusive.

SEC. 413. Section 17637 of the Revenue and Taxation Code is amended to read:

17637. For purposes of Sections 17635 to 17639, inclusive, the term "prohibited transaction" means any transaction in which an organization subject to the provisions of Sections 17635 to 17639, inclusive—

(a) Lends any part of its income or corpus, without the receipt of adequate security and a reasonable rate of interest, to;

(b) Pays any compensation, in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered, to;

(c) Makes any part of its services available on a preferential basis to;

(d) Makes any substantial purchase of securities or any other property, for more than adequate consideration in money or money's worth, from;

(e) Sells any substantial part of its securities or other property, for less than an adequate consideration in money or money's worth to; or

(f) Engages in any other transaction which results in a substantial diversion of its income or corpus to;

the creator of such organization (if a trust); a person who has made a substantial contribution to such organization; a member of the family (as defined in subdivision (d) of Section 17289) of an individual who is the creator of such trust or who has made a substantial contribution to such organization; or a corporation controlled by such creator or person through the ownership, directly or indirectly, of 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of all classes of stock of the corporation.

SEC. 414. Section 18082 of the Revenue and Taxation Code is amended to read:

18082. If property (as a result of its destruction in whole or in part, theft, seizure, or requisition or condemnation or threat or imminence thereof) is compulsorily or involuntarily converted:

(a) Into property similar or related in service or use to the property so converted, no gain shall be recognized.

(b) Into money, and the disposition of the converted property occurred before January 1, 1953, no gain shall be recognized if such money is forthwith in good faith, under regulations prescribed by the Franchise Tax Board, expended in the acquisition of other property similar or related in service or use to the property so converted, or in the acquisition of control of a corporation owning such other property, or in the establishment of a replacement fund. If any part of the money is not so expended, the gain shall be recognized to the extent of the money which is not so expended (regardless of whether

such money is received in one or more taxable years and regardless of whether or not the money which is not so expended constitutes gain). For the purposes of this section and Section 18083, the term "disposition of the converted property" means the destruction, theft, seizure, requisition, or condemnation of the converted property, or the sale or exchange of such property under threat or imminence of requisition or condemnation. For purposes of this subdivision and subdivision (c) and Section 18083, the term "control" means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

(c) Into money or into property not similar or related in service or use to the converted property, and the disposition of the converted property (as defined in subdivision (b)) occurred after December 31, 1952, the gain (if any) shall be recognized except to the extent hereinafter provided in Section 18083.

SEC. 415. Section 18211 of the Revenue and Taxation Code is amended to read:

18211. (a) (1) Except as otherwise provided in this section, if Section 18211 property is disposed of during a taxable year beginning after December 31, 1962, the amount by which the lower of—

(A) The recomputed basis of the property, or

(B) (i) In the case of a sale, exchange or involuntary conversion, the amount realized, or

(ii) In the case of any other disposition, the fair market value of such property,

exceeds the adjusted basis of such property shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in Sections 18181 and 18182. Such gain shall be recognized notwithstanding any other provision of this part.

(2) For purposes of this section, the term "recomputed basis" means—

(A) With respect to any property referred to in subparagraph (A) or (B) of paragraph (3), its adjusted basis recomputed by adding thereto all adjustments, attributable to periods after December 31, 1961,

(B) With respect to any property referred to in subparagraph (C) of paragraph (3), its adjusted basis recomputed by adding thereto all adjustments attributable to periods after June 30, 1963,

(C) With respect to livestock its adjusted basis recomputed by adding thereto all adjustments attributable to periods after December 31, 1969, or

(D) With respect to any property referred to in subparagraph (D) of paragraph (3), its adjusted basis recomputed by adding thereto all adjustments attributable to periods beginning with the first month for which a deduction for amortization is allowed under Section 17226 or 17227, reflected in such adjusted basis on account of deductions (whether in respect of the same or other property)

allowed or allowable to the taxpayer or to any other person for depreciation, or for amortization under Section 17226, 17227, or (in the case of property described in subparagraph (C) of paragraph (3)) 17228. For purposes of the preceding sentence if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed for depreciation, or for amortization under Section 17226, 17227, or (in the case of property discussed in subparagraph (c) of paragraph (3)) 17228, for any period was less than the amount allowable, the amount added for such period shall be the amount allowed. For purposes of this section, any deduction allowable under Section 17227 shall be treated as if it were a deduction for amortization.

(3) For purposes of this section, the term "Section 18211 property" means any property which is or has been property of a character subject to the allowance for depreciation provided in Sections 17208 to 17211.7, inclusive, and is either—

(A) Personal property,

(B) Other property (not including a building or its structural components) but only if such other property is tangible and has an adjusted basis in which there are reflected adjustments described in paragraph (2) for a period in which such property (or other property)—

(i) Was used as an integral part of manufacturing, production, or extraction or of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services, or

(ii) Constituted research or storage facilities used in connection with any of the activities referred to in clause (i),

(C) An elevator or an escalator, or

(D) So much of any real property (other than any property described in subparagraph (B)) which has an adjusted basis in which there are reflected adjustments for amortization under Section 17226, or 17227.

(4) (A) For purposes of this section, if a franchise to conduct any sports enterprise is sold or exchanged, and if, in connection with such sale or exchange, there is a transfer of any player contracts, the recomputed basis of such player contracts in the hands of the transferor shall be the adjusted basis of such contracts increased by the greater of—

(i) The previously unrecaptured depreciation with respect to player contracts acquired by the transferor at the time of acquisition of such franchise, or

(ii) The previously unrecaptured depreciation with respect to the player contracts involved in such transfer.

(B) For purposes of clause (i) of subparagraph (A), the term "previously unrecaptured depreciation" means the excess (if any) of—

(i) The sum of the deduction allowed or allowable to the taxpayer transferor for the depreciation attributable to periods after December 31, 1975, of any player contracts acquired by him or her

at the time of acquisition of such franchise, plus the deduction allowed or allowable for losses incurred after December 31, 1975, with respect to such player contracts acquired at the time of such acquisition, over

(ii) The aggregate of the amounts described in clause (i) treated as ordinary income by reason of this section with respect to prior dispositions of such player contracts acquired upon acquisition of the franchise.

(C) For purposes of clause (ii) of subparagraph (A), the term "previously unrecaptured depreciation" means the amount of any deduction allowed or allowable to the taxpayer transferor for the depreciation of any contracts involved in such transfer.

(D) For purposes of this paragraph, the term "player contract" means any contract for the services of an athlete which, in the hands of the taxpayer, is of a character subject to the allowance for depreciation provided in Section 17208.

(E) This section shall apply to transfers of player contracts in connection with any sale or exchange of a franchise after December 31, 1976, in taxable years ending after the enactment of this section.

(b) (1) Subdivision (a) shall not apply to a disposition by gift.

(2) Except as provided in Sections 17831 to 17837, inclusive (relating to income in respect of a decedent), subdivision (a) shall not apply to a transfer at death.

(3) If the basis of property in the hands of a transferee is determined by reference to its basis in the hands of the transferor by reason of the application of Section 17431, 17481, 17881, 17891, or Section 24502, 24521, or 24551 of the Bank and Corporation Tax Law, then the amount of gain taken into account by the transferor under paragraph (1) of subdivision (a) shall not exceed the amount of gain recognized to the transferor on the transfer of such property (determined without regard to this section). This paragraph shall not apply to a disposition to an organization which is exempt from the tax imposed by this part.

(4) If property is disposed of and gain (determined without regard to this section) is not recognized in whole or in part under Section 18081 or Sections 18082 to 18090.2, inclusive, then the amount of gain taken into account by the transferor under paragraph (1) of subdivision (a) shall not exceed the sum of—

(A) The amount of gain recognized on such disposition (determined without regard to this section), plus

(B) The fair market value of property acquired which is not Section 18211 property and which is not taken into account under subparagraph (A).

(5) Under regulations prescribed by the Franchise Tax Board, rules consistent with paragraphs (3) and (4) shall apply in the case of transactions described in Section 18121 (relating to gain from sale or exchange to effectuate policies of FCC) or Sections 18131 to 18134, inclusive (relating to exchanges in obedience to SEC orders).

(6) (A) For purposes of this section, the basis of Section 18211

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property distributed by a partnership to a partner shall be deemed to be determined by reference to the adjusted basis of such property to the partnership.

(B) In the case of any property described in subparagraph (A), for purposes of computing the recomputed basis of such property the amount of the adjustments added back for periods before the distribution by the partnership shall be—

(i) The amount of the gain to which subdivision (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

(ii) The amount of such gain to which Section 17912 applied.

(c) The Franchise Tax Board shall prescribe such regulations as it may deem necessary to provide for adjustments to the basis of property to reflect gain recognized under subdivision (a).

(d) This section shall apply notwithstanding any other provisions of this part.

SEC. 416. Section 18816.5 of the Revenue and Taxation Code is amended to read:

18816.5. (a) Whenever any payer required to deduct and withhold tax under Section 18805 sells, transfers, dissolves, withdraws, terminates or otherwise disposes of the business or a substantial portion of its assets, the successors (including assigns, purchasers, heirs, distributees, beneficiaries or other persons acquiring either a substantial portion of the assets or the business) shall withhold in trust a sufficient part of the purchase price or set aside in trust money or property to cover the amount of the taxes required to be withheld and any interest or penalties with respect thereto which are due or unpaid by the payer. The money, property or portion of the purchase price shall be held in trust until a certificate is issued by the Franchise Tax Board stating that no amount of such tax, interest or penalties are due or unpaid from the payer.

(b) Upon written request by the successor, the Franchise Tax Board shall, within 60 days, issue a certificate or a statement showing the amount of tax, interest and penalties due from the payer. Except as provided in subdivision (c), failure to issue a certificate or statement within the 60-day period shall be deemed equivalent to the issuance of a certificate stating that no tax, interest or penalties are due. If the Franchise Tax Board issues a statement showing that taxes, interest and penalties are claimed to be due, the amount stated therein (not in excess of the fair market value of the assets or business acquired) shall be paid by the successor to the Franchise Tax Board within (1) 30 days after the statement is mailed or delivered to the successor or (2) on the day the business or assets are acquired, whichever is the latest event. If a request for a certificate is not made by the successor, the amount of tax, interest or penalties due or unpaid by the payer shall be paid by the successor to the Franchise Tax Board on the day the business or assets are acquired. If a

successor fails to pay the amount required by this section by the time prescribed in this subdivision, a penalty of 10 percent of the amount payable shall be levied.

(c) The issuance of a certificate stating that no taxes, interest and penalties are due, or the failure to issue such certificate or statement within the period of 60 days shall not release the payer from liability on account of any taxes, interest, and penalties then or thereafter determined to be due from him or her, but shall release the successor from any further liability on account of any such taxes, interest and penalties. Payment by the successor pursuant to subdivision (b) shall not release the payer from liability except to the extent of the amount paid by the successor.

(d) Any successor that fails to withhold money or other property or fails to pay the amount or value of the property withheld as provided in this section shall be personally liable for the payment of the taxes, interest and penalties due from the payer up to but not exceeding the fair market value of the assets or business acquired. The Franchise Tax Board shall have all of the remedies for collection against any successor that acquires the business or substantially all the assets thereof of a payer as provided by this part against any payer liable for taxes, interest and penalties. The time within which the obligation may be enforced against the successor acquiring the business or substantially all the assets thereof of a payer shall commence from (1) the date the successor acquires the assets or business, (2) the date an assessment against the successor payer becomes final, or (3) 31 days after the statement is mailed or delivered to the successor if a certificate is requested by the successor as provided in subdivision (b), whichever of the three events is later.

SEC. 417. Section 19092 of the Revenue and Taxation Code is amended to read:

19092. If judgment is rendered against the Franchise Tax Board, the amount thereof shall first be credited against any taxes and interest due from the taxpayer under this part and the remainder refunded to the taxpayer by the State Treasurer on warrants drawn by the Controller.

SEC. 418. Section 20583 of the Revenue and Taxation Code is amended to read:

20583. (a) "Residential dwelling" means a dwelling occupied as the principal place of residence of the claimant, and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home, owned by the claimant, the claimant and spouse, or by the claimant and either another individual eligible for postponement under this chapter or an individual described in subdivision (a), (b) or (c) of Section 20511 and located in this state. It shall include condominiums and mobilehomes which are assessed as realty for local property tax purposes. It also includes part of a multidwelling or multipurpose building and a part of the land upon which it is built. In the case of a mobilehome not assessed as real property which is located on land owned by the claimant, residential "dwelling"

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includes the land on which such mobilehome is situated and so much of the land surrounding it as reasonably necessary for use of the mobilehome as a home.

(b) As used in this chapter in reference to ownership interests in residential dwellings, "owned" includes (1) the interest of a vendee in possession under a land sale contract provided that the contract or memorandum thereof is recorded and only from the date of recordation of the contract or memorandum thereof in the office of the county recorder where the residential dwelling is located, (2) the interest of the holder of a life estate provided that the instrument creating the life estate is recorded and only from the date of recordation of the instrument creating the life estate in the office of the county recorder where the residential dwelling is located, but "owned" does not include the interest of any remainderman or holder of a reversionary interest in the residential dwelling, (3) the interest of a joint tenant or a tenant in common in the residential dwelling or the interest of a tenant where title is held in tenancy by the entirety or a community property interest where title is held as community property.

(c) For purposes of this chapter, the registered owner of a mobilehome shall be deemed to be the owner of the mobilehome.

(d) Except as provided in subdivision (c), and Chapter 3 (commencing with Section 20625), ownership must be evidenced by an instrument duly recorded in the office of the county where the residential dwelling is located.

(e) "Residential dwelling" does not include any of the following:

(1) Any residential dwelling in which the owners do not have an equity of at least 20 percent of the full value of the property as determined for purposes of property taxation at the time a notice of lien for postponed taxes is recorded pursuant to Section 16182 of the Government Code.

(2) Any residential dwelling in which the claimant's interest is held pursuant to a contract of sale or under a life estate, unless such claimant obtains the written consent of the vendor under the contract of sale, or the holder of the reversionary interest upon termination of the life estate for the postponement of taxes and the creation of a lien on the real property in favor of the state for amounts postponed pursuant to this act.

(3) Any residential dwelling on which the claimant does not receive a secured tax bill.

(4) Any residential dwelling in which the claimant's interest is held as a possessory interest, except as provided in Chapter 3.5 (commencing with Section 20640).

(5) (A) Except as provided in this section, any residential dwelling on which the property taxes, as defined in Section 20584, are delinquent at the time the application for postponement under this chapter is made or on which any other property tax or special assessment imposed by a special district or other tax code area is delinquent at the time the application for postponement under this

chapter is made.

(B) Any taxes or assessments described in subparagraph (A) which are delinquent on July 1, 1977, shall not disqualify an otherwise eligible dwelling for postponement under this chapter. An application for postponement under this chapter to postpone the payment of property taxes for the 1977–78 fiscal year, shall also constitute an application for the postponement of all such delinquent taxes and assessments, together with any penalties, interest, fees, or other charges resulting from such delinquency and such amounts shall, unless otherwise paid by the claimant, be paid out of the amount appropriated by Section 16100 of the Government Code and shall be added to and become part of the obligation secured by the lien provided by Section 16182 of the Government Code; provided, however, that upon payment of delinquent taxes and assessments for fiscal year 1976–77 out of the amount appropriated by Section 16100, any delinquent penalties, interest, fees or other charges resulting from the delinquency of such taxes and assessments for fiscal year 1976–77 shall be canceled.

(C) For 1978–79 and thereafter, any taxes or assessments described in subparagraph (A) which became delinquent after the claimant was 62 and before the claimant first has established a lien pursuant to Section 16182 of the Government Code shall not disqualify an otherwise eligible dwelling for postponement under this chapter. An application to postpone taxes for 1978–79 or thereafter shall also constitute an application for the postponement of all such delinquent taxes and assessments, together with any penalties, interest, fees, or other charges resulting from such delinquency and such amounts shall, unless otherwise paid by the claimant, be paid out of the amount appropriated by Section 16100 of the Government Code and shall be added to and become part of the obligation secured by the lien provided by Section 16182 of the Government Code.

SEC. 419. Section 20640.6 of the Revenue and Taxation Code is amended to read:

20640.6. (a) Upon receipt of the information described in Section 20640.4 and Section 20640.5, the State Controller shall determine whether the state's interest would be adequately protected if postponement is granted, and if so, shall issue to the claimant a certificate of eligibility containing the name of claimant, address of the residential dwelling on which the claimant has applied for property tax postponement, and any other information and in the form as the State Controller shall prescribe. In the event that the residential dwelling is located in a chartered city which levies and collects its own taxes, the Controller shall issue a duplicate certificate of eligibility to pay all or any part of property taxes appearing on the city's tax bill.

(b) The Controller shall cause to be recorded with the county recorder of the county in which the real property is located, a copy of any instrument creating a security interest, which shall include

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applicable consent forms, in favor of the state. The instrument shall contain a legal description of the real property subject to the possessory interest; and, if the legal description of the possessory interest describes an area less than the entire property ownership, the notice or document shall also contain a reference to the record of the acquisition instrument to the entire parcel from which the possessory interest was created. The priority of the security interest shall be as of the date of recordation.

(c) The Controller shall prescribe the form of certificates of eligibility to pay all delinquent taxes and assessments authorized by this chapter.

Upon or accompanying each certificate shall be a brief statement explaining that (1) those taxpayers whose property taxes are paid by a lender via an impound, trust or other similar account should enter the total amount of each installment on the certificates and mail the certificates to the tax collector and (2) those taxpayers will receive a refund check from the county or city in the amount they entered on the certificate, within 30 days following the date on which the installment is paid by the lender or the certificate of eligibility is received by the tax collector, whichever is later.

(d) When a certificate of eligibility has been signed by the claimant, his or her spouse, or authorized agent and countersigned by the person authorized to collect property taxes or assessments for the local agency, the certificate shall constitute a written promise on the part of the State of California to pay the sum of money specified therein and the signed and countersigned certificate shall be deemed a negotiable instrument for the sole purpose of the payment of property taxes owing in the name of the claimant or his or her spouse for purposes of all laws of this state.

(e) A certificate of eligibility shall be valid for the duration prescribed thereon by the Controller.

(f) The Controller shall issue certificates of eligibility at such times as the Controller determines will best implement the purpose of this chapter.

(g) The Controller shall prescribe the manner in which a claimant eligible under this chapter, who has been issued a certificate of eligibility which is lost or destroyed prior to being filed with the local agency may obtain a duplicate copy of the certificate as a replacement. (Under conditions as may be prescribed by the Controller, a duplicate copy shall be deemed as having been filed with the local agency as of the date a claimant requests issuance of a duplicate copy.)

SEC. 420. Section 24431 of the Revenue and Taxation Code is amended to read:

24431. If—

(a) Any person or persons acquire, or acquired on or after October 8, 1940, directly or indirectly, control of a corporation; or

(b) Any corporation acquires, or acquired on or after October 8, 1940, directly or indirectly, property of another corporation, not

controlled, directly or indirectly, immediately before such acquisition, by such acquiring corporation or its stockholders, the basis of which property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation;

and the principal purpose for which such acquisition was made is evasion or avoidance of tax under this part by securing the benefit of a deduction, credit, or other allowance which such person or corporation would not otherwise enjoy, then such deduction, credit, or other allowance shall not be allowed. For purposes of subdivisions (a) and (b), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock of the corporation.

SEC. 421. Section 24497 of the Revenue and Taxation Code is amended to read:

24497. For purposes of those provisions of this chapter to which the rules contained in this section are expressly made applicable—

(a) (1) An individual shall be considered as owning the stock owned, directly or indirectly, by or for—

(A) His or her spouse (other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance); and

(B) His or her children, grandchildren, and parents.

(2) For purposes of subparagraph (B) of paragraph (1), a legally adopted child of an individual shall be treated as a child of such individual by blood.

(b) (1) Stock owned, directly or indirectly, by or for a partnership or estate shall be considered as owned proportionately by its partners or beneficiaries.

(2) (A) Stock owned, directly or indirectly, by or for a trust (other than an employees' trust described in Section 17501 which is exempt from tax under Section 17631) shall be considered as owned by its beneficiaries in proportion to the actuarial interest of such beneficiaries in such trust.

(B) Stock owned, directly or indirectly, by or for any portion of a trust of which a person is considered the owner under Sections 17781 to 17792, inclusive, (relating to grantors and others treated as substantial owners) shall be considered as owned by such person.

(3) If 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned, directly or indirectly, by or for such corporation, in that proportion which the value of the stock which such person so owns bears to the value of all the stock in such corporation.

(c) (1) Stock owned, directly or indirectly, by or for a partner or a beneficiary of an estate shall be considered as owned by the partnership or estate.

(2) (A) Stock owned, directly or indirectly, by or for a beneficiary

of a trust (other than an employees' trust described in Section 17501 which is exempt from tax under Section 17631) shall be considered as owned by the trust, unless such beneficiary's interest in the trust is a remote contingent interest. For purposes of this subparagraph, a contingent interest of a beneficiary in a trust shall be considered remote if, under the maximum exercise of discretion by the trustee in favor of such beneficiary, the value of such interest, computed actuarially, is 5 percent or less of the value of the trust property.

(B) Stock owned, directly or indirectly, by or for a person who is considered the owner of any portion of a trust under Sections 17781 to 17792, inclusive, (relating to grantors and others treated as substantial owners) shall be considered as owned by the trust.

(3) If 50 percent or more in value of the stock in a corporation is owned, directly or indirectly, by or for any person, such corporation shall be considered as owning the stock owned, directly or indirectly, by or for such person.

(d) If any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

(e) (1) Except as provided in paragraphs (2) and (3), stock constructively owned by a person by reason of the application of subdivision (a), (b), (c), or (d) shall, for purposes of applying subdivision (a), (b), (c), or (d), be treated as actually owned by such person.

(2) Stock constructively owned by an individual by reason of the application of subdivision (a) shall not be treated as owned by him or her for purposes of again applying subdivision (a) in order to make another the constructive owner of such stock.

(3) Stock constructively owned by a partnership, estate, trust, or corporation by reason of the application of subdivision (c) shall not be considered as owned by it for purposes of applying subdivision (b) in order to make another the constructive owner of such stock.

(4) For purposes of this paragraph, if stock may be considered as owned by an individual under subdivision (a) or (d), it shall be considered as owned by him or her under subdivision (d).

SEC. 422. Section 24563 of the Revenue and Taxation Code is amended to read:

24563. For purposes of this article, the term "a party to a reorganization" includes:

(a) A corporation resulting from a reorganization; and

(b) Both corporations, in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another.

In the case of a reorganization qualifying under paragraph (2) or paragraph (3) of subdivision (a) of Section 24562, if the stock exchanged for the stock or properties is stock of a corporation which is in control of the acquiring corporation, the term "a party to a

reorganization" includes the corporation so controlling the acquiring corporation. In the case of a reorganization qualifying under paragraph (1), paragraph (2) or paragraph (3) of subdivision (a) of Section 24562 by reason of paragraph (3) of subdivision (b) of Section 24562, the term "a party to a reorganization" includes the corporation controlling the corporation to which the acquired assets or stock are transferred.

In the case of a reorganization qualifying under paragraph (1) of subdivision (a) of Section 24562 by reason of paragraph (4) of subdivision (b) of Section 24562, the term "a party to a reorganization" includes the controlling corporation referred to in paragraph (4) of subdivision (b) of Section 24562. In the case of a reorganization qualifying under paragraph (1) of subdivision (a) of Section 24562, by reason of paragraph (5) of subdivision (b) of Section 24562, the term "party to a reorganization" includes the controlling corporation referred to in paragraph (5) of subdivision (b) of Section 24562.

(c) The amendments made to this section by the 1971 First Extraordinary Session of the Legislature shall apply to statutory mergers occurring after December 31, 1970.

SEC. 423. Section 24662 of the Revenue and Taxation Code is amended to read:

24662. (a) (1) In the case of insurance proceeds received as a result of destruction or damage to crops, a taxpayer reporting on the cash receipts and disbursements method of accounting may elect to include such proceeds in income for the income year following the income year of destruction or damage, if he establishes that, under his practice, income from such crops would have been reported in a following income year.

For purposes of the preceding sentence, payments received under the Agricultural Act of 1949, as amended, as a result of (A) destruction or damage to crops caused by drought, flood, or any other natural disaster, or (B) the inability to plant crops because of such a natural disaster, shall be treated as insurance proceeds received as a result of destruction or damage to crops.

An election under this section for any income year shall be made at such time and in such manner as the Franchise Tax Board prescribes.

(2) The amendment made to paragraph (1) by the 1977–78 Regular Session of the Legislature shall apply to payments received after income years beginning after December 31, 1976.

(b) (i) In the case of income derived from the sale or exchange of livestock (other than livestock described in subdivision (b) of Section 18182) in excess of the number the taxpayer would sell if it followed its usual business practices, a taxpayer reporting on the cash receipts and disbursements method of accounting may elect to include such income for the income year following the income year in which such sale or exchange occurs if it establishes that, under its usual business practices, the sale or exchange would not have

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occurred in the income year in which it occurred if it were not for drought conditions, and that these drought conditions had resulted in the area being designated as eligible for assistance by the federal government.

(2) Subdivision (a) shall apply only to a taxpayer whose principal trade or business is farming (within the meaning of Section 6420(c)(3) of the Internal Revenue Code of 1954).

SEC. 424. Section 24949.2 of the Revenue and Taxation Code is amended to read:

24949.2. (a) For purposes of Sections 24943 through 24945, if real property (not including stock in trade or other property held primarily for sale) held for productive use in trade or business or for investment is (as a result of its seizure, requisition, or condemnation, or threat or imminence thereof) compulsorily or involuntarily converted, property of a like kind to be held either for productive use in trade or business or for investment shall be treated as property similar or related in service or use to the property so converted.

(b) (1) Subdivision (a) shall not apply to the purchase of stock in the acquisition of control of a corporation described in subdivision (a) of Section 24944.

(2) Subdivision (a) shall apply with respect to the compulsory or involuntary conversion of any real property only if the disposition of the converted property (within the meaning of subdivision (b) of Section 24943) occurs after December 31, 1960.

(c) (1) A taxpayer may elect, at such time and in such manner as the Franchise Tax Board may prescribe, to treat property which constitutes an outdoor advertising display as real property for purposes of this part.

(2) An election made under paragraph (1) may not be revoked without the consent of the Franchise Tax Board.

(3) For purposes of this subdivision, the term "outdoor advertising display" means a rigidly assembled sign, display, or device permanently affixed to the ground or permanently attached to a building or other inherently permanent structure constituting, or used for the display of, a commercial or other advertisement to the public.

(4) For purposes of this subdivision, an interest in real property purchased as replacement property for a compulsorily or involuntarily converted outdoor advertising display defined in paragraph (3) (and treated by the taxpayer as real property) shall be considered property of a like kind as the property converted without regard to whether the taxpayer's interest in the replacement property is the same kind of interest the taxpayer held in the converted property.

(d) In the case of a compulsory or involuntary conversion described in subdivision (a), paragraph (1) of subdivision (b) of Section 24944 shall be applied by substituting "three years" for "two years."

(e) Subdivision (d) shall apply with respect to any disposition of

converted property (within the meaning of Section 24944) after December 31, 1976.

SEC. 425. Section 24952 of the Revenue and Taxation Code is amended to read:

24952. (a) If—

(1) A sale of real property gives rise to indebtedness to the seller which is secured by the real property sold, and

(2) The seller of such property reacquires such property in partial or full satisfaction of such indebtedness,

then, except as provided in subdivisions (b) and (d), no gain or loss shall result to the seller from such reacquisition, and no debt shall become worthless or partially worthless as a result of such reacquisition.

(b) (1) In the case of a reacquisition of real property to which subdivision (a) applies, gain shall result from such reacquisition to the extent that—

(A) The amount of money and the fair market value of other property (other than obligations of the purchaser) received, prior to such reacquisition, with respect to the sale of such property, exceeds

(B) The amount of the gain on the sale of such property included in the measure of tax or returned as income for periods prior to such reacquisition.

(2) The amount of gain determined under paragraph (1) resulting from a reacquisition during any income year beginning after December 31, 1964, shall not exceed the amount by which the price at which the real property was sold exceeded its adjusted basis, reduced by the sum of—

(A) The amount of the gain on the sale of such property included in the measure of tax or returned as income for periods prior to the reacquisition of such property, and

(B) The amount of money and the fair market value of other property (other than obligations of the purchaser received with respect to the sale of such property) paid or transferred by the seller in connection with the reacquisition of such property.

For purposes of this paragraph, the price at which real property is sold is the gross sales price reduced by the selling commissions, legal fees, and other expenses incident to the sale of such property which are properly taken into account in determining gain or loss on such sale.

(3) Except as provided in this section, the gain determined under this subdivision resulting from a reacquisition to which subdivision (a) applies shall be recognized, notwithstanding any other provision of this part.

(c) If subdivision (a) applies to the reacquisition of any real property, the basis of such property upon such reacquisition shall be the adjusted basis of the indebtedness to the seller secured by such property (determined as of the date of reacquisition), increased by the sum of—

(1) The amount of the gain determined under subdivision (b)

resulting from such reacquisition, and

(2) The amount described in subparagraph (B) of paragraph (2) of subdivision (b).

If any indebtedness to the seller secured by such property is not discharged upon the reacquisition of such property, the basis of such indebtedness shall be zero.

(d) If, prior to a reacquisition of real property to which subdivision (a) applies, the seller has treated indebtedness secured by such property as having become worthless or partially worthless—

(1) Such seller shall be considered as receiving, upon the reacquisition of such property, an amount equal to the amount of such indebtedness treated by him as having become worthless, and

(2) The adjusted basis of such indebtedness shall be increased (as of the date of reacquisition) by an amount equal to the amount so considered as received by such seller.

SEC. 426. Section 38108 of the Revenue and Taxation Code is amended to read:

38108. "Scaling date" means the date when the quantity of timber harvested, by species, is first definitely determined.

Except for national forest timber, the scaling date shall be no later than the date of delivery of the felled trees to the storage or wood-processing area, whichever is first, or an alternative approved by the board. For national forest timber, the definitely determined timber volume included in forest service, United States Department of Agriculture, billing statements to timber sale contract holders, or an alternative approved by the board after a public hearing, shall be the basis for tax payment.

SEC. 427. Section 38351 of the Revenue and Taxation Code is amended to read:

38351. Every person who owns timber subject to a timber harvest plan, every person who is required to file a notice of timber operations with the State Forester, and every person who is the first person who acquires either legal title or beneficial title to downed timber or timber after it has been felled from land owned by a federal agency or any other person or agency or entity exempt from state taxation under the Constitution or laws of the United States or under the Constitution or laws of the State of California shall register with the board giving such information as the board may require.

SEC. 428. Section 38421 of the Revenue and Taxation Code is amended to read:

38421. If any person fails to make a return, the board shall make an estimate of the amount of the total timber harvested by the person and the immediate harvest value of that timber. The estimate shall be made for the period or periods in respect to which the person failed to make a return and shall be based upon any information which is in the board's possession or may come into its possession. Upon the basis of this estimate the board shall compute and determine the amount required to be paid to the state, adding to the sum thus arrived at a penalty equal to 10 percent thereof. One or

more determinations may be made for one or for more than one period. When a person discontinues activities subject to the tax, a determination may be made at any time thereafter, within the periods specified in Section 38417, as to liability arising out of the person's activities subject to the tax, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this part.

SEC. 429. Section 40081 of the Revenue and Taxation Code is amended to read:

40081. If any person fails to make a return, the board shall make an estimate of the amount of kilowatt-hours sold for consumption by the person, or, as the case may be, of the amount of kilowatt-hours purchased by the person, the consumption of which in this state is subject to the surcharge. The estimate shall be made for the period or periods in respect to which the person failed to make a return and shall be based upon any information which is in the board's possession or may come into its possession. Upon the basis of this estimate the board shall compute and determine the amount required to be paid to the state, adding to the sum thus arrived at a penalty equal to 10 percent thereof. One or more determinations may be made for one or for more than one period.

SEC. 430. Section 41080 of the Revenue and Taxation Code is amended to read:

41080. If any person fails to make a return, the board shall make an estimate of the amount of the charges for services by the person, or, as the case may be of the amount of charges for services received by the persons, in this state which are subject to the surcharge. The estimate shall be made for the period or periods in respect to which the person failed to make a return and shall be based upon any information which is in the board's possession or may come into its possession. Upon the basis of this estimate the board shall compute and determine the amount required to be paid to the state, adding to the sum thus arrived at a penalty equal to 10 percent thereof, or ten dollars ($10), whichever is greater. One or more determinations may be made for one or for more than one period.

SEC. 431. Section 31856 of the Streets and Highways Code is amended to read:

31856. Property for additional parking places may be acquired by any of the following means:

(a) By a lump sum payment or by contract of purchase with payments made annually, or otherwise, over a period of years, but that contract shall not provide for payments to be over a period longer than 25 years from the date of the contract. The purchase price may be paid from the limited taxes levied for acquisition of parking places under Section 31822, from revenues derived from operation of parking places of the district, or from any other funds of the district available for the purpose.

(b) By lease, but the lease shall not run for a period longer than 25 years. Rental on any lease may be paid from revenues derived

from the operation of parking places of the district, from the limited taxes levied for maintenance, operation, repair, and improvement under Section 31822, or from any other funds of the district available for the purpose.

(c) Under lease and option to purchase but the lease and option shall not run for a longer period than 25 years. The purchase price may be provided from revenues derived from operation of parking places of the district, from the limited taxes levied for acquisition of parking places under Section 31822, or from any other funds of the district available for the purpose.

(d) Pursuant to Section 31861.

(e) Any contract of purchase, lease, or lease with option to purchase entered into pursuant to subdivision (a), (b), or (c) may contain agreements or covenants requiring levies pursuant to Section 31822, or requiring the fixing and collection of fees, charges, and rentals for the use of parking places of the district, or both, sufficient to produce funds from which the purchase price or rent shall be paid in accordance with the terms of the contract or lease.

SEC. 432. Section 2708.1 of the Unemployment Insurance Code is amended to read:

2708.1. Where an individual is entitled to receive unemployment compensation disability benefits reduced by the amount of temporary workers' compensation received for any day under Section 2629, it shall not be necessary that he or she obtain a certificate of a physician as required by Section 2708 to receive the reduced amount of disability benefits for that day; provided, that the claimant submits evidence to the department of receipt of temporary disability benefits under a workers' compensation law for that day.

SEC. 433. Section 9002 of the Unemployment Insurance Code is amended to read:

9002. Subject to the provisions of Sections 9600 and 9605, the Secretary of the Health and Welfare Agency shall coordinate all job training placement, and related programs, conducted by state agencies, with the federal government and ensure that there is no duplication of the programs among state agencies and that all agreements, contracts, plans, or programs conform to the provisions of this part. Any plan proposed to be submitted by any agency to the federal government in relation to a job training, placement, or related program, shall first be submitted to the Secretary of the Health and Welfare Agency for his or her review. The Health and Welfare Agency may require state departments to contract with it for services to carry out the provisions of this part.

SEC. 434. Section 1817 of the Vehicle Code is amended to read:

1817. Written allegations received by the department from members of the public identifying motor vehicles or other vehicles by license number from which any flaming or glowing substance has been thrown, or discharged, shall be forwarded to the Department of Forestry together with any information as to the identity of the

registered owner of the vehicle as shown by the records of the department.

SEC. 435. Section 2400 of the Vehicle Code is amended to read:

2400. The commissioner shall administer Chapter 4 (commencing with Section 10850) of Division 4, Article 3 (commencing with Section 17300) of Chapter 1 of Division 9, Division 10 (commencing with Section 20000), Division 11 (commencing with Section 21000) except Chapter 11 (commencing with Section 22950), Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), Division 14 (commencing with Section 31600), Division 14.5 (commencing with Section 33000), Division 14.8 (commencing with Section 34500), Division 15 (commencing with Section 35000), Division 16 (commencing with Section 36000) except Chapter 2 (commencing with Section 36100) and Chapter 3 (commencing with Section 36300), and Division 16.5 (commencing with Section 38000) except Chapter 2 (commencing with Section 38010).

The commissioner shall enforce all laws regulating the operation of vehicles and the use of the highways except that, on ways or places to which Section 592 makes reference, the commissioner shall not be required to provide patrol or enforce this code other than those provisions applicable to private property.

The commissioner shall not be required to provide patrol for or enforce Division 16.5 (commencing with Section 38000).

The commissioner shall have full responsibility and primary jurisdiction for the administration and enforcement of those provisions and laws, and for the investigation of traffic accidents, on all state highways constructed as freeways within incorporated areas of the state. However, city police officers, while engaged primarily in general law enforcement duties, may incidentally enforce state and local traffic laws and ordinances on state freeways. In any city having either a population in excess of 2,000,000 or an area of more than 300 square miles, city police officers shall have full responsibility and primary jurisdiction for the administration and enforcement of those laws and ordinances, unless the city council of the city, by resolution, requests administration and enforcement of those laws by the commissioner.

SEC. 436. Section 3051 of the Vehicle Code is amended to read:

3051. This chapter does not apply to any person licensed as a transporter under Article 1 (commencing with Section 11700) or as a salesman under Article 2 (commencing with Section 11800) of Chapter 4 of Division 5, or to any licensee who is not a new motor vehicle dealer, motor vehicle manufacturer, manufacturer branch, new motor vehicle distributor, distributor branch or representative. This chapter does not apply to transactions involving "mobilehomes", as defined in Section 18008 of the Health and Safety Code, "recreational vehicles", as defined in Section 18010.5 of the Health and Safety Code, "commercial coaches", as defined in Section 18012 of the Health and Safety Code or off-highway motor vehicles

subject to identification, as defined in Section 38012. Except as otherwise provided in this chapter, this chapter applies to a new motor vehicle dealer as defined in Section 426, a vehicle manufacturer as defined in Section 672, a manufacturer branch as defined in Section 389, a distributor as defined in Section 296, a distributor branch as defined in Section 297, a representative as defined in Section 512, or an applicant therefor.

SEC. 437. Section 4451 of the Vehicle Code is amended to read:

4451. The certificate of ownership shall contain all of the following:

(a) Not less than the information required upon the face of the registration card.

(b) Provision for notice to the department of a transfer of the title or interest of the owner or legal owner.

(c) Provision for application for transfer of registration by the transferee.

SEC. 438. Section 5004 of the Vehicle Code is amended to read:

5004. (a) Notwithstanding any other provision of this code, any owner of a motor vehicle described in paragraph (1), (2), or (3) which is operated or moved over the highway primarily for the purpose of historical exhibition or other similar purpose shall, upon application in the manner and at the time prescribed by the department, be issued special identification plates for the motor vehicle:

(1) A motor vehicle with an engine of 16 or more cylinders manufactured prior to 1965.

(2) A motor vehicle manufactured in the year 1922 or prior thereto.

(3) A motor vehicle which was manufactured after 1922, is at least 25 years old, and is of historic interest.

(b) The special identification plates assigned to motor vehicles with an engine of 16 or more cylinders manufactured prior to 1965, and to any motor vehicle manufactured in the year 1922 and prior thereto, shall run in a separate numerical series, commencing with "Horseless Carriage No. 1".

The special identification plates assigned to motor vehicles manufactured after 1922 which are at least 25 years old and are motor vehicles of historic interest shall run in a separate numerical series, commencing with "Historical Vehicle No. 1."

Each series of plates shall have different and distinguishing colors.

(c) A fee of twenty-five dollars ($25) shall be charged for the initial issuance of the special identification plates. The plates shall be permanent and shall not be required to be replaced. If the special identification plates become damaged or unserviceable in any manner, replacement for the plates may be obtained from the department upon proper application and upon payment of the fee provided for in Section 9265.

(d) All funds received by the department, in payment for the identification plates or the replacement thereof, shall be deposited

in the California Environmental License Plate Fund.

(e) These vehicles are not exempt from the equipment provisions of Sections 26709, 27150, and 27600.

(f) As used in this section, a motor vehicle of historic interest is one which is collected, restored, maintained, and operated by a collector or hobbyist principally for purposes of exhibition and historic vehicle club activities.

SEC. 439. Section 5004.5 of the Vehicle Code is amended to read:

5004.5. Notwithstanding any other provision of this code, any owner of a motorcycle manufactured in the year 1942 or prior thereto shall, upon application in the manner and at the time prescribed by the department, be issued special license plates for the motorcycle. The special license plates assigned to the motorcycles shall run in a separate numerical series. An additional fee of fifteen dollars ($15) shall be charged for the initial issuance of the special license plates. The plates shall be permanent and shall not be required to be replaced. If the special license plates become damaged or unserviceable in any manner, replacement for the plates may be obtained from the department upon proper application and upon payment of the fee provided for in Section 9265. Except as otherwise provided in this section, the motorcycles are subject to the same annual registration fees and provisions of law as are other motorcycles.

All revenues derived from the fees provided for in this section above actual costs of the production and issuance of the special plates for motorcycles, or the replacement thereof, shall be deposited in the California Environmental License Plate Fund by the department.

SEC. 440. Section 9400 of the Vehicle Code is amended to read:

9400. In addition to any other registration fee, the fees set forth in this section shall be paid for the registration of commercial vehicles. Whenever a camper is temporarily attached to a motor vehicle designed to transport property, the motor vehicle shall be subject to the fees imposed by this section. The camper shall be deemed to be a load, and fees imposed by this section upon the motor vehicle shall be based upon the unladen weight of the motor vehicle, exclusive of the camper.

(a) For any electric vehicle designed, used, or maintained as described in this section, fees shall be paid for registration according to the following schedule:

Unladen Weight	Fee
Less than 6,000 lbs.	$54
6,000 lbs. or more but less than 10,000 lbs.	108
10,000 lbs. or more	145

(b) For any motor vehicle having not more than two axles and designed, used, or maintained as described in this section, other than an electric vehicle, fees shall be paid for registration according to the following schedule:

Unladen weight	Fee
Less than 3,000 lbs.	$5
3,000 lbs. to and including 4,000 lbs.	15
4,001 lbs. to and including 5,000 lbs.	32
5,001 lbs. to and including 6,000 lbs.	62
6,001 lbs. to and including 7,000 lbs.	83
7,001 lbs. to and including 8,000 lbs.	104
8,001 lbs. to and including 9,000 lbs.	124
9,001 lbs. to and including 10,000 lbs.	146
10,001 lbs. to and including 11,000 lbs.	165
11,001 lbs. to and including 12,000 lbs.	186
12,001 lbs. to and including 13,000 lbs.	207
13,001 lbs. to and including 14,000 lbs.	228
14,001 lbs. and over	247

(c) For any motor vehicle having three or more axles, or for any trailer, semitrailer, pole or pipe dolly, logging dolly, or other dolly designed, used, or maintained as described in this section, other than an electric vehicle, fees shall be paid for registration according to the following schedule:

Unladen weight	Fee
2,000 lbs. to and including 3,000 lbs.	$17
3,001 lbs. to and including 4,000 lbs.	31
4,001 lbs. to and including 5,000 lbs.	62
5,001 lbs. to and including 6,000 lbs.	92
6,001 lbs. to and including 7,000 lbs.	124
7,001 lbs. to and including 8,000 lbs.	155
8,001 lbs. to and including 9,000 lbs.	186
9,001 lbs. to and including 10,000 lbs.	217
10,001 lbs. to and including 11,000 lbs.	247
11,001 lbs. to and including 12,000 lbs.	278
12,001 lbs. to and including 13,000 lbs.	309
13,001 lbs. to and including 14,000 lbs.	341
14,001 lbs. to and including 15,000 lbs.	372
15,001 lbs. and over	413

(d) This section does not apply to any vehicle which is operated or moved over the highway exclusively for the purpose of historical exhibition or other similar noncommercial purpose.

SEC. 441. Section 11511 of the Vehicle Code is amended to read:

11511. In any administrative action to revoke or suspend an automobile dismantler's license:

(a) Proof that a stolen vehicle of a type subject to registration under this code, or a part thereof, was found in the possession of, or upon the premises of, the dismantler shall constitute in evidence a prima facie presumption that the dismantler had knowledge that the vehicle was stolen. This presumption may be rebutted by satisfactory

evidence that the dismantler has complied with paragraphs (1), (2), (3), and (5) of subdivision (a) of Section 11520.

(b) Proof that a vehicle of a type subject to registration under this code is found in a partially dismantled condition in the possession, or upon the premises, of the dismantler shall constitute in evidence a prima facie presumption that the vehicle was partially dismantled by the dismantler. The presumption may be rebutted by a business record of the dismantler reflecting the partially dismantled condition of the vehicle on the date of acquisition.

SEC. 442. Section 11515 of the Vehicle Code is amended to read:

11515. (a) Whenever an insurance company makes a total loss settlement on a total loss salvage vehicle, the insurance company 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, and a three dollar ($3) fee, to the department. The department, upon receipt of the certificate of ownership or other evidence of title and the three dollar ($3) fee, may issue a salvage certificate for the vehicle.

(b) Subdivision (a) does not apply if the owner retains possession of the total loss salvage vehicle and the fair retail market value of the vehicle was one thousand dollars ($1,000), or less, immediately prior to its becoming a total loss salvage vehicle. In that case, the owner may retain the certificate of ownership or other evidence of ownership, and the insurance company shall notify the department of the retention on a form prescribed by the department.

(c) Whenever the owner of a total loss salvage vehicle which had a fair market retail value of more than one thousand dollars ($1,000) immediately prior to becoming a total loss salvage vehicle retains possession of the vehicle, the insurance company shall notify the department of the retention on a form prescribed by the department. The insurance company shall also notify the insured or owner of the insured's or owner's responsibility to comply with the provisions of 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, and a three dollar ($3) fee, to the department. The department, upon receipt of the certificate of ownership or other evidence of title and the three dollar ($3) fee, may issue a salvage certificate for the vehicle. Whenever a total loss salvage vehicle is not the subject of an insurance settlement, the owner shall, within 10 days from the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, and a three dollar ($3) fee, to the department. This subdivision does not apply if the fair retail market value of the vehicle was one thousand dollars ($1,000), or less, immediately prior to its becoming a total loss salvage vehicle.

(d) Upon sale or disposal of a total loss salvage vehicle, the owner or salvage pool, if the vehicle is sold or disposed of through a salvage pool, shall deliver a properly endorsed salvage certificate to the

purchaser within 10 days after payment in full for the salvage vehicle and shall also comply with Section 5900. The department shall accept the endorsed salvage certificate in lieu of the certificate of ownership or other evidence of ownership when accompanied by an application and other documents and fees as may be required by the department.

(e) This section does not apply to a vehicle which has been driven or taken without the consent of the owner thereof, until the vehicle has been recovered by the owner and only if the vehicle is a total loss salvage vehicle.

SEC. 443. Section 11704.5 of the Vehicle Code is amended to read:

11704.5. (a) Except as otherwise provided in this section, every applicant for a mobilehome dealer's or salesman's license, and every vehicle salesman who commences working for a mobilehome dealer, shall, commencing July 1, 1976, be required to take, and successfully complete, a written examination, prepared and administered by the department. The examination shall include, but not be limited to, subjects relating to mobilehomes, laws relating to contracts for the sale of vehicles, laws covering truth in lending, and departmental and warranty requirements.

(b) The department may administer an oral examination in lieu of the written examination required by subdivision (a) under the following conditions:

(1) To any person who applies for a mobilehome salesman's license.

(2) To any person who applies for a mobilehome dealer's license, provided the person is not the sole owner of the dealership and other persons within the ownership structure meet the requirements of subdivision (a).

(c) No person who, on July 1, 1976, held a then valid salesman's license and who has continuously for the same employer been a salesman of mobilehomes shall be required to take the examination specified in subdivision (a).

(d) No person who, on July 1, 1976, held a then valid dealer's license and who has continuously without lapse been a mobilehome dealer shall be required to take the examination specified in subdivision (a), regardless of whether that person subsequently makes an application to do business under a different name or form of business organization, except that a salesman of mobilehomes who makes an application for a mobilehome dealer's license shall be required to take, and successfully complete, the examination specified in subdivision (a).

(e) If the applicant for a mobilehome dealer's license is a corporation, only those persons who will participate in the direction, control, or management, or any combination thereof, of the sales operations of the business, or who act in the capacity of vehicle salesmen, shall be required to take, and successfully complete, the examination specified in subdivision (a), except that, if no officer or director of the corporation participates in the direction, control, or

management, or any combination thereof, of the sales operations of the business, or acts in the capacity of a vehicle salesman, the corporation shall designate and maintain a responsible managing employee who is a licensed vehicle salesman and who shall be required to take, and successfully complete, the examination specified in subdivision (a) for a dealer's license before a dealer's license may be issued.

(f) If the applicant for a mobilehome dealer's license is a partnership, only those partners of the partnership who will participate in the direction, control, or management, or any combination thereof, of the sales operation of the business, or who acts in the capacity of vehicle salesman, shall be required to take, and successfully complete, the examination specified in subdivision (a).

SEC. 444. Section 11902 of the Vehicle Code is amended to read:

11902. (a) The department shall issue a representative's license when satisfied that the applicant has furnished the required information, and that he or she intends in good faith to act as a representative and has paid the fees as required in Sections 9262 and 11723.

(b) The department may refuse to issue or may suspend or revoke a license for any of the following reasons:

(1) The information contained in the application is incorrect.

(2) The applicant or licensee, based on the information contained in the application or by subsequent investigation, is not of good moral character.

The conviction of a crime, including a conviction after a plea of nolo contendere, involving moral turpitude shall be prima facie evidence that the applicant or licensee is not of good moral character.

(3) The applicant or licensee has outstanding an unpaid final court judgment rendered in connection with an activity licensed under this chapter.

(4) The applicant or licensee was previously the holder of, or was a partner in a partnership or was an officer, director, or stockholder involved in management of a corporation which was the holder of, a license and certificate issued under this chapter, which license and certificate were revoked for cause and never reissued by the department or which license and certificate were suspended for cause and the terms of suspension have not been fulfilled.

(5) The applicant or licensee has committed any of those acts prohibited by Sections 11713.2 and 11713.3.

(c) Pending the satisfaction of the department that the applicant has met the requirements under this chapter, it may issue a temporary permit to any person applying for a representative's license. The temporary permit shall permit the operation by the representative for a period not to exceed 120 days while the department is completing its investigation and determination of all facts relative to the qualifications of the applicant to a license. The temporary permit shall be invalid when the applicant's license has

been issued or refused.

(d) The department may issue a probationary representative's license upon any ground or grounds contained in subdivision (b) subject to conditions to be observed in the exercise of the privilege granted either upon application for issuance of a license or upon application for renewal of a license. The conditions to be attached to the exercise of the privilege shall not appear on the face of the license but shall be such as may, in the judgment of the department, be in the public interest and suitable to the qualifications of the applicant as disclosed by the application and investigation by the department of the information contained therein.

SEC. 445. Section 21051 of the Vehicle Code is amended to read:

21051. The following sections apply to trolley coaches:

(a) Sections 1800, 4000, 4001, 4002, 4003, 4006, 4009, 4150, 4151, 4152, 4153, 4155, 4156, 4158, 4166, 4300 to 4309, inclusive, 4450 to 4454, inclusive, 4457, 4458, 4459, 4460, 4600 to 4610, inclusive, 4750, 4751, 4850, 4851, 4852, 4853, 5000, 5200 to 5205, inclusive, 5904, 6052, 8801, 9254, and 40001 with respect to 4000, relating to original and renewal of registration.

(b) Sections 9250, 9265, 9400, 9406, 9407, 9408, 9550, 9552, 9553, 9554, 9800 to 9809, inclusive, 14901, 42230 to 42234, inclusive, relating to registration and other fees.

(c) Sections 2800, 10851, 10852, 10853, 20001 to 20009, inclusive, 21052, 21053, 21054, 21450 to 21457, inclusive, 21461, 21650, 21651, 21658, 21659, 21700, 21701, 21702, 21703, 21709, 21712, 21750, 21753, 21754, 21755, 21800, 21801, 21802, 21806, 21950, 21951, 22106, 22107, 22108, 22109, 22350, 22351, 22352, 22400, 22450 to 22453, inclusive, 23101 to 23107, inclusive, 23110, 40831, 42002 with respect to 10852 and 10853, and 42004, relating to traffic laws.

(d) Sections 26706, 26707, and 26708, relating to equipment.

(e) Sections 17301, 17302, 17303, 21461, 35000, 35100, 35101, 35105, 35106, 35111, 35550, 35551, 35750, 35751, 35753, 40000.1 to 40000.25, inclusive, 40001, 40003, and 42031, relating to the size, weight, and loading of vehicles.

SEC. 446. Section 25100 of the Vehicle Code is amended to read:

25100. (a) Except as provided in subdivisions (b) and (d), every vehicle 80 inches or more in overall width shall be equipped during darkness as follows:

(1) At least one amber clearance lamp on each side mounted on a forward-facing portion of the vehicle and visible from the front and at least one red clearance lamp on each side mounted on a rearward-facing portion of the vehicle and visible from the rear.

(2) At least one amber side-marker lamp on each side near the front and at least one red side-marker lamp on each side near the rear.

(3) At least one amber side-marker lamp on each side at or near the center on trailers and semitrailers 30 feet or more in length and which are manufactured and first registered after January 1, 1962. Any such vehicle manufactured and first registered prior to January

1, 1962, may be so equipped.

(4) At least one amber side-marker lamp mounted at approximate midpoint of housecars, motortrucks, and buses 30 or more feet in length and manufactured on or after January 1, 1969. Any such vehicle manufactured prior to January 1, 1969, may be so equipped.

(5) Combination clearance and side-marker lamps mounted as side-marker lamps and meeting the visibility requirements for both types of lamps may be used in lieu of required individual clearance or side-marker lamps.

(b) The following vehicles when 80 inches or more in overall width and not equipped as provided in subdivision (a) shall be equipped during darkness as follows:

(1) Truck tractors shall be equipped with at least one amber clearance lamp on each side on the front of the cab or sleeper and may be equipped with amber side-marker lamps on each side.

(2) Truck tractors manufactured on or after January 1, 1969, shall be equipped with one amber side-marker lamp on each side near the front.

(3) Pole or pipe dollies, or logging dollies, shall be equipped with at least one combination clearance and side-marker lamp on each side showing red to the front, side, and rear.

(4) Vehicles, except truck tractors, which are 80 inches or more in width over a distance not exceeding three feet from front to rear shall be equipped with at least one amber combination clearance lamp and side-marker lamp on each side visible from the front, side, and rear if the projection is near the front of the vehicle and at least one red lamp if the projection is near the rear of the vehicle.

(5) Towing motor vehicles engaged in driveaway-towaway operations shall be equipped with at least one amber clearance lamp at each side on the front and at least one amber side-marker lamp on each side near the front.

(6) Towed motor vehicles engaged in driveaway-towaway operations shall be equipped with at least one amber side-marker lamp on each side of intermediate vehicles, and the rearmost vehicle shall be equipped with at least one red side-marker lamp on each side and at least one red clearance lamp on each side on the rear.

(7) Trailers and semitrailers designed for transporting single boats in a cradle-type mounting and for launching the boat from the rear of the trailer need not be equipped with front and rear clearance lamps provided amber clearance lamps showing to the front and red clearance lamps showing to the rear are located on each side at or near the midpoint between the front and rear of the trailer to indicate the extreme width of the trailer.

(c) Loads extending beyond the side of a vehicle where the overall width of the vehicle and load is 80 inches or more shall be equipped with an amber combination clearance and side-marker lamp on the side at the front and a red combination clearance and side-marker lamp on the side at the rear. In lieu of the foregoing requirement, projecting loads not exceeding three feet from front to

rear at the extreme width shall be equipped with at least one amber combination clearance and side-marker lamp on the side visible from the front, side, and rear if the projection is near the front of the vehicle and at least one red lamp if the projection is near the rear of the vehicle.

(d) Clearance and side-marker lamps are not required on auxiliary dollies or on passenger vehicles other than a housecar.

(e) Clearance lamps shall be visible from all distances between 500 feet and 50 feet to the front or rear of the vehicle, and side-marker lamps shall be visible from all distances between 500 feet and 50 feet to the side of the vehicle.

(f) Clearance lamps shall, so far as is practicable, be mounted to indicate the extreme width of the vehicle. Side-marker lamps shall be mounted not lower than 15 inches on vehicles manufactured on and after January 1, 1968. Combination clearance and side-marker lamps required on loads shall be mounted so the lenses project to the outer extremity of the vehicle or load.

SEC. 447. Section 26708.5 of the Vehicle Code is amended to read:

26708.5. It is unlawful for any person to place, install, affix, or apply any transparent material upon the windshield, or side or rear windows, of any motor vehicle if the material alters the color or reduces the light transmittance of the windshield or side or rear windows, except as provided in subdivision (b) or (c) of Section 26708.

This section does not apply to factory-installed tinted glass or the equivalent replacement thereof.

SEC. 448. Section 35780.5 of the Vehicle Code is amended to read:

35780.5. (a) The Department of Transportation may, upon application in writing from a company in the business of making or transporting trusses, as defined in Section 657, issue a special permit in writing authorizing the applicant to operate or move a vehicle carrying a load exceeding the maximum width specified by this code when the vehicle is actually being used to transport trusses upon a highway under the jurisdiction of the department, provided that the load does not exceed 12 feet in width and the company complies with the department's regulations governing the transportation of extra-legal loads.

(b) This section does not apply to highways which are part of the National System of Interstate and Defense Highways if that application would prevent this state from receiving any federal funds for highway purposes, and in that event the provisions of law applicable to the maximum permissible width of any load of trusses in effect on December 31, 1979, apply to that load.

SEC. 449. Section 42050 of the Vehicle Code, as added by Section 7.5 of Chapter 530 of the Statutes of 1980, is amended to read:

42050. To reimburse the General Fund for amounts appropriated therefrom for the laboratory phases of driver education pursuant to Section 41304 of the Education Code, and to augment the Peace Officers' Training Fund to the extent designated in Section 42052,

there shall be levied a penalty assessment on all offenses involving a violation of this code or any local ordinance adopted pursuant to this code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of a county pursuant to subparagraph (iii) of paragraph 3 of subdivision (a) of Section 258 of the Welfare and Institutions Code, in the following amounts:

(a) Where a fine is imposed	$5 for each $20 of fine, or fraction thereof.
(b) If sentence is suspended	$5 if jail only, otherwise based on the amount of the fine levied, as in subdivision (a).
(c) If bail is forfeited	$5 for each $20 of bail, or fraction thereof.
(d) Where multiple offenses are involved	The penalty assessment shall be based on the total fine or bail for all offenses, or $5 for each jail sentence.

When a fine is suspended, in whole or in part, the penalty assessment shall be reduced in proportion to the suspension.

SEC. 450. Section 8617 of the Water Code is amended to read:

8617. The board may give assurances satisfactory to the Secretary of Defense of the United States that the state will do all of the following:

(a) Provide, without cost to the United States, all lands, easements, and rights-of-way necessary for the construction of the project under the adopted flood control plan, except as otherwise provided in that certain act passed by the Congress of the United States, approved June 22, 1936, and entitled "An act authorizing the construction of certain public works on rivers and harbors for flood control and other purposes" (Public Law No. 738, Seventy-fourth Congress).

(b) Hold and save the United States free from damage due to the construction works.

(c) Maintain and operate all the works after completion in accordance with regulations prescribed by the Secretary of Defense.

(d) Promise, agree, do, or perform any or all other things required or necessary under the provisions of the act of Congress approved June 22, 1936, or any acts amending or adding to that act, now or hereafter adopted.

SEC. 451. Section 8886 of the Water Code is amended to read:

8886. The parcels of land specified in Section 8885 may be sold and conveyed by the board at any time after the expiration of the redemption period of one year at public or private sale and with or

without notice, to any person paying not less than the amount for which the parcel was bid in by the county treasurer at the delinquent sale for the drainage district, with interest thereon at the rate of 12 percent per annum compounded yearly from the date of the delinquent sale, and also the amount of all subsequent installments or other assessments then delinquent, with accrued interest and penalties thereon.

SEC. 452. Section 13220 of the Water Code is amended to read:

13220. Each regional board shall do all of the following:

(a) Establish an office.

(b) Select one of its members as chairman at the first regular meeting held each year.

(c) Appoint as its confidential employee, exempt from civil service under Section 4 of Article VII of the California Constitution, and fix the salary of, an executive officer who shall meet technical qualifications as defined by the State Water Resources Control Board. The executive officer shall serve at the pleasure of the regional board.

(d) Employ any other assistants which may be determined necessary to assist the executive officer.

SEC. 453. Section 13360 of the Water Code is amended to read:

13360. No waste discharge requirement or other order of a regional board or the state board or decree of a court issued under this division shall specify the design, location, type of construction, or particular manner in which compliance may be had with that requirement, order, or decree, and the person so ordered shall be permitted to comply therewith in any lawful manner. However, regarding disposal sites other than evaporation ponds from which there is no drainage or seepage, the restrictions of this section shall not apply to waste discharge requirements or orders or decrees with respect to the discharge of solid waste requiring the installation of riprap, the construction of walls and dikes, the installation of surface and underground drainage facilities to prevent runoff from entering the disposal area or leakage to underground or surface waters, or other reasonable requirements to achieve the above or similar purposes. If the court, in an action for an injunction brought under this division, finds that the enforcement of an injunction restraining the discharger from discharging waste would be impracticable, the court may issue any order reasonable under the circumstances requiring specific measures to be undertaken by the discharger to comply with the discharge requirements, order, or decree.

SEC. 454. Section 13627 of the Water Code is amended to read:

13627. (a) Supervisors and operators of municipal waste water treatment plants shall possess a certificate of appropriate grade in accordance with, and to the extent recommended by the advisory committee and required by, regulations adopted by the state board. The state board shall develop and specify in its regulations the training necessary to qualify a supervisor or operator for certification for each type and class of plant. The state board may accept

experience in lieu of qualification training. In lieu of a properly certified waste water treatment plant operator, the state board may approve use of a water treatment plant operator of appropriate grade certified by the State Department of Health Services, where water reclamation is involved.

(b) A person employed as a municipal waste water treatment plant supervisor or operator on the effective date of regulations adopted pursuant to this chapter shall be issued an appropriate certificate provided he meets the training, education, and experience requirements prescribed by regulations.

SEC. 455. Section 20023 of the Water Code is amended to read:

20023. The State Treasurer has been and is authorized to amend or revoke any order or report, other than a certification report, upon 10 days' notice upon any ground deemed by the State Treasurer to warrant amendment or revocation.

SEC. 456. Section 20054 of the Water Code is amended to read:

20054. Notwithstanding any other provision of law, where an improvement district of any district, prior to January 1, 1972, sold bonds for sewer purposes, where the bonds were approved as a legal investment for any trust funds, as well as funds of any insurance companies, commercial and saving banks, as well as trust companies and state school funds pursuant to this division, and where the purpose for which the bonds were approved for certification and sale was consistent with previously existing industrial or commercial plans or zoning ordinances over the property within the improvement district of any district, lands, within the improvement district planned and zoned for industrial or commercial uses, shall be deemed committed to those uses. No legal action brought subsequent to the sale and approval may seek, as a remedy, the invalidation of local plans, zoning, subsequent development approvals, or the provision of infrastructure, as each applies to those lands, nor shall the maintenance of the litigation or the judgment therein prevent the legislative body of the city, county, or district from taking any action to permit or authorize use of, or to provide infrastructure for, property served by the facilities in conformity with the general plan and zoning designations in force immediately prior to September 1, 1977. In any action to which this section applies, the judgment shall not prevent the authorization or sale of any bonds of an improvement district which encompasses the territory of an improvement district wherein bonds were sold for sewer purposes prior to January 1, 1972. Any legal action pending as of January 1, 1978, shall be deemed to be an action seeking relief not herein prohibited, and no court shall have jurisdiction to issue the prohibited relief.

This section does not preclude a city or county, at its discretion and in a manner pursuant to law, from altering plans, zoning, or subsequent development approvals applicable to those lands, or from enacting and enforcing further regulations upon their use. This section does not excuse developments on those lands from

compliance with all applicable requirements of state law.

SEC. 457. Section 25809 of the Water Code is amended to read:

25809. A district may make an additional reasonable charge for processing or reprocessing an invalid check or other instrument used to pay an assessment or service charge owed to the district. The reasonable charge shall be for cost of the processing or reprocessing of the invalid check or instrument. If the charge for processing becomes delinquent, the charge may become a lien against the land on which the assessment was made or to which the service was rendered, as provided in Section 25806.

SEC. 458. Section 25825.3 of the Water Code is amended to read:

25825.3. (a) Within the Anderson-Cottonwood Irrigation District only, any person having an interest in any land within the district may file with the secretary, in lieu of the petition authorized by Section 25825, a verified petition alleging it is appropriate to apply a special rate of assessment to that land and, as to that land, one of the following is applicable:

(1) His or her land, or a described portion of it, is used for residential or commercial purposes and has, for five years immediately prior to the date of filing a petition pursuant to this section, been irrigated or supplied water, wholly or partially, from a water system not owned or operated by the district.

(2) For five years immediately prior to the date of filing a petition pursuant to this section, his or her land, or a described portion of it, has never received water service from the district of any nature and the board of directors of the district has not, at any time prior to filing the petition, adopted a plan for future service of water to the lands, which plan may provide for the landowner to pay all costs of providing facilities to transport water from the nearest point at which the district has water available to the lands made subject to the petition.

(3) For five years immediately prior to the date of filing a petition pursuant to this section, his or her land, or a described portion of it, was served with water received from wells not owned, maintained, or operated by the district and which land and wells are not supplied water of any nature from the district, including, but not limited to, surface, subsurface, or seepage waters, which waters would be suitable for agricultural or domestic purposes.

(b) The procedure for any petition to which this section applies shall be in accordance with this article.

(c) After the conclusion of a hearing as provided in Section 25831, if the board finds that any of the land described in any petition has been supplied as alleged or no plan for future service has been adopted, and the lands made subject to the petition are not and will not be benefited by the operations of the district in a manner that would justify their assessment at the regular rate of assessment, then the board shall adjust the rate of assessment on the land made subject to the petition in an order entered in full upon its minutes.

SEC. 459. Section 26225 of the Water Code is amended to read:

26225. Property sold for delinquent assessments may be redeemed within five years from the date of sale, or thereafter before a collector's deed of the property has been delivered.

Where a collector's deed has been delivered to the district, the period of redemption is extended until the first bid is received for the property or until the board determines the property is not to be sold as provided in Section 26290.

Redemption before a collector's deed of the property has been delivered may be made by payment in lawful money of the United States to the collector of the amount for which the property was sold plus a penalty of three-fourths of 1 percent per month from the date of sale until redemption. Redemption after a collector's deed has been delivered may only be made by payment of the total of the following amounts:

(a) The total of the amount of the sale shown on each certificate of sale outstanding.

(b) A penalty on each certificate of sale outstanding of three-fourths of 1 percent per month from the date of sale until redemption.

(c) An amount for each year of escaped assessment determined as follows: The assessor shall establish the assessment value for the land for each year of escaped assessment and the collector shall apply the rate fixed in that year to determine the amount of the escaped assessment.

SEC. 460. Section 31303 of the Water Code is amended to read:

31303. Any money belonging to a district may be deposited or invested and drawn out as provided in Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, as now or hereafter amended. References in that chapter to "treasurer" shall mean, for the purposes of a district, the auditor thereof and to "auditor" shall mean, for the purposes of a district, the secretary thereof. This section provides for a deposit and investment procedure separate from that provided in Article 3 (commencing with Section 31335).

SEC. 461. Section 47127 of the Water Code is amended to read:

47127. Upon making the assessment order, the board shall prepare a supplementary assessment roll showing all the following:

(a) A description of each tract assessed.

(b) The total of assessments against each tract for construction purposes.

(c) The rate of assessment.

(d) The exact amount assessed against each tract by the supplementary assessment.

SEC. 462. Section 708 of the Welfare and Institutions Code is amended to read:

708. Whenever a minor who appears to be a danger to himself or others as a result of the use of narcotics (as defined in Section 11001 of the Health and Safety Code), or a restricted dangerous drug (as defined in Section 11901 of the Health and Safety Code), is brought

before any judge of the juvenile court, the judge may continue the hearing and proceed pursuant to this section. The court may order the minor taken to a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation. Thereupon the provisions of Section 11922 of the Health and Safety Code shall apply, except that the professional person in charge of the facility shall make a written report to the court concerning the results of the evaluation of the minor.

If the professional person in charge of the facility for 72-hour evaluation and treatment reports to the juvenile court that the minor is not a danger to himself or herself or others as a result of the use of narcotics or restricted dangerous drugs or that the minor does not require 14-day intensive treatment, or if the minor has been certified for not more than 14 days of intensive treatment and the certification is terminated, the minor shall be released if the juvenile court proceedings have been dismissed; referred for further care and treatment on a voluntary basis, subject to the disposition of the juvenile court proceedings; or returned to the juvenile court, in which event the court shall proceed with the case pursuant to this chapter.

Any expenditure for the evaluation or intensive treatment of a minor under this section shall be considered an expenditure made under Part 2 (commencing with Section 5600) of Division 5, and shall be reimbursed by the state as are other local expenditures pursuant to that part.

SEC. 463. Section 736 of the Welfare and Institutions Code is amended to read:

736. (a) The Youth Authority shall accept a person committed to it pursuant to this article if it believes that the person can be materially benefited by its reformatory and educational discipline, and if it has adequate facilities to provide that care. No person subject to this section shall be transported to any facility under the jurisdiction of the Youth Authority until the director thereof has notified the committing court of the place to which that person is to be transported and the time at which he or she can be received.

(b) The Youth Authority shall also accept a person committed to it pursuant to this article, provided that the Director of the Youth Authority certifies that staff and institutions are available (1) if he is a borderline psychiatric or borderline mentally deficient case, (2) if he or she is a sex deviate unless he or she is of a type whose presence in the community, under parole supervision, would present a menace to the public welfare, or (3) if he or she suffers from a primary behavior disorder. No person subject to this section shall be transported to any facility under the jurisdiction of the Youth Authority until the director thereof has notified the committing court of the place to which that person is to be transported and the time at which he can be received. To implement the administration of this paragraph, the Director of the Youth Authority and the

Director of Mental Health shall, at least annually, confer and establish policy with respect to the types of cases which should be the responsibility of each department.

SEC. 464. Section 1756 of the Welfare and Institutions Code is amended to read:

1756. Notwithstanding any other provision of law, if, in the opinion of the Director of the Youth Authority, the rehabilitation of any mentally disordered, or developmentally disabled person confined in a state correctional school may be expedited by treatment at one of the state hospitals under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services, the Director of the Youth Authority shall certify that fact to the director of the appropriate department who may authorize receipt of the person at one of the hospitals for care and treatment. Upon notification from the director that the person will no longer benefit from further care and treatment in the state hospital, the Director of the Youth Authority shall immediately send for, take, and receive the person back into a state correctional school. Any person placed in a state hospital under this section who is committed to the authority shall be released from the hospital upon termination of his or her commitment unless a petition for detention of that person is filed under the provisions of Part 1 (commencing with Section 5000) of Division 5.

SEC. 465. Section 1760.5 of the Welfare and Institutions Code is amended to read:

1760.5. The director may require persons committed to the authority to perform work necessary and proper to be done by the Department of Forestry, the Department of Parks and Recreation, and the Department of Fish and Game, by the Division of State Lands, by the United States Department of Agriculture, and by the federal officials and departments in charge of national forests and parks within this state. For the purposes of this section, the director, with the approval of the Department of General Services, may enter into contracts with federal and state officials and departments. All moneys received by the director pursuant to any of those contracts shall be paid into the State Treasury to the credit and in augmentation of the current appropriation for the support of the authority. The director may provide, from those moneys, for the payment of wages to the wards for work they do pursuant to any of those contracts, the wages to be paid into the Indemnity Fund created pursuant to Section 13967 of the Government Code, or to the parents or dependents of the ward, or to the ward in the manner and in those proportions as the Department of the Youth Authority directs.

SEC. 466. Section 4302 of the Civil Code, as amended by Section 30 of Chapter 429 of the Statutes of 1978, is repealed. The repeal made by this section shall not affect the existence or validity of Section 4302 of the Welfare and Institutions Code, as added by Chapter 1191 of the Statutes of 1980.

SEC. 467. Chapter 3 (commencing with Section 4330) is added to Division 4 of the Welfare and Institutions Code, to read:

CHAPTER 3. PILOT PROJECT FOR BRAIN-DAMAGED PERSONS

4330. It has come to the attention of the Legislature that:

(a) State public policy discriminates against brain-damaged adults.

(b) Brain damage is often a long-term chronic illness, the costs of which are most often not covered by health insurance or existing government assistance programs.

(c) Financial assistance is not available until after families have struggled to care for family members and exhausted their own financial resources.

(d) If brain damage is diagnosed as a mental disorder, financial liability is significantly less onerous.

(e) Separable and less onerous financial liability already exists for programs serving the developmentally disabled and crippled children even though the medical and treatment needs may be identical to those of brain-damaged persons.

(f) The term brain damage is broad in scope and covers a wide range of organic and neurological disorders.

(g) Services required by brain-damaged persons often cross the service line of a number of different programs.

4332. It is the intent of the Legislature to establish a pilot project to:

(a) Assist families in securing services, information, and counseling necessary for the care of brain-damaged family members.

(b) Coordinate funding and services among state departments and programs in order to provide an integrated program and single service access for persons with brain damage.

(c) Facilitate the integration of existing funds and services for persons with brain damage.

4333. The Director of Mental Health, herein referred to as director, shall administer this article and establish such rules, regulations, and standards, as the director deems necessary in carrying out the provisions of this article.

4334. The director shall establish a pilot project to be conducted by contract with an appropriate nonprofit community agency to integrate services and funds for persons with brain damage.

4335. In choosing an appropriate nonprofit community agency to conduct the pilot project, the director shall give priority to the following:

(a) An agency which has previously provided information and support services to families of brain-damaged persons within a population area or county of at least 500,000 persons.

(b) An agency which includes family members of persons with brain damage on its governing board or advisory boards.

(c) An agency which has shown a capacity to address the needs

of brain-damaged persons and their families.

4336. The agency conducting the pilot project shall provide the following services:

(a) In-home support services shall be provided by the pilot project through the establishment of a client voucher system. The voucher system should be available to family members, in lieu of cash assistance, to reimburse for a wide variety of in-home services, as specified in Sections 12300 and 14132, including but not limited to, the following:

(1) Nursing services.
(2) Housekeeping services.
(3) Home health services.
(4) Attendant care.
(5) Transportation.
(6) Respite care.

(b) If additional funding from sources other than the General Fund appropriation contained in the act by which this article is enacted become available, the pilot project under this article shall provide additional services in the following order of priority:

(1) Adult day health care services.
(2) Diagnostic services.
(3) Out-of-home 24-hour skilled nursing services.

(c) The pilot project shall provide legal, financial, and postdiagnostic family support counseling, information about services to persons with brain damage, and overall project administration. The pilot project may provide such services directly or by contract.

4337. The director shall establish criteria for program eligibility for persons with brain damage, including financial liability pursuant to Section 4338. The director shall assume coordination of existing funds and services for persons with brain damage, and for the purchase of in-home services through the client voucher system described in subdivision (b) of Section 4336, with other departments that may serve persons with brain damage, including the Department of Rehabilitation, the State Department of Health Services, the State Department of Social Services, and the State Department of Developmental Services.

4338. The parent, spouse, or child of a person receiving services under this article or the person receiving the services may be required to contribute to the cost of services depending upon their ability to pay, but not to exceed the actual cost thereof, as determined by the director.

4339. In considering total funds available for the project, the director shall utilize funding available from appropriate state departments, including, but not limited to: the State Department of Health Services, the State Department of Social Services, and the Department of Rehabilitation. Funding for services not available from existing programs shall be provided from the appropriation contained in Section 3 of Chapter 1058 of the Statutes of 1979.

4340. The pilot project under this article shall be limited to one

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year and the director shall evaluate the success of the pilot project. The director shall report such evaluation to the Legislature, not less than three months following the completion of the pilot project, and the findings of the evaluation shall address at least the following:

(a) Reduced need for institutionalized services by providing in-home support services.

(b) Number of persons in skilled nursing facilities who transfer to less dependent 24-hour care settings.

SEC. 468. Section 4446 of the Welfare and Institutions Code is repealed.

SEC. 469. Chapter 7.5 (commencing with Section 4740) of Division 4.1 of the Welfare and Institutions Code is repealed.

SEC. 470. Chapter 7.5 (commencing with Section 4740) is added to Division 4.5 of the Welfare and Institutions Code, to read:

CHAPTER 7.5. RESIDENTIAL CARE FACILITY APPEALS PROCEDURES

4740. The Legislature finds the following:

(a) The quality of care provided to persons with developmental disabilities by residential facilities is contingent upon a closely coordinated "team" effort by the regional center or its designee, the client, the parent or representative if appropriate, the residential facility administrator, and the licensing agency. The rights and responsibilities of each must be identified in order to assure clear direction and accountability for each.

(b) The quality of care is impaired when inordinate numbers of staff from placement and licensing agencies give direction to the facility administrator regarding care and service requirements.

4741. An adult person with a developmental disability has the legal right to determine where his or her residence will be. Except in a situation which presents immediate danger to the health and well-being of the individual, the regional center or its designee shall not remove a client from a residential care facility against the client's wishes unless there has been specific court action to abridge such right with respect to an adult or unless the parent, guardian or conservator consents with respect to a child.

4742. The regional center or its designated representative shall (a) guide and counsel facility staff regarding the care and services required by each client served by the regional center; and (b) monitor the care and services provided the individual to assure that care and services are provided in accordance with the individual program plan.

4743. It is the intent of the Legislature that to the greatest extent possible, the staff of the regional center or its designee are assigned so as to minimize the number of persons responsible for programs provided in a given facility.

The regional center or its designee shall designate the staff person responsible for assuring that each individual client's program plan is

carried out. One person shall be assigned by the regional center as the principal liaison to a facility and to monitor the provision of care and the services provided by that facility in accordance with the individual program plans. If, due to the number of regional center clients in the facility, additional staff of a regional center or its designee serve clients in the facility, one person shall be assigned as having primary responsibility for, and assure consistency and continuity of, directions to the administrator and for the monitoring of care and services.

4744. The regional center or its designee shall provide to the residential facility administrator all information in its possession concerning any history of dangerous propensity of the client prior to the placement in that facility. However, no confidential client information shall be released pursuant to this section without the consent of the client or authorized representative.

4745. During each visit to the facility, the designated staff person shall inform the administrator orally of any substantial inadequacies in the care and services provided, the specific corrective action necessary and the date by which corrective action must be completed. The designated staff person shall confirm this information in writing to the administrator within 48 hours after the oral notice and inform the administrator of the right to appeal the findings.

4746. The severity of the deficiencies and the quality of care provided shall determine how long the regional center or its designee will work with the facility administrator to resolve inadequacies. After a reasonable period of time, if the care continues to be unacceptable, the designated staff person shall submit to his or her supervisor and to the licensing agency and administrator a recommended disposition with supporting documents attached. The placement agency shall develop sufficient documentation of inadequacies and care provided to sustain corrective action.

4747. If an adult person or the parent, guardian or conservator on behalf of a child requests a relocation, the regional center or its designee may provide assistance in locating and moving to another residence.

The regional center or its designee shall not encourage a client to move from a residential facility without reasonable cause. If reasonable cause does exist, the regional center or its designee shall give at least 15 days' written notice to the facility administrator of the intent, prior to counseling the client to move.

4748. Within nine months of the effective date of this section, the State Department of Developmental Services shall develop and implement regulations for use by the regional center or its designee to assure uniformity of the care and services to be provided to persons registered with the regional centers who reside in residential facilities.

SEC. 471. Section 9203 of the Welfare and Institutions Code is amended to read:

9203. The commission may accept gifts and grants from any source, public or private, to assist it in the performance of its functions, and the gifts and grants shall operate to augment any appropriation made for the support of the commission, provided that the department shall serve as the fiscal agent for the accounting of the gifts and grants and that no gifts or grants shall be used for the operation by the commission of direct service programs which would conflict with the department's duties and functions as described by law.

SEC. 472. Section 9600 of the Welfare and Institutions Code is amended to read:

9600. In determining how state funds are to be allocated, the Department of Aging shall give first priority to existing Brown Bag programs that are not being sufficiently funded. "Sufficiently funded" means possessing adequate funds for the lease of needed equipment, warehouses, trucks, freezer space, and salaries for the paid staff to coordinate volunteers and provide for a timely, business-like response to donors and for distribution of foods.

Existing programs which meet criteria established by the Department of Aging shall also receive state money for the establishment of a statewide Brown Bag network the purpose of which will be to strengthen existing programs and establish new ones. The Brown Bag network shall receive fiscal support so that the distribution of existing resources can be more efficient and also aid in the establishment of new Brown Bag programs.

New Brown Bag programs shall be selected on the basis of counties with agricultural resources, access to agricultural resources, and large senior populations. A local cash or in-kind match of at least 25 percent of the Brown Bag program's budget shall be demonstrated before any program shall receive state subsidies. Sources from which the local match may be derived include, but are not limited to, city, county, and federal funds, membership dues, and private or business donations. Priority shall be given to those local programs with a larger local match. For both existing and new programs, state money shall be a catalyst for charitable contributions, including in-kind and local community support. State moneys shall not be used to replace other sources of fiscal and volunteer support unless absolutely necessary.

Each of the Brown Bag projects shall receive no more than one hundred thousand dollars ($100,000) per year for three years.

SEC. 473. Section 10653 of the Welfare and Institutions Code is amended to read:

10653. The county department shall be responsible for the initial selection of public assistance recipients who are to participate in training, vocational educational programs, or other employment preparation programs that are developed pursuant to the provisions of this chapter. The county department shall have primary responsibility for providing those services which will prepare recipients for the specific vocational training and employment

placement services offered by the Employment Development Department, the Department of Rehabilitation, the Department of Education, and any other state or federal agencies offering specialized programs to upgrade the capacity of recipients and potential recipients to improve their capacity for self-support or self-direction. The services provided by the county department shall be geared to complement those services offered by state and federal agencies to the end that recipients of public assistance receive and participate in the programs to the fullest extent of their capacity.

SEC. 474. Section 14145 of the Welfare and Institutions Code, as amended by Chapter 1240 of the Statutes of 1980, is amended and renumbered to read:

14144.5. Notwithstanding any provision of this article or of any other statute to the contrary, any person who is eligible under Section 14005.4 or 14005.7 for dialysis, parenteral hyperalimentation, and related services and who is employed and individually earning an amount which exceeds the minimum needs standard, and who receives dialysis services either through a self-dialysis unit of a dialysis clinic or through home dialysis or who receives parenteral hyperalimentation services through self-parenteral hyperalimentation, shall be eligible for dialysis, parenteral hyperalimentation, and related services under Medi-Cal pursuant to this article and shall, after utilizing other contractual or legal entitlements pursuant to Section 14143, be liable to pay only the amounts specified in subdivision (b) of Section 14142, except that such percentage obligations shall be 1 percent for each five thousand dollars ($5,000) of family unit net worth up to a maximum net worth of five hundred thousand dollars ($500,000). Persons eligible for services under this section shall not be subject to Section 14144.

SEC. 475. Section 18294 of the Welfare and Institutions Code, as added by Chapter 892 of the Statutes of 1977, is repealed. The repeal made by this section shall not affect the existence or validity of Section 18294 of the Welfare and Institutions Code, as added by Chapter 146 of the Statutes of 1980.

SEC. 476. Section 18295 of the Welfare and Institutions Code, as added by Chapter 892 of the Statutes of 1977, is repealed. The repeal made by this section shall not affect the existence or validity of Section 18295 of the Welfare and Institutions Code, as added by Chapter 146 of the Statutes of 1980.

SEC. 477. Section 18296 of the Welfare and Institutions Code, as added by Chapter 892 of the Statutes of 1977, is repealed. The repeal made by this section shall not affect the existence or validity of Section 18296 of the Welfare and Institutions Code, as added by Chapter 146 of the Statutes of 1980.

SEC. 478. Section 18297 of the Welfare and Institutions Code, as added by Chapter 892 of the Statutes of 1977, is repealed. The repeal made by this section shall not affect the existence or validity of Section 18297 of the Welfare and Institutions Code, as added by Chapter 146 of the Statutes of 1980.

SEC. 479. Section 18298 of the Welfare and Institutions Code, as added by Chapter 892 of the Statutes of 1977, is repealed. The repeal made by this section shall not affect the existence or validity of Section 18298 of the Welfare and Institutions Code, as added by Chapter 146 of the Statutes of 1980.

SEC. 480. The heading of Chapter 8.5 (commencing with Section 19810) of Part 2 of Division 10 of the Welfare and Institutions Code is amended and renumbered to read:

CHAPTER 10. PILOT COMPREHENSIVE SERVICES CENTER FOR THE DISABLED

SEC. 481. Section 25 of Chapter 1313 of the Statutes of 1980 is amended to read:

Sec. 25. It is the intent of the Legislature, if this bill and Senate Bill No. 1811 are both chaptered and become effective January 1, 1981, both bills amend Section 1373 of the Health and Safety Code, and this bill is chaptered after Senate Bill No. 1811, that the amendments to Section 1373 proposed by both bills be given effect and incorporated in Section 1373 in the form set forth in Section 14.5 of this act. Therefore, Section 14.5 of this act shall become operative only if this bill and Senate Bill No. 1811 are both chaptered and become effective January 1, 1981, both amend Section 1373, and this bill is chaptered after Senate Bill No. 1811, in which case Section 14 of this act shall not become operative.

SEC. 482. Section 214 of this act, which repeals Section 1250.2 of the Health and Safety Code, shall not be operative if any other act enacted during the 1981 calendar year, which takes effect on or before January 1, 1982, amends Section 1250 of the Health and Safety Code.

SEC. 483. Section 449 of this act, which amends Section 42050 of the Vehicle Code, shall become operative January 1, 1983.

SEC. 484. Any section of any act enacted by the Legislature during the 1981 portion of the 1981–82 Regular Session, which takes effect on or before January 1, 1982, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether such act is enacted prior to or subsequent to this act.

CHAPTER 715

An act to amend Sections 4370 and 4811 of, and to repeal and add Section 4800.6 to, the Civil Code, relating to family law.

Airport Land Use Commissions/Plans II (05-TC-12, Amended)
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(b) This section is repealed as of January 1, 1984.

CHAPTER 1041

An act to add and repeal Section 65302.3 of the Government Code, and to amend, repeal, and add Sections 21670, 21671, 21674, and 21676 of, and to add and repeal Section 21678 of, the Public Utilities Code, relating to airports.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 65302.3 is added to the Government Code, to read:

65302.3. (a) The general plan, and any applicable specific plan prepared pursuant to Section 65450, shall be consistent with the plan adopted or amended pursuant to Section 21675 of the Public Utilities Code.

(b) The general plan, and any applicable specific plan prepared pursuant to Section 65450, shall be amended pursuant to subdivision (a) not later than December 31, 1983, to be consistent with provisions of the plan required under Section 21675 of the Public Utilities Code, as such plan may provide on July 1, 1983.

(c) In the event that the legislative body does not concur with any provision of the plan required under Section 21675 of the Public Utilities Code, it may satisfy the provisions of this section by adopting findings pursuant to Section 21676 of the Public Utilities Code.

This section shall remain in effect only until January 1, 1984, and on that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends that date.

SEC. 2. Section 65302.3 is added to the Government Code, to read:

65302.3. (a) The general plan, and any applicable specific plan prepared pursuant to Section 65450, shall be consistent with the plan adopted or amended pursuant to Section 21675 of the Public Utilities Code.

(b) Notwithstanding the provisions of Section 65361, the general plan, and any applicable specific plan, shall be amended within 180 days of any amendment to the plan required under Section 21675 of the Public Utilities Code.

(c) In the event that the legislative body does not concur with any provision of the plan required under Section 21675 of the Public Utilities Code, it may satisfy the provisions of this section by adopting findings pursuant to Section 21676 of the Public Utilities Code.

This section shall become operative January 1, 1984, and remain in effect only until January 1, 1989, and as of that date is repealed, unless

a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 3. Section 21670 of the Public Utilities Code is amended to read:

21670. (a) The Legislature hereby finds and declares that:

(1) It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding such airports in such a manner among other things, promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669, and prevent the creation of new noise and safety problems.

(2) It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that such areas are not already devoted to incompatible uses.

(b) In order to achieve the purposes of this article, there is hereby created, in each county subject to this article and containing at least one airport operated for the benefit of the general public and served by an air carrier certificated by the Civil Aeronautics Board, an airport land use commission, hereinafter referred to as the "commission." Each commission shall consist of seven members to be selected as follows:

(1) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county; provided, however, that, if there are any cities contiguous or adjacent to the qualifying airport, at least one such representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by paragraphs (2) and (3) shall each be increased by one.

(2) Two representing the county, appointed by the board of supervisors.

(3) Two representing the airports within that county, appointed by a selection committee comprised of the managers of all of the public airports within that county; however, one such representative shall be appointed from an airport operated for the benefit of the general public.

(4) One representing the general public, appointed by the other six members of the commission.

(c) Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

(d) Each member shall promptly appoint a single proxy to represent him in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the member who appointed him. A vacancy in the office of proxy shall

be filled promptly by appointment of a new proxy.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 4. Section 21670 is added to the Public Utilities Code, to read:

21670. There is hereby created, in each county subject to this article and containing at least one airport operated for the benefit of the general public and served by an air carrier certified by the Public Utilities Commission or the Civil Aeronautics Board, an airport land use commission, hereinafter referred to as the "commission." Each commission shall consist of seven members to be selected as follows:

(a) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county; provided, however, that, if there are any cities contiguous or adjacent to the qualifying airport, at least one such representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by subdivisions (b) and (c) shall each be increased by one.

(b) Two representing the county, appointed by the board of supervisors.

(c) Two representing the airports within that county, appointed by a selection committee comprised of the managers of all of the public airports within that county; however, one such representative shall be appointed from an airport operated for the benefit of the general public.

(d) One representing the general public, appointed by the other six members of the commission.

Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

Each member shall promptly appoint a single proxy to represent him in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the member who appointed him. A vacancy in the office of proxy shall be filled promptly by appointment of a new proxy.

This section shall become operative January 1, 1989.

SEC. 5. Section 21671 of the Public Utilities Code is amended to read:

21671. In any county where there is an airport operated for the general public, and served by an air carrier certificated by the Civil Aeronautics Board, which is owned by a city or district in another county or by another county, one of the representatives provided by paragraph (1) of subdivision (b) of Section 21670 shall be appointed by the mayors of the cities of the county in which the owner of that airport is located, and one of the representatives provided by paragraph 2 of subdivision (b) of Section 21670 shall be appointed by

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the board of supervisors of the county in which the owner of that airport is located.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 6. Section 21671 is added to the Public Utilities Code, to read:

21671. In any county where there is an airport operated for the general public, and served by an air carrier certified by the Public Utilities Commission or the Civil Aeronautics Board, which is owned by a city or district in another county or by another county, one of the representatives provided by subdivision (a) of Section 21670 shall be appointed by the mayors of the cities of the county in which the owner of that airport is located, and one of the representatives provided by subdivision (b) of Section 21670 shall be appointed by the board of supervisors of the county in which the owner of that airport is located.

This section shall become operative January 1, 1989.

SEC. 7. Section 21674 of the Public Utilities Code is amended to read:

21674. The commission shall have the following powers and duties, subject to the limitations upon its jurisdiction set forth in Section 21676:

(a) To assist local agencies in ensuring compatible land uses in the vicinity of all new airports and in the vicinity of existing airports to the extent that the land in the vicinity of such airports is not already devoted to incompatible uses.

(b) To coordinate planning at the state, regional and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety, and welfare.

(c) To prepare and adopt an airport land use plan pursuant to Section 21675.

(d) To review the plans, regulations, and other actions of local agencies and airport operators pursuant to Section 21676.

(e) The powers of the commission shall in no way be construed to give the commission jurisdiction over the operation of any airport.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 8. Section 21674 is added to the Public Utilities Code, to read:

21674. The commission shall have the following powers and duties, subject to the limitations upon its jurisdiction herein set forth:

(a) To study conditions and make recommendations concerning the need for height restrictions on buildings near airports;

(b) To make recommendations for the use of the land surrounding airports to assure safety of air navigation and the promotion of air commerce.

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(c) To hold public hearings regarding the subject matter in subdivisions (a) and (b) and make findings of fact thereon which would be advisory only to the involved jurisdiction.

(d) To make and enforce rules and regulations for the orderly and fair conduct of such hearings which shall conform as nearly as possible to the provisions applicable to hearings conducted by local agency formation commissions.

(e) To achieve by zoning compatible land uses in the vicinity of all new airports and in the vicinity of existing airports to the extent that the land in the vicinity of such airports is not already devoted to incompatible uses, and to this end the commissions shall require that all new construction in such areas shall conform to such standards as the department may from time to time adopt.

The powers of the commission shall in no way be construed to give the commission jurisdiction over the operation of any airport.

This section shall become operative January 1, 1989.

SEC. 9. Section 21676 of the Public Utilities Code is amended to read:

21676. (a) Each local agency whose general plan includes areas covered by an airport land use commission plan, shall, by July 1, 1983, submit a copy of its plan or specific plans to the airport land use commission. The commission shall determine by August 31, 1983, whether the plan or plans are consistent or inconsistent with the commission's plan. If the plan or plans are inconsistent with the commission's plan, the local agency shall be notified and that local agency shall have another hearing to reconsider its plans. The local agency may overrule the commission after such hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.

(b) Prior to the amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the airport land use commission pursuant to Section 21675, the local agency shall first refer the proposed action to the commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The local agency may, after a public hearing, overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.

(c) Each public agency owning any airport within the boundaries of an airport land use commission plan, shall, prior to modification of its airport master plan, refer such proposed change to the airport land use commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The public agency may, after a public hearing, overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action

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is consistent with the purposes of this article stated in Section 21670.

(d) Each commission determination pursuant to subdivision (b) or (c) shall be made within 60 days from the date of referral of the proposed action. If a commission fails to make the determination within that period, the proposed action shall be deemed consistent with the commission's plan.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 10. Section 21676 is added to the Public Utilities Code, to read:

21676. Each public agency having representation on the commission shall assist in the development of an area plan. All such plans shall be filed with the commission for its approval. If in the determination of the commission, an action or regulation of any public agency within the boundaries of the area plan is inconsistent with the commission plan, then the commission shall hold a hearing to determine whether or not the proposed action is in the best interest of the airport and the adjacent area. If it is determined that the action would be harmful, then the public agency shall be notified and the public agency shall have another hearing to reconsider its action. The public agency proposing the action or regulation, however, may overrule the commission after such hearing by a four-fifths vote of its governing body.

Each public agency owning any airport within the boundaries of the area plan shall file any substantive change in development plans with the commission for its approval. If such plans are inconsistent with the commission plan, then the public agency shall be notified and shall have another hearing to reconsider its action. Such public agency, however, may overrule the commission by a four-fifths vote of its governing body.

This section shall become operative January 1, 1989.

SEC. 11. Section 21678 is added to the Public Utilities Code, to read:

21678. With respect to a publicly owned airport that a public agency does not operate, if such public agency pursuant to Section 21676 overrides a commission's action or recommendation, the operator of such airport shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to override the commission's action or recommendation.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 12. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may

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CHAPTER 1042

An act to amend Section 41907 of the Education Code, and to amend Sections 12800, 12811, and 13005.3 of the Vehicle Code, relating to motor vehicles.

[Approved by Governor September 14, 1982. Filed with Secretary of State September 15, 1982.]

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

SECTION 1. Section 41907 of the Education Code is amended to read:

41907. A qualified instructor is one who has passed an approved driver's instruction examination and holds a designated subjects credential or who holds a valid prior credential authorizing instruction in automobile driver education and driver training.

SEC. 2. Section 12800 of the Vehicle Code, as amended by Section 1.5 of Chapter 1102 of the Statutes of 1981, is amended to read:

12800. Every application for a driver's license shall contain the following information:

(a) The applicant's true full name, age, sex, mailing address, and residence address.

(b) A brief description of the applicant for the purpose of identification.

(c) A legible print of the thumb or finger of the applicant.

(d) The type of motor vehicle or combination of vehicles the applicant desires to operate.

(e) Whether the applicant has ever previously been licensed as a driver and, if so, when and in what state or country and whether or not the license has been suspended or revoked and, if so, the date of and reason for the suspension or revocation.

(f) Whether the applicant has ever previously been refused a driver's license in this state and, if so, the date of and the reason for the refusal.

(g) Whether the applicant, within the last three years, has experienced, on one or more occasions, either a lapse of consciousness or an episode of marked confusion caused by any condition which may bring about recurrent lapses, or whether the applicant has any disease, disorder, or disability which affects ability to exercise reasonable and ordinary control in operating a motor vehicle upon a highway.

(h) Whether the applicant understands traffic signs and signals.

(i) Whether the applicant has ever previously been issued an

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to immediately resolve a critical problem in the intercountry adoptions program, which has caused a suspension of some intercountry placements, and a reluctance of out-of-state adoption agencies to work with California families, it is necessary that this act take effect immediately.

CHAPTER 1117

An act to amend Sections 21659, 21670, 21671, 21675, 21678, and 21681 of, and to add Section 21676.5 to, the Public Utilities Code, relating to aeronautics.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 21659 of the Public Utilities Code is amended to read:

21659. (a) No person shall construct any structure or permit any natural growth to grow at a height so as to constitute a hazard to air navigation, as a hazard to air navigation is defined in accordance with the regulations of the Federal Aviation Administration relating to objects affecting navigable airspace contained in Title 14 of the Code of Federal Regulations, Part 77, unless a permit allowing the construction or growth is issued by the department.

(b) The permit shall not be required if the Federal Aviation Administration has determined that the construction or growth does not constitute a hazard to air navigation or would not create an unsafe condition for air navigation. Subdivision (a) does not apply to a pole, pole line, distribution or transmission tower, or tower line or substation of a public utility.

(c) Section 21658 is applicable to subdivision (b).

SEC. 2. Section 21670 of the Public Utilities Code, as amended by Section 3 of Chapter 1041 of the Statutes of 1982, is amended to read:

21670. (a) The Legislature hereby finds and declares that:

(1) It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669, and prevent the creation of new noise and safety problems.

(2) It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public

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(b) In order to achieve the purposes of this article, every county in which there is located an airport which is served by a scheduled airline shall establish an airport land use commission. Every county, in which there is located an airport which is not served by a scheduled airline, but is operated for the benefit of the general public, shall establish an airport land use commission, except that the board of supervisors of the county may, after consultation with the appropriate airport operators and affected local entities and after a public hearing, adopt a resolution finding that there are no noise, public safety, or land use issues affecting any airport in the county which require the creation of a commission and declaring the county exempt from that requirement. The board shall, in this event, transmit a copy of the resolution to the Director of Transportation. For purposes of this section, "commission" means an airport land use commission. Each commission shall consist of seven members to be selected as follows:

(1) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county, except that if there are any cities contiguous or adjacent to the qualifying airport, at least one representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by paragraphs (2) and (3) shall each be increased by one.

(2) Two representing the county, appointed by the board of supervisors.

(3) Two representing the airports within that county, appointed by a selection committee comprised of the managers of all of the public airports within that county, except that one representative shall be appointed from an airport operated for the benefit of the general public.

(4) One representing the general public, appointed by the other six members of the commission.

(c) Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

(d) Each member shall promptly appoint a single proxy to represent him in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the appointing member. A vacancy in the office of proxy shall be filled promptly by appointment of a new proxy.

(e) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date.

SEC. 3. Section 21670 of the Public Utilities Code, as added by Section 4 of Chapter 1041 of the Statutes of 1982, is amended to read:

21670. (a) Every county in which there is located an airport which is served by a scheduled airline shall establish an airport land use commission. Every county, in which there is located an airport which is not served by a scheduled airline, but is operated for the benefit of the general public, shall establish an airport land use commission, except that the board of supervisors of the county may, after consultation with the appropriate airport operators and affected local entities and after a public hearing, adopt a resolution finding that these are no noise, public safety, or land use issues affecting any airport in the county which require the creation of a commission and declaring the county exempt from that requirement. The board shall, in this event, transmit a copy of the resolution to the Director of Transportation. For purposes of this section, "commission" means an airport land use commission. Each commission shall consist of seven members to be selected as follows:

(1) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county, except that if there are any cities contiguous or adjacent to the qualifying airport, at least one representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by subdivisions (b) and (c) shall each be increased by one.

(2) Two representing the county, appointed by the board of supervisors.

(3) Two representing the airports within that county, appointed by a selection committee comprised of the managers of all of the public airports within that county, except that one representative shall be appointed from an airport operated for the benefit of the general public.

(4) One representing the general public, appointed by the other six members of the commission.

(b) Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

(c) Each member shall promptly appoint a single proxy to represent the member in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the appointing member. A vacancy in the office of proxy shall be filled promptly by appointment of a new proxy.

(d) This section shall become operative January 1, 1989.

SEC. 4. Section 21671 of the Public Utilities Code, as amended by Section 5 of Chapter 1041 of the Statutes of 1982, is amended to read:

21671. In any county where there is an airport operated for the general public which is owned by a city or district in another county or by another county, one of the representatives provided by paragraph (1) of subdivision (b) of Section 21670 shall be appointed by the mayors of the cities of the county in which the owner of that

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airport is located, and one of the representatives provided by paragraph 2 of subdivision (b) of Section 21670 shall be appointed by the board of supervisors of the county in which the owner of that airport is located.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1989, deletes or extends that date.

SEC. 5. Section 21671 of the Public Utilities Code, as added by Section 6 of Chapter 1041 of the Statutes of 1982, is amended to read:

21671. In any county where there is an airport operated for the general public which is owned by a city or district in another county or by another county, one of the representatives provided by paragraph (1) of subdivision (a) of Section 21670 shall be appointed by the mayors of the cities of the county in which the owner of that airport is located, and one of the representatives provided by paragraph (2) of subdivision (a) of Section 21670 shall be appointed by the board of supervisors of the county in which the owner of that airport is located.

This section shall become operative January 1, 1989.

SEC. 5.5. Section 21675 of the Public Utilities Code is amended to read:

21675. (a) The commission shall formulate a comprehensive land use plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission plan shall include a long-range master plan that reflects the anticipated growth of the airport during at least the next 20 years. In formulating a land use plan, the commission may develop height restrictions on buildings, may specify use of land, and may determine building standards, including soundproofing adjacent to airports, within the planning area. The comprehensive land use plan shall not be amended more than once in any calendar year.

(b) The commission may include, within its plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding any federal military airport for all the purposes specified in subdivision (a). This subdivision does not give the commission any jurisdiction or authority over the territory or operations of any military airport.

(c) The planning boundaries shall be established by the commission after hearing and consultation with the involved agencies.

SEC. 6. Section 21676.5 is added to the Public Utilities Code, to read:

21676.5. (a) If the commission finds that a local agency has not revised its general plan or specific plan or overruled the commission by a two-thirds vote of its governing body after making specific findings that the proposed action is consistent with the purposes of

this article as stated in Section 21670, the commission may require that the local agency submit all subsequent actions, regulations, and permits to the commission for review until its general plan or specific plan is revised or the specific findings are made. If, in the determination of the commission, an action, regulation, or permit of the local agency is inconsistent with the commission plan, the local agency shall be notified and that local agency shall hold a hearing to reconsider its plan. The local agency may overrule the commission after the hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article as stated in Section 21670.

(b) Whenever the local agency has revised its general plan or specific plan or has overruled the commission pursuant to subdivision (a), the proposed action of the local agency shall not be subject to further commission review, unless the commission and the local agency agree that individual projects shall be reviewed by the commission.

SEC. 7. Section 21678 of the Public Utilities Code is amended to read:

21678. (a) With respect to a publicly owned airport that a public agency does not operate, if the public agency pursuant to Section 21676 or 21676.5 overrides a commission's action or recommendation, the operator of the airport shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to override the commission's action or recommendation.

(b) This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, deletes or extends that date.

SEC. 8. Section 21681 of the Public Utilities Code is amended to read:

21681. For the purposes of this article:

(a) "Own and operate" means that the public entity must own property in fee simple or by a long-term lease of a minimum of 20 years, unless otherwise approved by the department, and must maintain dominion and control of the property. Operations of the airport will be for and on behalf of the public entity. All leases to the public entity of property must be approved by the department. A lease of the property to an agent or agency other than the public entity does not meet the criteria for participation in airport assistance funds.

(b) "Matching funds" means money provided by the public entity and which does not consist of funds previously received from state or federal agencies or public entity funds previously used to match federal or state funds. This definition shall be retroactive to July 1, 1967.

(c) "General aviation" means all aviation with the exception of air carrier and military aviation.

(d) "Public entity" means any city, county, airport district, airport

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(e) "Public agency" means the various agencies of the State of California and the federal government.

(f) "Airport and aviation purposes" means expenditures of a capital improvement nature, including the repair or replacement of a capital improvement, and expenditures for compatible land use planning in the area surrounding an airport, for any of the following purposes:

(1) Land acquisition for development and improvement of general aviation aircraft landing facilities.

(2) Grading and drainage necessary for the construction or reconstruction of runways or taxiways.

(3) Construction or reconstruction of runways or taxiways.

(4) Acquisition of "runway clear zones" as defined in current regulations of the Federal Aviation Administration.

(5) Acquisition of easements through, or other interests in, airspace as may be reasonably required for safeguarding aircraft operations in the vicinity of an aircraft landing facility.

(6) Removal of natural obstructions from runway clear zones.

(7) Original installation of "segmented circle airport marker systems" as defined in current regulations of the Federal Aviation Administration.

(8) Original installation of runway, taxiway, boundary, or obstruction lights, together with directly related electrical equipment.

(9) Original erection of minimum security fencing around the perimeter of an aircraft landing facility.

(10) Grading and drainage necessary to provide for parking of transient general aviation aircraft.

(11) Construction or reconstruction of transient general aviation aircraft parking areas.

(12) Servicing of revenue or general obligation bonds issued to finance capital improvements for airport and aviation purposes.

(13) Air navigational facilities.

(14) Engineering and preliminary engineering related directly to a project funded under this article.

(15) Such other capital improvements as may from time to time be designated in rules and regulations promulgated by the department.

(16) Activities of an airport land use commission in connection with the preparation of a new or updated comprehensive land use plan pursuant to Section 21675.

Expenditures which cannot be clearly identified as capital improvements must be submitted to the department for consideration and approval.

(g) "Operation and maintenance" means expenditures for wages or salaries, utilities, service vehicles, and all other noncapital

expenditures included in insurance, professional services, supplies, construction equipment, upkeep and landscaping, and such other items of expenditure which may be designated as "operation and maintenance" in rules and regulations promulgated by the department.

(h) "Enplanement" means the boarding of an aircraft by a revenue passenger, including an original, stopover, or transfer boarding thereof. For purposes of this subdivision, a stopover is a deliberate and intentional interruption of a journey by a passenger scheduled to exceed four hours in the case of an intrastate or interstate passenger or not to exceed 24 hours in the case of an international passenger at a point between the point of departure and the point of destination, and a transfer is an occurrence at an intermediate point in an itinerary whereby a passenger or shipment changes from a flight of one carrier to another flight either of the same or a different carrier with or without a stopover.

SEC. 8.5. Section 21681 of the Public Utilities Code is amended to read:

21681. For purposes of this article:

(a) "Own and operate" means that the public entity shall own the property in fee simple or by a long-term lease of a minimum of 20 years, unless otherwise approved by the department, and shall maintain dominion and control of the property, except that the public entity may provide by contract with a person for the operation and management of an airport otherwise meeting the requirements of this article. Operations of the airport shall be for, and on behalf of, the public entity. All leases to the public entity of property are required to be approved by the department. A lease of the property by the public entity to an agent or agency other than to a public entity does not meet the criteria for participation in airport assistance funds.

(b) "Matching funds" means money which is provided by the public entity and which does not consist of funds previously received from state or federal agencies or public entity funds previously used to match federal or state funds. This definition shall be retroactive to July 1, 1967.

(c) "General aviation" means all aviation with the exception of air carrier and military aviation.

(d) "Public entity" means any city, county, airport district, airport authority, port district, port authority, public district, public authority, political subdivision, airport land use commission, or public corporation and the University of California.

(e) "Public agency" means the various agencies of the State of California and the federal government.

(f) "Airport and aviation purposes" means expenditures of a capital improvement nature, including the repair or replacement of a capital improvement, and expenditures for compatible land use planning in the area surrounding an airport, for any of the following purposes:

(1) Land acquisition for development and improvement of general aviation aircraft landing facilities.

(2) Grading and drainage necessary for the construction or reconstruction of runways or taxiways.

(3) Construction or reconstruction of runways or taxiways.

(4) Acquisition of "runway clear zones" as defined in current regulations of the Federal Aviation Administration.

(5) Acquisition of easements through, or other interests in, airspace as may be reasonably required for safeguarding aircraft operations in the vicinity of an aircraft landing facility.

(6) Removal of natural obstructions from runway clear zones.

(7) Original installation of "segmented circle airport marker systems" as defined in current regulations of the Federal Aviation Administration.

(8) Original installation of runway, taxiway, boundary, or obstruction lights, together with directly related electrical equipment.

(9) Original erection of minimum security fencing around the perimeter of an aircraft landing facility.

(10) Grading and drainage necessary to provide for parking of transient general aviation aircraft.

(11) Construction or reconstruction of transient general aviation aircraft parking areas.

(12) Servicing of revenue or general obligation bonds issued to finance capital improvements for airport and aviation purposes.

(13) Air navigational facilities.

(14) Engineering and preliminary engineering related directly to a project funded under this article.

(15) Such other capital improvements as may, from time to time, be designated in rules and regulations adopted by the department.

(16) Activities of an airport land use commission in connection with the preparation of a new or updated comprehensive land use plan pursuant to Section 21675.

Expenditures which cannot be clearly identified as capital improvements shall be submitted to the department for consideration and approval.

(g) "Operation and maintenance" means expenditures for wages or salaries, utilities, service vehicles, and all other noncapital expenditures which are included in insurance, professional services, supplies, construction equipment, upkeep and landscaping, and such other items of expenditure which may be designated as "operation and maintenance" in rules and regulations adopted by the department.

(h) "Enplanement" means the boarding of an aircraft by a revenue passenger, including an original, stopover, or transfer boarding thereof. For purposes of this subdivision, a stopover is a deliberate and intentional interruption of a journey by a passenger scheduled to exceed four hours in the case of an intrastate or

international passenger or not to exceed 24 hours in the case of an international passenger at a point between the point of departure and the point of destination, and a transfer is an occurrence at an intermediate point in an itinerary whereby a passenger or shipment changes from a flight of one carrier to another flight either of the same or a different carrier with or without a stopover.

SEC. 9. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

SEC. 10. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 11. Section 8.5 of this bill incorporates amendments to Section 21681 of the Public Utilities Code proposed by both this bill and AB 2640. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 21681 of the Public Utilities Code, and (3) this bill is enacted after AB 2640, in which case Section 8 of this bill shall not become operative.

CHAPTER 1118

An act to amend Section 22511.5 of, and to add Section 22511.6 to, the Vehicle Code, relating to vehicles and making an appropriation therefor.

[Approved by Governor September 13, 1984. Filed with Secretary of State September 13, 1984.]

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

SECTION 1. Section 22511.5 of the Vehicle Code is amended to read:

22511.5. (a) A disabled person is any of the following:

(1) Any person who has lost, or has lost the use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, or who has a diagnosed disease or disorder which substantially impairs or interferes with mobility, or who is so severely disabled as to be unable to move without the aid of an assistant device.

(2) Any person who is blind to such an extent that the person's central visual acuity does not exceed 20/200 in the better eye, with

establish, implement, and maintain an awards program.

(b) (1) There is hereby established the Public Awards Fund, which is continuously appropriated, without regard to fiscal years, for the purpose of this section.

(2) The director may receive contributions pursuant to this section and deposit them in the Public Awards Fund for use pursuant to subdivision (c).

(3) Sections 11005 and 16302 of the Government Code shall not apply to funds under this section.

(c) In order to achieve the public policy of the State of California, as specified in Section 19000, the director may present awards to those employers, architects, clients, ex-clients, disabled Californians nominated or selected for the Hall of Fame, and other persons whose superior cooperation and contributions to the employment of the handicapped deserve special recognition.

CHAPTER 1018

An act to amend Section 65302.3 of the Government Code, and to amend Sections 21670, 21670.1, 21671, 21673, 21674, 21675, 21676, and 21678 of, to add Section 21679 to, and to repeal Sections 21670, 21671, 21674, and 21676 of, the Public Utilities Code, relating to airport land uses.

[Approved by Governor September 22, 1987. Filed with Secretary of State September 23, 1987.]

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

SECTION 1. Section 65302.3 of the Government Code is amended to read:

65302.3. (a) The general plan, and any applicable specific plan prepared pursuant to Article 8 (commencing with Section 65450), shall be consistent with the plan adopted or amended pursuant to Section 21675 of the Public Utilities Code.

(b) The general plan, and any applicable specific plan, shall be amended, as necessary, within 180 days of any amendment to the plan required under Section 21675 of the Public Utilities Code.

(c) If the legislative body does not concur with any provision of the plan required under Section 21675 of the Public Utilities Code, it may satisfy the provisions of this section by adopting findings pursuant to Section 21676 of the Public Utilities Code.

SEC. 2. Section 21670 of the Public Utilities Code, as amended by Section 2 of Chapter 1117 of the Statutes of 1984, is amended to read:

21670. (a) The Legislature hereby finds and declares that:

(1) It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and

California airport noise standards adopted pursuant to Section 21669 and to prevent the creation of new noise and safety problems.

(2) It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

(b) In order to achieve the purposes of this article, every county in which there is located an airport which is served by a scheduled airline shall establish an airport land use commission. Every county, in which there is located an airport which is not served by a scheduled airline, but is operated for the benefit of the general public, shall establish an airport land use commission, except that the board of supervisors of the county may, after consultation with the appropriate airport operators and affected local entities and after a public hearing, adopt a resolution finding that there are no noise, public safety, or land use issues affecting any airport in the county which require the creation of a commission and declaring the county exempt from that requirement. The board shall, in this event, transmit a copy of the resolution to the Director of Transportation. For purposes of this section, "commission" means an airport land use commission. Each commission shall consist of seven members to be selected as follows:

(1) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county, except that if there are any cities contiguous or adjacent to the qualifying airport, at least one representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by paragraphs (2) and (3) shall each be increased by one.

(2) Two representing the county, appointed by the board of supervisors.

(3) Two having expertise in aviation, appointed by a selection committee comprised of the managers of all of the public airports within that county.

(4) One representing the general public, appointed by the other six members of the commission.

(c) Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

(d) Each member shall promptly appoint a single proxy to represent him or her in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the appointing member. A vacancy in the office of proxy shall be filled promptly by appointment of a new proxy.

(e) A person having an "expertise in aviation" means a person who, by way of education, training, business, experience, vocation, or avocation has acquired and possesses particular knowledge of, and familiarity with, the function, operation, and role of airports, or is an elected official of a local agency which owns or operates an airport. The commission shall be constituted pursuant to this section on and after March 1, 1988.

SEC. 3. Section 21670 of the Public Utilities Code, as amended by Section 3 of Chapter 1117 of the Statutes of 1984, is repealed.

SEC. 4. Section 21670.1 of the Public Utilities Code is amended to read:

21670.1. (a) Notwithstanding any other provision of this article, if the board of supervisors and the city selection committee of mayors in the county each makes a determination by a majority vote that proper land use planning can be accomplished through the actions of an appropriately designated body, then the body so designated shall assume the planning responsibilities of an airport land use commission as provided for in this article, and a commission need not be formed in that county.

(b) A body designated pursuant to subdivision (a) which does not include among its membership at least two members having an expertise in aviation, as defined in subdivision (e) of Section 21670, shall, when acting in the capacity of an airport land use commission, be augmented so that that body, as augmented, will have at least two members having that expertise. The commission shall be constituted pursuant to this section on and after March 1, 1988.

SEC. 5. Section 21671 of the Public Utilities Code, as amended by Section 4 of Chapter 1117 of the Statutes of 1984, is amended to read:

21671. In any county where there is an airport operated for the general public which is owned by a city or district in another county or by another county, one of the representatives provided by paragraph (1) of subdivision (b) of Section 21670 shall be appointed by the city selection committee of mayors of the cities of the county in which the owner of that airport is located, and one of the representatives provided by paragraph (2) of subdivision (b) of Section 21670 shall be appointed by the board of supervisors of the county in which the owner of that airport is located.

SEC. 6. Section 21671 of the Public Utilities Code, as amended by Section 5 of Chapter 1117 of the Statutes of 1984, is repealed.

SEC. 8. Section 21673 of the Public Utilities Code is amended to read:

21673. In any county not having a commission or a body designated to carry out the responsibilities of a commission, any owner of a public airport may initiate proceedings for the creation of a commission by presenting a request to the board of supervisors that a commission be created and showing the need therefor to the satisfaction of the board of supervisors.

SEC. 9. Section 21674 of the Public Utilities Code, as amended by Section 7 of Chapter 1041 of the Statutes of 1982, is amended to read:

21674. The commission has the following powers and duties, subject to the limitations upon its jurisdiction set forth in Section 21676:

(a) To assist local agencies in ensuring compatible land uses in the vicinity of all new airports and in the vicinity of existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses.

(b) To coordinate planning at the state, regional, and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety, and welfare.

(c) To prepare and adopt an airport land use plan pursuant to Section 21675.

(d) To review the plans, regulations, and other actions of local agencies and airport operators pursuant to Section 21676.

(e) The powers of the commission shall in no way be construed to give the commission jurisdiction over the operation of any airport.

(f) In order to carry out its responsibilities, the commission may adopt rules and regulations consistent with this article.

SEC. 10. Section 21674 of the Public Utilities Code, as added by Section 8 of Chapter 1041 of the Statutes of 1982, is repealed.

SEC. 11. Section 21675 of the Public Utilities Code is amended to read:

21675. (a) Each commission shall formulate a comprehensive land use plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission plan shall include a long-range master plan that reflects the anticipated growth of the airport during at least the next 20 years. In formulating a land use plan, the commission may develop height restrictions on buildings, may specify use of land, and may determine building standards, including soundproofing adjacent to airports, within the planning area. The comprehensive land use plan shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year.

(b) The commission may include, within its plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding any federal military airport for all the purposes specified in subdivision (a). This subdivision does not give the commission any jurisdiction or authority over the territory or operations of any military airport.

(c) The planning boundaries shall be established by the commission after hearing and consultation with the involved agencies.

SEC. 12. Section 21676 of the Public Utilities Code, as amended by Section 9 of Chapter 1041 of the Statutes of 1982 is amended to read:

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21676. (a) Each local agency whose general plan includes areas covered by an airport land use commission plan shall, by July 1, 1983, submit a copy of its plan or specific plans to the airport land use commission. The commission shall determine by August 31, 1983, whether the plan or plans are consistent or inconsistent with the commission's plan. If the plan or plans are inconsistent with the commission's plan, the local agency shall be notified and that local agency shall have another hearing to reconsider its plans. The local agency may overrule the commission after such hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.

(b) Prior to the amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the airport land use commission pursuant to Section 21675, the local agency shall first refer the proposed action to the commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The local agency may, after a public hearing, overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.

(c) Each public agency owning any airport within the boundaries of an airport land use commission plan shall, prior to modification of its airport master plan, refer such proposed change to the airport land use commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The public agency may, after a public hearing, overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.

(d) Each commission determination pursuant to subdivision (b) or (c) shall be made within 60 days from the date of referral of the proposed action. If a commission fails to make the determination within that period, the proposed action shall be deemed consistent with the commission's plan.

SEC. 13. Section 21676 of the Public Utilities Code, as added by Section 10 of Chapter 1041 of the Statutes of 1982, is repealed.

SEC. 14. Section 21678 of the Public Utilities Code is amended to read:

21678. With respect to a publicly owned airport that a public agency does not operate, if the public agency pursuant to Section 21676 or 21676.5 overrides a commission's action or recommendation, the operator of the airport shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to override the commission's action or recommendation.

SEC. 15. Section 21679 is added to the Public Utilities Code, to

21679. (a) In any county in which there is no airport land use commission or other body designated to assume the responsibilities of an airport land use commission, or in which the commission or other designated body has not adopted an airport land use plan, an interested party may initiate proceedings in a court of competent jurisdiction to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, which directly affects the use of land within one mile of the boundary of a public airport within the county.

(b) The court may issue an injunction which postpones the effective date of the zoning change, zoning variance, permit, or regulation until the governing body of the local agency which took the action does one of the following:

(1) In the case of an action which is a legislative act, adopts a resolution declaring that the proposed action is consistent with the purposes of this article stated in Section 21670.

(2) In the case of an action which is not a legislative act, adopts a resolution making findings based on substantial evidence in the record that the proposed action is consistent with the purposes of this article stated in Section 21670.

(3) Rescinds the action.

(4) Amends its action to make it consistent with the purposes of this article stated in Section 21670, and complies with either paragraph (1) or (2) of this subdivision, whichever is applicable.

(c) The court shall not issue an injunction pursuant to subdivision (b) if the local agency which took the action demonstrates that the general plan and any applicable specific plan of the agency accomplishes the purposes of an airport land use plan as provided in Section 21675.

(d) An action brought pursuant to subdivision (a) shall be commenced within 30 days of the decision or within the appropriate time periods set by Section 21167 of the Public Resources Code, whichever is longer.

(e) If the governing body of the local agency adopts a resolution pursuant to subdivision (b) with respect to a publicly owned airport that the local agency does not operate, the operator of the airport shall be immune from liability for damages to property or personal injury from the local agency's decision to proceed with the zoning change, zoning variance, permit, or regulation.

(f) As used in this section, "interested party" means any owner of land within two miles of the boundary of the airport or any organization with a demonstrated interest in airport safety and efficiency.

SEC. 16. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2

of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1019

An act to amend Sections 138.4, 139.6, 3550, 3760, 6409, 6409.1, 6412, 6413.5, and 6431 of the Labor Code, relating to employment injuries and illnesses.

[Approved by Governor September 22, 1987. Filed with Secretary of State September 23, 1987.]

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

SECTION 1. Section 138.4 of the Labor Code is amended to read:

138.4. The administrative director shall, with respect to injuries involving loss of time:

(a) Prescribe reasonable rules and regulations for the serving on the employee of notices dealing with the payment, nonpayment or delay in payment of temporary disability, permanent disability, and death benefits and the provision of vocational rehabilitation services, with copies to the administrative director. A pamphlet published or approved by the administrative director, meeting the criteria specified in subdivision (b) of Section 139.6, shall be included with the first notice of payment or notice of delay in payment served on each injured employee.

(b) Prescribe reasonable rules and regulations for providing the employee notice of any change in the amount or type of benefits being provided, the termination of benefits, and an accounting of the benefits paid, with copies to the administrative director.

(c) Prescribe reasonable rules and regulations for serving on the employee notice of rejection of any liability for compensation and the remedies available to the employee, and the employee's right to seek information and advice from an information and assistance officer or an attorney.

SEC. 2. Section 139.6 of the Labor Code is amended to read:

139.6. The administrative director shall establish and effect within the Division of Industrial Accidents a continuing program to provide information and assistance concerning the rights, benefits, and obligations of the workers' compensation law to employees and employers subject thereto. The program shall include, but not be limited to, the following:

(a) The preparation, publishing, and as necessary, updating, of guides to the California workers' compensation system for employees and employers. The guides shall detail, in easily understandable language, the rights and obligations of employees

Section 854.1 of the Financial Code nor abrogate or modify in any manner the holdings of Hannon v. Western Title Insurance Company, 89 D.A.R. 8451.

CHAPTER 306

An act to amend Section 54993 of the Government Code, and to amend Sections 21671.5 and 21675 of, and to add Sections 21675.1, 21675.2, and 21679.5 to, the Public Utilities Code, relating to airports.

[Approved by Governor September 6, 1989. Filed with Secretary of State September 7, 1989.]

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

SECTION 1. Section 54993 of the Government Code is amended to read:

54993. This chapter shall apply only to fees and charges as described in Sections 54990, 54991, 56383, 56654, 56655, 57004, 65104, 65456, 65863.7, 65909.5, and 66451.2 of this code, and in Sections 17951, 19132.3, and 19852 of the Health and Safety Code and in Section 21671.5 of the Public Utilities Code.

SEC. 2. Section 21671.5 of the Public Utilities Code is amended to read:

21671.5. (a) Except for the terms of office of the members of the first commission, the term of office of each member shall be four years and until the appointment and qualification of his or her successor. The members of the first commission shall classify themselves by lot so that the term of office of one member is one year, of two members is two years, of two members is three years, and of two members is four years. The body which originally appointed a member whose term has expired shall appoint his or her successor for a full term of four years. Any member may be removed at any time and without cause by the body appointing him or her. The expiration date of the term of office of each member shall be the first Monday in May in the year in which his or her term is to expire. Any vacancy in the membership of the commission shall be filled for the unexpired term by appointment by the body which originally appointed the member whose office has become vacant. The chairperson of the commission shall be selected by the members thereof.

(b) Compensation, if any, shall be determined by the board of supervisors.

(c) Staff assistance, including the mailing of notices and the keeping of minutes, and necessary quarters, equipment, and supplies shall be provided by the county. The usual and necessary operating expenses of the commission shall be a county charge.

(d) Notwithstanding any other provisions of this article, the

commission shall not employ any personnel either as employees or independent contractors without the prior approval of the board of supervisors.

(e) The commission shall meet at the call of the commission chairperson or at the request of the majority of the commission members. A majority of the commission members shall constitute a quorum for the transaction of business. No action shall be taken by the commission except by the recorded vote of a majority of the full membership.

(f) The commission may establish a schedule of fees for reviewing and processing proposals and for providing the copies of land use plans, as required by subdivision (d) of Section 21675. Those fees shall be charged to the proponents of actions, regulations, or permits, shall not exceed the estimated reasonable cost of providing the service, and shall be imposed pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5 of the Government Code. After June 30, 1991, a commission which has not adopted the comprehensive land use plan required by Section 21675 shall not charge fees pursuant to this subdivision until the commission adopts the plan.

SEC. 3. Section 21675 of the Public Utilities Code is amended to read:

21675. (a) Each commission shall formulate a comprehensive land use plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission plan shall include a long-range master plan that reflects the anticipated growth of the airport during at least the next 20 years. In formulating a land use plan, the commission may develop height restrictions on buildings, may specify use of land, and may determine building standards, including soundproofing adjacent to airports, within the planning area. The comprehensive land use plan shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year.

(b) The commission may include, within its plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding any federal military airport for all the purposes specified in subdivision (a). This subdivision does not give the commission any jurisdiction or authority over the territory or operations of any military airport.

(c) The planning boundaries shall be established by the commission after hearing and consultation with the involved agencies.

(d) The commission shall submit to the Division of Aeronautics of the department one copy of the plan and each amendment to the plan.

SEC. 4. Section 21675.1 is added to the Public Utilities Code, to

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21675.1. (a) By June 30, 1991, each commission shall adopt the comprehensive land use plan required pursuant to Section 21675.

(b) Until a commission adopts a comprehensive land use plan, a city or county shall first submit all actions, regulations, and permits within the vicinity of a public airport to the commission for review and approval. Before the commission approves or disapproves any actions, regulations, or permits, the commission shall give public notice in the same manner as the city or county is required to give for those actions, regulations, or permits. As used in this section, "vicinity" means land which will be included or reasonably could be included within the plan. If the commission has not designated a study area for the plan, then "vicinity" means land within two miles of the boundary of a public airport.

(c) The commission may approve an action, regulation, or permit if it finds, based on substantial evidence in the record, all of the following:

(1) The commission is making substantial progress toward the completion of the plan.

(2) There is a reasonable probability that the action, regulation, or permit will be consistent with the plan being prepared by the commission.

(3) There is little or no probability of substantial detriment to or interference with the future adopted plan if the action, regulation, or permit is ultimately inconsistent with the plan.

(d) If the commission disapproves an action, regulation, or permit, the commission shall notify the city or county. The city or county may overrule the commission, by a two-thirds vote of its governing body, if it makes specific findings that the proposed action, regulation, or permit is consistent with the purposes of this article, as stated in Section 21670.

(e) If a city or county overrules the commission pursuant to subdivision (d), that action shall not relieve the city or county from further compliance with this article after the commission adopts the plan.

(f) If a city or county overrules the commission pursuant to subdivision (d) with respect to a publicly owned airport that the city or county does not operate, the operator of the airport shall be immune from liability for damages to property or personal injury from the city's or county's decision to proceed with the action, regulation, or permit.

(g) A commission may adopt rules and regulations which exempt any ministerial permit for single-family dwellings from the requirements of subdivision (b) if it makes the findings required pursuant to subdivision (c) for the proposed rules and regulations, except that the rules and regulations may not exempt either of the following:

(1) More than two single-family dwellings by the same applicant within a subdivision prior to June 30, 1991.

(2) Single-family dwellings in a subdivision where 25 percent or more of the parcels are undeveloped.

SEC. 5. Section 21675.2 is added to the Public Utilities Code, to read:

21675.2. (a) If a commission fails to act to approve or disapprove any actions, regulations, or permits within 60 days of receiving the request pursuant to Section 21675.1, the applicant or his or her representative may file an action pursuant to Section 1094.5 of the Code of Civil Procedure to compel the commission to act, and the court shall give the proceedings preference over all other actions or proceedings, except previously filed pending matters of the same character.

(b) The action, regulation, or permit shall be deemed approved only if the public notice required by this subdivision has occurred. If the applicant has provided seven days advance notice to the commission of the intent to provide public notice pursuant to this subdivision, then, not earlier than the date of the expiration of the time limit established by Section 21675.1, an applicant may provide the required public notice. If the applicant chooses to provide public notice, that notice shall include a description of the proposed action, regulation, or permit substantially similar to the descriptions which are commonly used in public notices by the commission, the location of any proposed development, the application number, the name and address of the commission, and a statement that the action, regulation, or permit shall be deemed approved if the commission has not acted within 60 days. If the applicant has provided the public notice specified in this subdivision, the time limit for action by the commission shall be extended to 60 days after the public notice is provided. If the applicant provides notice pursuant to this section, the commission shall refund to the applicant any fees which were collected for providing notice and which were not used for that purpose.

(c) Failure of an applicant to submit complete or adequate information pursuant to Sections 65943 to 65946, inclusive, of the Government Code, may constitute grounds for disapproval of actions, regulations, or permits.

(d) Nothing in this section diminishes the commission's legal responsibility to provide, where applicable, public notice and hearing before acting on an action, regulation, or permit.

SEC. 6. Section 21679.5 is added to the Public Utilities Code, to read:

21679.5. (a) Until June 30, 1991, no action pursuant to Section 21679 to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport, shall be commenced in any county in which the commission or other designated body has not adopted an airport land use plan, but is making substantial progress toward the completion of the plan.

(b) If a commission has been prevented from adopting the comprehensive land use plan by June 30, 1991, or if the adopted plan could not become effective, because of a lawsuit involving the adoption of the plan, the June 30, 1991, date in subdivision (a) shall be extended by the period of time during which the lawsuit was pending in a court of competent jurisdiction.

(c) Any action pursuant to Section 21679 commenced prior to January 1, 1990, in a county in which the commission or other designated body has not adopted an airport land use plan, but is making substantial progress toward the completion of the plan, which has not proceeded to final judgment, shall be held in abeyance until June 30, 1991. If the commission or other designated body adopts an airport land use plan on or before June 30, 1991, the action shall be dismissed. If the commission or other designated body does not adopt an airport land use plan on or before June 30, 1991, the plaintiff or plaintiffs may proceed with the action.

(d) An action to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport for which an airport land use plan has not been adopted by June 30, 1991, shall be commenced within 30 days of June 30, 1991, or within 30 days of the decision by the local agency, or within the appropriate time periods set by Section 21167 of the Public Resources Code, whichever date is later.

SEC. 7. The Legislature finds and declares that the requirement for airport land use commissions to adopt comprehensive land use plans was adopted in 1970. The Legislature finds and declares that this act sets July 1, 1991, as the deadline for the commissions to adopt these required plans. The Legislature further finds and declares that this deadline provides sufficient time to the commissions to adopt these plans. Therefore, it is the intent of the Legislature not to reimburse airport land use commissions for costs incurred by the commissions after July 1, 1991, for the preparation of comprehensive land use plans pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Division 9 of the Public Utilities Code.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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commenced within three years of the department's discovery of the facts constituting the grounds for that action.

CHAPTER 562

An act to add Section 1861.135 to, the Insurance Code, relating to insurance.

[Approved by Governor August 24, 1990. Filed with Secretary of State August 27, 1990.]

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

SECTION 1. Section 1861.135 is added to the Insurance Code, to read:

1861.135. (a) Notwithstanding Section 1861.13, surety insurance shall not be subject to Sections 1861.01 and 1861.05; however, any rate, rating plan or rating system for surety insurance shall be filed with the commissioner before it may be used in this state, and that rate, rating plan, or rating system may be used immediately upon filing with the commissioner.

(b) The rates for surety insurance shall not be excessive, inadequate, unfairly discriminatory, or otherwise in violation of this chapter, except Sections 1861.01 and 1861.05.

SEC. 2. The Legislature finds and declares that this act furthers the purpose of Proposition 103 by clarifying the applicability of the proposition to surety insurance.

SEC. 3. This act applies to rates, rating plans and rating systems for surety insurance on and after November 8, 1988. This act shall not relieve any insurer of the obligations set forth in Section 12979 of the Insurance Code arising prior to January 1, 1991.

CHAPTER 563

An act to amend Section 21675 of the Public Utilities Code, relating to airports.

[Approved by Governor August 27, 1990. Filed with Secretary of State August 28, 1990.]

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

SECTION 1. Section 21675 of the Public Utilities Code is amended to read:

21675. (a) Each commission shall formulate a comprehensive land use plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction

of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission plan shall include and shall be based on a long-range master plan or an airport layout plan, as determined by the Division of Aeronautics of the Department of Transportation, that reflects the anticipated growth of the airport during at least the next 20 years. In formulating a land use plan, the commission may develop height restrictions on buildings, specify use of land, and determine building standards, including soundproofing adjacent to airports, within the planning area. The comprehensive land use plan shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year.

(b) The commission may include, within its plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding any federal military airport for all of the purposes specified in subdivision (a). This subdivision does not give the commission any jurisdiction or authority over the territory or operations of any military airport.

(c) The planning boundaries shall be established by the commission after hearing and consultation with the involved agencies.

(d) The commission shall submit to the Division of Aeronautics of the department one copy of the plan and each amendment to the plan.

(e) If a comprehensive land use plan does not include the matters required to be included pursuant to this article, the Division of Aeronautics of the department shall notify the commission responsible for the plan.

CHAPTER 564

An act to add Section 2889.5 to the Public Utilities Code, relating to public utilities.

[Approved by Governor August 27, 1990. Filed with Secretary of State August 28, 1990.]

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

SECTION 1. Section 2889.5 is added to the Public Utilities Code, to read:

2889.5. No interexchange telephone corporation, or any person, firm, or corporation representing an interexchange telephone corporation, shall authorize a local exchange telephone company to make any change in a residential telephone subscriber's presubscribed long-distance carrier until all of the following steps have been completed:

in an amount equaling the percentages set forth in this chapter, any excess shall be deducted from, and any deficiency not in excess of an amount agreed upon between the association and the horsemen's organization contracting with the association with respect to the conduct of racing meetings shall be added to, the amount the association is required to pay to or for the benefit of owners and breeders of horses at its racing meeting in the following calendar year. Any deficiency in excess of the amount agreed upon shall be distributed as provided in the agreement.

(d) If, at the close of any other racing meeting, it is determined that the association conducting the meeting has not made payments to or for the benefit of owners and breeders of horses in an amount equaling the percentages set forth in this chapter, any excess shall be deducted from, and any deficiency shall be added to, the amount the association is required to pay to or for the benefit of owners and breeders of horses at its racing meeting in the following calendar year.

(e) Any two associations conducting a meeting pursuant to Section 19612 or 19612.6 may, with the approval of the board, combine their excesses or deficiencies from prior meetings if the associations and the organizations representing the horsemen all agree.

(f) Any associations conducting a harness meeting in the northern zone, including an association conducting any meeting pursuant to Section 19549.3, may, with the approval of the board, combine their excesses or deficiencies from prior meetings if the associations and the organizations representing horsemen all agree.

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 viable quarter horse, harness, and Arabian racing meetings during the summer and fall of 1991 and in order to preserve night racing in this state, it is necessary that this act take effect immediately.

CHAPTER 140

An act to amend Sections 21671.5 and 21675.1 of the Public Utilities Code, relating to airports, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 21671.5 of the Public Utilities Code is amended to read:

21671.5. (a) Except for the terms of office of the members of the first commission, the term of office of each member shall be four years and until the appointment and qualification of his or her successor. The members of the first commission shall classify themselves by lot so that the term of office of one member is one year, of two members is two years, of two members is three years, and of two members is four years. The body which originally appointed a member whose term has expired shall appoint his or her successor for a full term of four years. Any member may be removed at any time and without cause by the body appointing that member. The expiration date of the term of office of each member shall be the first Monday in May in the year in which that member's term is to expire. Any vacancy in the membership of the commission shall be filled for the unexpired term by appointment by the body which originally appointed the member whose office has become vacant. The chairperson of the commission shall be selected by the members thereof.

(b) Compensation, if any, shall be determined by the board of supervisors.

(c) Staff assistance, including the mailing of notices and the keeping of minutes and necessary quarters, equipment, and supplies shall be provided by the county. The usual and necessary operating expenses of the commission shall be a county charge.

(d) Notwithstanding any other provisions of this article, the commission shall not employ any personnel either as employees or independent contractors without the prior approval of the board of supervisors.

(e) The commission shall meet at the call of the commission chairperson or at the request of the majority of the commission members. A majority of the commission members shall constitute a quorum for the transaction of business. No action shall be taken by the commission except by the recorded vote of a majority of the full membership.

(f) The commission may establish a schedule of fees necessary to comply with this article. Those fees shall be charged to the proponents of actions, regulations, or permits, shall not exceed the estimated reasonable cost of providing the service, and shall be imposed pursuant to Section 66016 of the Government Code. Except as provided in subdivision (g), after June 30, 1991, a commission which has not adopted the comprehensive land use plan required by Section 21675 shall not charge fees pursuant to this subdivision until the commission adopts the plan.

(g) In any county which has undertaken by contract or otherwise completed land use plans for at least one-half of all public use airports in the county, the commission may continue to charge fees necessary

tion to comply with this article until June 30, 1992, and, if the land use plans are complete by that date, may continue charging fees after June 30, 1992. If the land use plans are not complete by June 30, 1992, the commission shall not charge fees pursuant to subdivision (f) until the commission adopts the land use plans.

SEC. 2. Section 21675.1 of the Public Utilities Code is amended to read:

21675.1. (a) By June 30, 1991, each commission shall adopt the comprehensive land use plan required pursuant to Section 21675, except that any county which has undertaken by contract or otherwise completed land use plans for at least one-half of all public use airports in the county, shall adopt that plan on or before June 30, 1992.

(b) Until a commission adopts a comprehensive land use plan, a city or county shall first submit all actions, regulations, and permits within the vicinity of a public airport to the commission for review and approval. Before the commission approves or disapproves any actions, regulations, or permits, the commission shall give public notice in the same manner as the city or county is required to give for those actions, regulations, or permits. As used in this section, "vicinity" means land which will be included or reasonably could be included within the plan. If the commission has not designated a study area for the plan, then "vicinity" means land within two miles of the boundary of a public airport.

(c) The commission may approve an action, regulation, or permit if it finds, based on substantial evidence in the record, all of the following:

(1) The commission is making substantial progress toward the completion of the plan.

(2) There is a reasonable probability that the action, regulation, or permit will be consistent with the plan being prepared by the commission.

(3) There is little or no probability of substantial detriment to or interference with the future adopted plan if the action, regulation, or permit is ultimately inconsistent with the plan.

(d) If the commission disapproves an action, regulation, or permit, the commission shall notify the city or county. The city or county may overrule the commission, by a two-thirds vote of its governing body, if it makes specific findings that the proposed action, regulation, or permit is consistent with the purposes of this article, as stated in Section 21670.

(e) If a city or county overrules the commission pursuant to subdivision (d), that action shall not relieve the city or county from further compliance with this article after the commission adopts the plan.

(f) If a city or county overrules the commission pursuant to subdivision (d) with respect to a publicly owned airport that the city or county does not operate, the operator of the airport is not liable for damages to property or personal injury resulting from the city's

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(g) A commission may adopt rules and regulations which exempt any ministerial permit for single-family dwellings from the requirements of subdivision (b) if it makes the findings required pursuant to subdivision (c) for the proposed rules and regulations, except that the rules and regulations may not exempt either of the following:

(1) More than two single-family dwellings by the same applicant within a subdivision prior to June 30, 1991.

(2) Single-family dwellings in a subdivision where 25 percent or more of the parcels are undeveloped.

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 extend, in a timely manner, the date for compliance with the requirement for adoption of a comprehensive land use plan for land surrounding airports in counties with a high number of public use airports, it is necessary that this act take immediate effect.

CHAPTER 141

An act to add Sections 66015 and 66161.5 to the Education Code, relating to postsecondary education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 20, 1991. Filed with Secretary of State July 22, 1991.]

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

SECTION 1. Section 66015 is added to the Education Code, to read:

It is the intent of the Governor and the Legislature, in cooperation with the Trustees of the California State University, to do both of the following:

(a) Place a major priority on resolving the serious problem of impacted and overcrowded classes, not only with respect to the California State University, but throughout public postsecondary education.

(b) Ensure that needy students receive financial aid sufficient to cover the cost of fee increases for the 1991–92 academic year. The Trustees of the California State University shall provide to the Legislature and the Governor, by January 1, 1992, documentation verifying the extent to which this provision has been satisfied.

SEC. 2. Section 66161.5 is added to the Education Code, to read:

66161.5. For the 1991–92 academic year, notwithstanding Sections 66156, 66158, 66160, and 66161, the Trustees of the California

to the school employees subject to the jurisdiction of that county superintendent of schools, who are initially employed by that district, or first employed under the jurisdiction of that county superintendent of schools, on or after either July 1, 1993, or the effective date of this section, whichever is later.

(b) The agreement entered into pursuant to subdivision (a) shall require that the employer contribution for a part-time employee who has 20 years or more of credited service with the contracting agency shall be 100 percent of the employer contribution.

SEC. 2. The Legislature finds and declares that the health benefits coverage of employees of the North Orange County Community College District and the school employees under the jurisdiction of the Riverside County Superintendent of Schools constitutes a unique situation to which a general statute cannot be make applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 3. The Legislature declares that this act was enacted in response to local requests within the meaning of subdivision (a) of Section 6 of Article XIII B of the California Constitution. Therefore, even if the Commission on State Mandates or any other entity determines that this bill imposes a state-mandated local program, no reimbursement is required under Section 6 of Article XIII B.

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

In order that the benefits provided by this act and the related savings of the North Orange County Community College District, the Riverside County Superintendent of Schools, and the school employers subject to the jurisdiction of that county superintendent of schools may take effect on or as near as possible to the commencement of the 1993–94 school year, as targeted by the related local collective bargaining agreements, it is necessary that this act take effect immediately.

CHAPTER 59

An act to amend Section 45452 of the Education Code, to repeal Section 6555 of the Elections Code, to amend Sections 53646, 66451.13, 66451.20, and 66451.21 of, and to add and repeal Sections 17582 and 17751.5 of, the Government Code, to amend Sections 10254 and 11361.5 of, and to add Section 4023.35 to, the Health and Safety Code, to amend Section 1198.5 of the Labor Code, to amend Sections 1203 and 14206 of the Penal Code, to amend Section 1513 of the Probate Code, to amend Section 21670 of the Public Utilities Code, to amend Section 20018 of the Vehicle Code, and to amend Sections 209, 653, and 653.5 of the Welfare and Institutions Code, relating to

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of Santa Clara
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state-mandated local programs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 1993. Filed with Secretary of State June 30, 1993.]

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

SECTION 1. It is the intent of the Legislature in enacting this act to relieve local entities of the duty to incur unnecessary expenses in certain aspects of the following subjects:

(a) Candidate filing fees.

(b) The destruction of records pertaining to marijuana offenses.

(c) Dental examinations of unidentified bodies.

(d) Victims' statements in connection with probation proceedings.

(e) School crossing guards.

(f) Felony arrest records of juveniles.

(g) Real property subdivision mergers.

(h) Employee personnel files.

(i) Missing person reports.

(j) Airport land use.

(k) Investment reports.

(*l*) Audits of Short-Doyle programs.

(m) Motorists' assistance.

(n) Investigations of guardianships.

(o) Detention of minors.

(p) Pretreatment facilities for water systems.

SEC. 2. Section 45452 of the Education Code is amended to read:

45452. Standards, terms, and conditions under which school crossing guards are provided by the governing board of a school district shall be set forth in a written agreement between the governing board and a city or between the governing board and a county or between the governing board and a city and county.

SEC. 3. Section 6555 of the Elections Code is repealed.

SEC. 4. Section 17751.5 is added to the Government Code, to read:

17751.5. (a) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district that the local agency or school district shall not be required to continue to implement or give effect to any statute or executive order, or portion thereof, which mandates a new program or higher level of service in an existing program because the maximum service charges, fees, or assessments which that local agency or school district is authorized to levy to pay for the costs of the statute or executive order are not sufficient to pay for the mandated new program or higher level of service.

(b) Any claim filed pursuant to subdivision (a) shall be given priority over any other matter pending before the commission and

shall be heard and decided no later than 60 days from the date of its filing.

(c) This section shall remain operative only until July 1, 1995, and as of January 1, 1996, is repealed, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends the dates upon which this section becomes inoperative and is repealed.

SEC. 5. Section 17582 is added to the Government Code to read:

17582. (a) No local agency or school district shall be required to continue to implement or give effect to any statute or executive order, or portion thereof, if a claim based on that statute or executive order has been heard and approved for that local agency or school district by the commission pursuant to Section 17551.5.

(b) This section shall remain operative only until July 1, 1995, and as of January 1, 1996, is repealed, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends the dates upon which the section becomes inoperative and is repealed.

SEC. 6. Section 53646 of the Government Code is amended to read:

53646. The treasurer may render to the depositary and to the auditor, controller, secretary, or corresponding officer of the local agency a statement showing the amount of accrued interest for each depositary for the preceding quarter if so required by the legislative body of the local agency.

SEC. 7. Section 66451.13 of the Government Code is amended to read:

66451.13. Prior to recording a notice of merger, the local agency may cause to be mailed by certified mail to the then current record owner of the property a notice of intention to determine status, notifying the owner that the affected parcels may be merged pursuant to standards specified in the merger ordinance, and advising the owner of the opportunity to request a hearing on determination of status and to present evidence at the hearing that the property does not meet the criteria for merger. The notice of intention to determine status may be filed for record with the recorder of the county in which the real property is located on the date that notice is mailed to the property owner.

SEC. 8. Section 66451.20 of the Government Code is amended to read:

66451.20. Prior to amending a merger ordinance which was in existence on January 1, 1984, in order to bring it into compliance with Section 66451.11, the legislative body of the local agency shall adopt a resolution of intention and the clerk of the legislative body may cause notice of the adoption of the resolution to be published in the manner prescribed by Section 6061. The publication shall have been completed not less than 30 days prior to adoption of the amended ordinance.

SEC. 9. Section 66451.21 of the Government Code is amended to read:

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conformance with Section 66451.11, by a city or county not having a merger ordinance on January 1, 1984, the legislative body shall adopt a resolution of intention to adopt a merger ordinance and fix a time and place for a public hearing on the proposed ordinance, which shall be conducted not less than 30 nor more than 60 days after adoption of the resolution. The clerk of the legislative body may cause a notice of the hearing to be published in the manner prescribed by Section 6061. Publication, if any, shall have been completed at least seven days prior to the date of the hearing. The notice shall:

(a) Contain the text of the resolution.

(b) State the time and place of the hearing.

(c) State that at the hearing all interested persons will be heard.

SEC. 10. Section 4023.35 is added to the Health and Safety Code, to read:

4023.35. Notwithstanding Sections 4023, 4023.3, and 4028, public water systems are not required to observe the standards of subdivision (f) of Section 64435 of Title 22 of the California Code of Regulations.

SEC. 11. Section 10254 of the Health and Safety Code is amended to read:

10254. In deaths investigated by the coroner or medical examiner where he or she is unable to establish the identity of the body or human remains by visual means, fingerprints, or other identifying data, the coroner or medical examiner may have a qualified dentist, as determined by the coroner or medical examiner, carry out a dental examination of the body or human remains. If the coroner or medical examiner with the aid of the dental examination and other identifying findings is still unable to establish the identity of the body or human remains, he or she shall prepare and forward the dental examination records to the Department of Justice on forms supplied by the Department of Justice for that purpose.

The Department of Justice shall act as a repository or computer center, or both, with respect to the dental examination records. The Department of Justice shall compare the dental examination records with dental records filed with it pursuant to Section 11114 of the Penal Code, shall determine which scoring probabilities are the highest for purposes of identification, and shall submit the information to the coroner or medical examiner who prepared and forwarded the dental examination records.

Not later than three years following implementation of the dental identification program required by this section and Section 11114 of the Penal Code, the Department of Justice shall submit a report on the program to the Legislature.

SEC. 12. Section 11361.5 of the Health and Safety Code is amended to read:

11361.5. (a) Records of any court of this state, any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency pertaining to the arrest or conviction of any person for a violation of subdivision (b),

(7), (d), or (e) of Section 11357 or subdivision (b) of Section 11360, shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction, except with respect to a violation of subdivision (e) of Section 11357 the records shall be retained until the offender attains the age of 18 years at which time the records shall be destroyed as provided in this section. Any court or agency having custody of the records shall provide for the timely destruction of the records in accordance with subdivision (c). The requirements of this subdivision do not apply to records of any conviction occurring prior to January 1, 1976, or records of any arrest not followed by a conviction occurring prior to that date.

(b) This subdivision applies only to records of convictions and arrests not followed by conviction occurring prior to January 1, 1976, for any of the following offenses:

(1) Any violation of Section 11357 or a statutory predecessor thereof.

(2) Unlawful possession of a device, contrivance, instrument, or paraphernalia used for unlawfully smoking marijuana, in violation of Section 11364, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(3) Unlawful visitation or presence in a room or place in which marijuana is being unlawfully smoked or used, in violation of Section 11365, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(4) Unlawfully using or being under the influence of marijuana, in violation of Section 11550, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Any person subject to an arrest or conviction for those offenses may apply to the Department of Justice for destruction of records pertaining to the arrest or conviction if two or more years have elapsed since the date of the conviction, or since the date of the arrest if not followed by a conviction. The application shall be submitted upon a form supplied by the Department of Justice and shall be accompanied by a fee, which shall be established by the department in an amount which will defray the cost of administering this subdivision and costs incurred by the state under subdivision (c), but which shall not exceed thirty-seven dollars and fifty cents ($37.50). The application form may be made available at every local police or sheriff's department and from the Department of Justice and may require that information which the department determines is necessary for purposes of identification.

The department may request, but not require, the applicant to include a self-administered fingerprint upon the application. If the department is unable to sufficiently identify the applicant for purposes of this subdivision without the fingerprint or without additional fingerprints, it shall so notify the applicant and shall request the applicant to submit any fingerprints which may be required to effect identification, including a complete set if necessary, or, alternatively, to abandon the application and request

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a refund of all or a portion of the fee submitted with the application, as provided in this section. If the applicant fails or refuses to submit fingerprints in accordance with the department's request within a reasonable time which shall be established by the department, or if the applicant requests a refund of the fee, the department shall promptly mail a refund to the applicant at the address specified in the application or at any other address which may be specified by the applicant. However, if the department has notified the applicant that election to abandon the application will result in forfeiture of a specified amount which is a portion of the fee, the department may retain a portion of the fee which the department determines will defray the actual costs of processing the application, provided the amount of the portion retained shall not exceed ten dollars ($10).

Upon receipt of a sufficient application, the Department of Justice shall destroy records of the department, if any, pertaining to the arrest or conviction in the manner prescribed by subdivision (c) and shall notify the Federal Bureau of Investigation, the law enforcement agency which arrested the applicant, and, if the applicant was convicted, the probation department which investigated the applicant and the Department of Motor Vehicles, of the application.

(c) Destruction of records of arrest or conviction pursuant to subdivision (a) or (b) shall be accomplished by permanent obliteration of all entries or notations upon the records pertaining to the arrest or conviction, and the record shall be prepared again so that it appears that the arrest or conviction never occurred. However, where (1) the only entries upon the record pertain to the arrest or conviction and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(d) Notwithstanding subdivision (a) or (b), written transcriptions of oral testimony in court proceedings and published judicial appellate reports are not subject to this section. Additionally, no records shall be destroyed pursuant to subdivision (a) if the defendant or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of those records has received a certified copy of the complaint in the civil action, until the civil action has finally been resolved. Immediately following the final resolution of the civil action, records subject to subdivision (a) shall be destroyed pursuant to subdivision (c) if more than two years have elapsed from the date of the conviction or arrest without conviction.

SEC. 13. Section 1198.5 of the Labor Code is amended to read:

1198.5. (a) Every employer shall at reasonable times, and at reasonable intervals as determined by the Labor Commissioner, upon the request of an employee, permit that employee to inspect such personnel files which are used or have been used to determine that employee's qualifications for employment, promotion, additional compensation, or termination or other disciplinary action.

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(b) Each employer subject to this section shall keep a copy of each employee's personnel file at the place the employee reports to work, or shall make such file available at such place within a reasonable period of time after a request therefor by the employee.

(c) This section does not apply to the records of an employee relating to the investigation of a possible criminal offense. It shall not apply to letters of reference.

(d) If a local agency has established an independent employee relations board or commission, any matter or dispute pertaining to this section shall be under the jurisdiction of that board or commission, but an employee shall not be prohibited from pursuing any available judicial remedy, whether or not relief has first been sought from a board or commission.

(e) This section shall not apply to public employers, including, but not limited to, every city, county, city and county, district, and every public and quasi-public agency. This section shall not apply to the state or any state agency, and shall not apply to public school districts with respect to employees covered by Section 44031 of the Education Code. Nothing in this section shall be construed to limit the rights of employees pursuant to Section 31011 of the Government Code or Section 87031 of the Education Code, or to provide access by a public safety employee to confidential preemployment information.

SEC. 14. Section 1203 of the Penal Code is amended to read:

1203. (a) As used in this code, "probation" shall mean the suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community under the supervision of the probation officer. As used in this code, "conditional sentence" shall mean the suspension of the imposition or execution of a sentence and the order of revocable release in the community subject to the conditions established by the court without the supervision of the probation officer. It is the intent of the Legislature that both conditional sentence and probation are authorized whenever probation is authorized in any code as a sentencing option for infractions or misdemeanors.

(b) Except as provided in subdivision (j), in every case in which a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to the probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment. The probation officer shall immediately investigate and make a written report to the court of his or her findings and recommendations, including his or her recommendations as to the granting or denying of probation and the conditions of probation, if granted. Pursuant to Section 828 of the Welfare and Institutions Code, the probation officer shall include in his or her report any information gathered by a law enforcement agency relating to the taking of the defendant into custody as a minor, which shall be

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considered for purposes of determining whether adjudications of commissions of crimes as a juvenile warrant a finding that there are circumstances in aggravation pursuant to Section 1170 or to deny probation. The probation officer shall also include in the report his or her recommendation of the amount the defendant should be required to pay as a restitution fine pursuant to Section 13967 of the Government Code. The probation officer shall also include in his or her report a recommendation as to whether the court shall require, as a condition of probation, restitution to the victim or to the Restitution Fund. The report shall be made available to the court and the prosecuting and defense attorneys at least five days, or upon request of the defendant or prosecuting attorney, nine days prior to the time fixed by the court for the hearing and determination of the report, and shall be filed with the clerk of the court as a record in the case at the time of the hearing. The time within which the report shall be made available and filed may be waived by written stipulation of the prosecuting and defense attorneys which is filed with the court or an oral stipulation in open court which is made and entered upon the minutes of the court. At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case. At the hearing, the court shall consider any report of the probation officer and shall make a statement that it has considered such report which shall be filed with the clerk of the court as a record in the case. If the court determines that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be served by granting probation to the person, it may place the person on probation. If probation is denied, the clerk of the court shall immediately send a copy of the report to the Department of Corrections at the prison or other institution to which the person is delivered.

(c) If a defendant is not represented by an attorney, the court shall order the probation officer who makes the probation report to discuss its contents with the defendant.

(d) In every case in which a person is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report or summarily pronounce a conditional sentence. If such a case is not referred to the probation officer, in sentencing the person, the court may consider any information concerning the person which could have been included in a probation report. The court shall inform the person of the information to be considered and permit him or her to answer or controvert such information. For this purpose, upon the request of the person, the court shall grant a continuance before the judgment is pronounced.

(e) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any of the following persons:

(1) Unless the person had a lawful right to carry a deadly weapon,

other than a firearm, at the time of the perpetration of the crime or his or her arrest, any person who has been convicted of arson, robbery, burglary, burglary with explosives, rape with force or violence, murder, attempt to commit murder, trainwrecking, kidnapping, escape from the state prison, or a conspiracy to commit one or more of those crimes and was armed with such a weapon at either of those times.

(2) Any person who used or attempted to use a deadly weapon upon a human being in connection with the perpetration of the crime of which he or she has been convicted.

(3) Any person who willfully inflicted great bodily injury or torture in the perpetration of the crime of which he or she has been convicted.

(4) Any person who has been previously convicted twice in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony.

(5) Unless the person has never been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, any person who has been convicted of burglary with explosives, rape with force or violence, murder, attempt to commit murder, trainwrecking, extortion, kidnapping, escape from the state prison, a violation of Section 286, 288, or 288a, 288.5, or a conspiracy to commit one or more of those crimes.

(6) Any person who has been previously convicted once in this state of a felony or in any other place of a public offense which, if committed in this state, would have been punishable as a felony, if he or she committed any of the following acts:

(A) Unless the person had a lawful right to carry a deadly weapon at the time of the perpetration of the previous crime or his or her arrest for the previous crime, he or she was armed with a weapon at either of those times.

(B) The person used or attempted to use a deadly weapon upon a human being in connection with the perpetration of the previous crime.

(C) The person willfully inflicted great bodily injury or torture in the perpetration of the previous crime.

(7) Any public official or peace officer of this state or any city, county, or other political subdivision who, in the discharge of the duties of his or her public office or employment, accepted or gave or offered to accept or give any bribe, embezzled public money, or was guilty of extortion.

(8) Any person who knowingly furnishes or gives away phencyclidine.

(9) Any person who intentionally inflicted great bodily injury in the commission of arson under subdivision (a) of Section 451 or who intentionally set fire to, burned, or caused the burning of, an inhabited structure or inhabited property in violation of subdivision (b) of Section 451.

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(10) Any person who, in the commission of a felony, inflicts great bodily injury or causes the death of a human being by the discharge of a firearm from or at an occupied motor vehicle proceeding on a public street or highway.

(11) Any person who possesses a short-barreled rifle or a short-barreled shotgun under Section 12020, a machine gun under Section 12220, or a silencer under Section 12520.

(f) When probation is granted in a case which comes within the provisions of subdivision (e), the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(g) If a person is not eligible for probation, the judge shall refer the matter to the probation officer for an investigation of the facts relevant to determination of the amount of a restitution fine pursuant to Section 13967 of the Government Code in all cases where the determination is applicable. The judge, in his or her discretion, may direct the probation officer to investigate all facts relevant to the sentencing of the person. Upon that referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior record and history of the person and make a written report to the court of his or her findings. The findings shall include a recommendation of the amount of the restitution fine as provided in Section 13967 of the Government Code.

(h) In any case in which a defendant is convicted of a felony and a probation report is prepared pursuant to subdivision (b) or (g), the probation officer may obtain and include in the report a statement of the comments of the victim concerning the offense. The court may direct the probation officer not to obtain a statement in any case where the victim has in fact testified at any of the court proceedings concerning the offense.

(i) No probationer shall be released to enter another state unless his or her case has been referred to the Administrator, Interstate Probation and Parole Compacts, pursuant to the Uniform Act for Out-of-State Probationer or Parolee Supervision (Article 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part 4).

(j) In any court where a county financial evaluation officer is available, in addition to referring the matter to the probation officer, the court may order the defendant to appear before the county financial evaluation officer for a financial evaluation of the defendant's ability to pay restitution, in which case the county financial evaluation officer shall report his or her findings regarding restitution and other court-related costs to the probation officer on the question of the defendant's ability to pay those costs.

Any order made pursuant to this subdivision may be enforced as a violation of the terms and conditions of probation upon willful failure to pay and at the discretion of the court and as stated in the order, may be enforced in the same manner as a judgment in a civil action, if any balance remains unpaid at the end of the defendant's probationary period.

SEC. 14. Section 14206 of the Penal Code is amended to read:

14206. (a) (1) When any person makes a report of a missing person to a police department, sheriff's department, district attorney's office, California Highway Patrol, or other law enforcement agency, the report shall be given in person or by mail in a format acceptable to the Attorney General. That form shall include a statement authorizing the release of the dental or skeletal X-rays, or both, of the person reported missing and authorizing the release of a recent photograph of a person reported missing who is under 18 years of age. Included with the form shall be instructions which state that if the person reported missing is still missing 30 days after the report is made, the release form signed by a member of the family or next of kin of the missing person shall be taken by the family member or next of kin to the dentist, physician and surgeon, or medical facility in order to obtain the release of the dental or skeletal X-rays, or both, of that person or may be taken by a peace officer, if others fail to take action, to secure those X-rays. Notwithstanding any other provision of law, dental or skeletal X-rays, or both, shall be released by the dentist, physician and surgeon, or medical facility to the person presenting the request and shall be submitted within 10 days by that person to the police or sheriff's department or other law enforcement agency having jurisdiction over the investigation. When the person reported missing has not been found within 30 days and no family or next of kin exists or can be located, the law enforcement agency may execute a written declaration, stating that an active investigation seeking the location of the missing person is being conducted, and that the dental or skeletal X-rays, or both, are necessary for the exclusive purpose of furthering the investigation. Notwithstanding any other provision of law, the written declaration, signed by a peace officer, is sufficient authority for the dentist, physician and surgeon, or medical facility to release the missing person's dental or skeletal X-rays, or both.

(2) The form provided under this subdivision shall also state that if the person reported missing is under 18 years of age, the completed form shall be taken to the dentist, physician and surgeon, or medical facility immediately when the law enforcement agency determines that the disappearance involves evidence that the person is at risk or when the law enforcement agency determines that the person missing is under 12 years of age and has been missing at least 14 days. The form shall further provide that the dental or skeletal X-rays, or both, and a recent photograph of the missing child shall be submitted immediately to the law enforcement agency. Whenever authorized under this subdivision to execute a written declaration to obtain the release of dental or skeletal X-rays, or both, is provided, the investigating law enforcement agency may obtain those X-rays when a person reported missing is under 18 years of age and the law enforcement agency determines that the disappearance involves evidence that the person is at risk. In each case, the law enforcement agency may confer immediately with the coroner or medical

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examiners and may submit its report including the dental or skeletal X-rays, or both, within 24 hours thereafter to the Attorney General. The Attorney General's office shall code and enter the dental or skeletal X-rays, or both, into the center.

(b) When a person reported missing has not been found within 45 days, the sheriff, chief of police, or other law enforcement agency conducting the investigation for the missing person may confer with the coroner or medical examiner prior to the preparation of a missing person report. The coroner or medical examiner shall cooperate with the law enforcement agency. After conferring with the coroner or medical examiner, the sheriff, chief of police, or other law enforcement agency initiating and conducting the investigation for the missing person may submit a missing person report and the dental or skeletal X-rays, or both, and photograph received pursuant to subdivision (a) to the Attorney General's office in a format acceptable to the Attorney General.

Nothing in this section prohibits a parent or guardian of a child, reported to a law enforcement agency as missing, from voluntarily submitting fingerprints, and other documents, to the law enforcement agency accepting the report for inclusion in the report which is submitted to the Attorney General.

SEC. 16. Section 1513 of the Probate Code is amended to read:

1513. (a) Unless waived by the court, a court investigator, probation officer, or domestic relations investigator may make an investigation and file with the court a report and recommendation concerning each proposed guardianship of the person or guardianship of the estate. Investigations where the proposed guardian is a relative shall be made by a court investigator. Investigations where the proposed guardian is a nonrelative shall be made by the county agency designated to investigate potential dependency. The report for the guardianship of the person shall include, but need not be limited to, an investigation and discussion of all of the following:

(1) A social history of the guardian.

(2) A social history of the proposed ward, including, to the extent feasible, an assessment of any identified developmental, emotional, psychological, or educational needs of the proposed ward and the capability of the petitioner to meet those needs.

(3) The relationship of the proposed ward to the guardian, including the duration and character of the relationship, where applicable, the circumstances whereby physical custody of the proposed ward was acquired by the guardian, and a statement of the proposed ward's attitude concerning the proposed guardianship, unless the statement of the attitude is affected by the proposed ward's developmental, physical, or emotional condition.

(4) The anticipated duration of the guardianship and the plans of both natural parents and the proposed guardian for the stable and permanent home for the child. The court may waive this requirement for cases involving relative guardians.

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(b) The report shall be read and considered by the court prior to ruling on the petition for guardianship, and shall be reflected in the minutes of the court. The person preparing the report may be called and examined by any party to the proceeding.

(c) If the investigation finds that any party to the proposed guardianship alleges the minor's parent is unfit, as defined by Section 300 of the Welfare and Institutions Code, the case shall be referred to the county agency designated to investigate potential dependencies. Guardianship proceedings shall not be completed until the investigation required by Sections 328 and 329 of the Welfare and Institutions Code is completed and a report is provided to the court in which the guardianship proceeding is pending.

(d) The report authorized by this section is confidential and shall only be made available to persons who have been served in the proceedings or their attorneys. The county clerk shall make provisions for the limitation of the report exclusively to persons entitled to its receipt.

(e) For the purpose of writing the report authorized by this section, the person making the investigation and report shall have access to the proposed ward's school records, probation records, and public and private social services records, and to an oral or written summary of the proposed ward's medical records and psychological records prepared by any physician, psychologist, or psychiatrist who made or who is maintaining those records. The physician, psychologist, or psychiatrist shall be available to clarify information regarding these records pursuant to the investigator's responsibility to gather and provide information for the court.

(f) This section does not apply to guardianships resulting from a permanency plan for a dependent child pursuant to Section 366.25 of the Welfare and Institutions Code.

SEC. 17. Section 21670 of the Public Utilities Code is amended to read:

21670. (a) The Legislature hereby finds and declares that:

(1) It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669 and to prevent the creation of new noise and safety problems.

(2) It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

(b) In order to achieve the purposes of this article, every county in which there is located an airport which is served by a scheduled airline may establish an airport land use commission. Every county, in which there is located an airport which is not served by a

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(1) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county, except that if there are any cities contiguous or adjacent to the qualifying airport, at least one representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by paragraphs (2) and (3) shall each be increased by one.

(2) Two representing the county, appointed by the board of supervisors.

(3) Two having expertise in aviation, appointed by a selection committee comprised of the managers of all of the public airports within that county.

(4) One representing the general public, appointed by the other six members of the commission.

(c) Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

(d) Each member shall promptly appoint a single proxy to represent him or her in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the appointing member. A vacancy in the office of proxy shall be filled promptly by appointment of a new proxy.

(e) A person having an "expertise in aviation" means a person who, by way of education, training, business, experience, vocation, or avocation has acquired and possesses particular knowledge of, and familiarity with, the function, operation, and role of airports, or is an elected official of a local agency which owns or operates an airport. The commission shall be constituted pursuant to this section on and after March 1, 1988.

SEC. 18. Section 20018 of the Vehicle Code is amended to read:

20018. Every law enforcement agency having traffic law enforcement responsibility as specified in subdivision (a) of Section 830.1 and in subdivision (a) of Section 830.2 of the Penal Code may develop, adopt, and implement a written policy for its officers to provide assistance to disabled motorists on highways within its

primary jurisdiction. A copy of the policy, if adopted, shall be available to the public upon request.

SEC. 19. Section 209 of the Welfare and Institutions Code, as amended by Section 26 of Chapter 695 of the Statutes of 1992, is amended to read:

209. (a) The judge of the juvenile court of a county, or, if there is more than one judge, any of the judges of the juvenile court shall, at least annually, inspect any jail, juvenile hall, or special purpose juvenile hall which, in the preceding calendar year, was used for confinement, for more than 24 hours, of any minor.

The judge shall note in the minutes of the court whether the facility is a suitable place for confinement of minors.

If a judge of the juvenile court, after inspection of a jail, juvenile hall, special purpose juvenile hall, or lockup, finds that it is not being operated and maintained as a suitable place for the confinement of minors, the juvenile court shall give notice of its finding to all persons having authority to confine minors pursuant to this chapter and commencing 60 days thereafter the facility shall not be used for confinement of minors until the judge finds, after reinspection of the facility that the conditions which rendered the facility unsuitable have been remedied, and the facility is a suitable place for confinement of minors.

The custodian of each jail, juvenile hall, special purpose juvenile hall, and lockup may make any reports as may be requested by the Department of the Youth Authority or the juvenile court to effectuate the purposes of this section.

(b) A judge of the juvenile court shall conduct an annual inspection, either in person or through a delegated member of the appropriate county or regional juvenile justice commission, of any law enforcement facility which contains a lockup for adults which, in the preceding year, was used for the secure detention of any minor.

If the judge finds after inspection that the facility is not being operated and maintained in conformity with the requirements of subdivision (d) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2, the juvenile court shall give notice of its finding to all persons having authority to securely detain minors in the facility, and, commencing 60 days thereafter, the facility shall not be used for the secure detention of a minor until the judge finds, after reinspection, that the conditions which rendered the facility unsuitable have been remedied, and the facility is a suitable place for the confinement of minors in conformity with all requirements of law.

The custodian of each law enforcement facility which contains a lockup for adults may make any report as may be requested by the Department of the Youth Authority or by the juvenile court to effectuate the purposes of this subdivision.

(c) The Department of the Youth Authority shall collect annual data on the number, place, and duration of confinements of minors in jails and lockups, as defined in subdivision (i) of Section 207.1, and

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shall annually publish this information in the form as it deems appropriate for the purpose of providing public information on continuing compliance with the requirements of Section 207.1.

(d) Every person in charge of a jail, juvenile hall, special purposes juvenile hall, or lockup that, in the preceding calendar year, was used for confinement, for more than 24 hours, of any minor, may certify annually to the Department of the Youth Authority that the facility is in conformity with the regulations adopted by the department under Section 210 or 210.2, whichever is applicable. The department may provide forms and instructions to local jurisdictions to facilitate compliance with this subdivision.

(e) This section shall remain operative until July 1, 1995, on which date it shall be repealed.

SEC. 20. Section 209 of the Welfare and Institutions Code, as amended by Section 27 of Chapter 695 of the Statutes of 1992, is amended to read:

209. (a) The judge of the juvenile court of a county, or, if there is more than one judge, any of the judges of the juvenile court shall, at least annually, inspect any jail, juvenile hall, or special purpose juvenile hall which, in the preceding calendar year, was used for confinement, for more than 24 hours, of any minor.

The judge shall note in the minutes of the court whether the facility is a suitable place for confinement of minors.

The Department of the Youth Authority shall likewise conduct an annual inspection of each jail, juvenile hall, lockup, or special purpose juvenile hall situated in this state which, during the preceding calendar year, was used for confinement, for more than 24 hours, of any minor.

If either a judge of the juvenile court or the department, after inspection of a jail, juvenile hall, special purpose juvenile hall, or lockup, finds that it is not being operated and maintained as a suitable place for the confinement of minors, the juvenile court or the department shall give notice of its finding to all persons having authority to confine minors pursuant to this chapter and commencing 60 days thereafter the facility shall not be used for confinement of minors until the time the judge or department, as the case may be, finds, after reinspection of the facility that the conditions which rendered the facility unsuitable have been remedied, and the facility is a suitable place for confinement of minors.

The custodian of each jail, juvenile hall, special purpose juvenile hall, and lockup may make any reports as may be requested by the department or the juvenile court to effectuate the purposes of this section.

(b) The Department of the Youth Authority may inspect any law enforcement facility which contains a lockup for adults and which it has reason to believe may not be in compliance with the requirements of subdivision (d) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2.

A judge of the juvenile court shall conduct an annual inspection, either in person or through a delegated member of the appropriate county or regional juvenile justice commission, of any law enforcement facility which contains a lockup for adults which, in the preceding year, was used for the secure detention of any minor.

If either the judge or the department finds after inspection that the facility is not being operated and maintained in conformity with the requirements of subdivision (d) of Section 207.1 or with the certification requirements or standards adopted under Section 210.2, the juvenile court or the department shall give notice of its finding to all persons having authority to securely detain minors in the facility, and, commencing 60 days thereafter, the facility shall not be used for the secure detention of a minor until the time the judge or the department, as the case may be, finds, after reinspection, that the conditions which rendered the facility unsuitable have been remedied, and the facility is a suitable place for the confinement of minors in conformity with all requirements of law.

The custodian of each law enforcement facility which contains a lockup for adults may make any report as may be requested by the department or by the juvenile court to effectuate the purposes of this subdivision.

(c) The department shall collect annual data on the number, place, and duration of confinements of minors in jails and lockups, as defined in subdivision (i) of Section 207.1, and shall annually publish this information in the form as it deems appropriate for the purpose of providing public information on continuing compliance with the requirements of Section 207.1.

(d) This section shall become operative on July 1, 1995.

SEC. 21. Section 653 of the Welfare and Institutions Code is amended to read:

653. Whenever any person applies to the probation officer or the district attorney in accordance with subdivision (e) of Section 601.3, to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 601 and setting forth facts in support thereof. The probation officer or the district attorney, in consultation with the probation officer, may make such investigation as he or she deems necessary to determine whether proceedings in the juvenile court should be commenced.

SEC. 22. Section 653.5 of the Welfare and Institutions Code is amended to read:

653.5. (a) Whenever any person applies to the probation officer to commence proceedings in the juvenile court, the application shall be in the form of an affidavit alleging that there was or is within the county, or residing therein, a minor within the provisions of Section 602, or that a minor committed an offense described in Section 602 within the county, and setting forth facts in support thereof. The probation officer may make any investigation he or she deems

necessary to determine whether proceedings in the juvenile court shall be commenced.

(b) Except as provided in subdivision (c), if the probation officer determines that proceedings pursuant to Section 650 should be commenced to declare a person to be a ward of the juvenile court on the basis that he or she is a person described in Section 602, the probation officer may cause the affidavit to be taken to the prosecuting attorney.

(c) Notwithstanding the provisions of subdivision (b), the probation officer may cause the affidavit to be taken within 48 hours to the prosecuting attorney in all of the following cases:

(1) If it appears to the probation officer that the minor has been referred to the probation officer for any violation of an offense listed in subdivision (b) of Section 707.

(2) If it appears to the probation officer that the minor is under 16 years of age at the date of the offense and that the offense constitutes a second felony referral to the probation officer.

(3) If it appears to the probation officer that the minor was 16 years of age or older at the date of the offense and that the offense constitutes a felony referral to the probation officer.

(4) If it appears to the probation officer that the minor has been referred to the probation officer for the sale or possession for sale of a controlled substance as defined in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(5) If it appears to the probation officer that the minor has been referred to the probation officer for a violation of Section 11350 or 11377 of the Health and Safety Code where the violation takes place at a public or private elementary, vocational, junior high school, or high school, or a violation of Section 245.5, 626.9, or 626.10 of the Penal Code.

(6) If it appears to the probation officer that the minor has been referred to the probation officer for a violation of Section 186.22 of the Penal Code.

(7) If it appears to the probation officer that the minor has previously been placed in a program of informal probation pursuant to Section 654.

(8) If it appears to the probation officer that the minor has committed an offense in which the restitution owed to the victim exceeds one thousand dollars ($1,000). For purposes of this paragraph, the definition of "victim" in paragraph (1) of subdivision (a) of Section 729.6 and "restitution" in subdivision (d) of Section 729.6 shall apply.

Except for offenses listed in paragraph (5), the provisions of subdivision (c) shall not apply to a narcotics and drug offense set forth in Section 1000 of the Penal Code.

The prosecuting attorney shall within his or her discretionary power institute proceedings in accordance with his or her role as public prosecutor pursuant to subdivision (b) of Section 650 and Section 26500 of the Government Code. However, if it appears to the

prosecuting attorney that the affidavit was not properly referred, that the offense for which the minor was referred should be charged as a misdemeanor, or that the minor may benefit from a program of informal supervision, he or she shall refer the matter to the probation officer for whatever action the probation officer may deem appropriate.

(d) In all matters where the minor is not in custody and is already a ward of the court or a probationer under Section 602, the prosecuting attorney, within five judicial days of receipt of the affidavit from the probation officer, shall institute proceedings in accordance with his or her role as public prosecutor pursuant to subdivision (b) of Section 650 of this code and Section 26500 of the Government Code, unless it appears to the prosecuting attorney that the affidavit was not properly referred or that the offense for which the minor was referred requires additional substantiating information, in which case he or she shall immediately notify the probation officer of what further action he or she is taking.

(e) This section shall become operative on January 1, 1993, unless a later enacted statute, which is enacted before January 1, 1993, changes that date.

SEC. 23. The Legislature finds and declares that certain state-mandated local programs which in prior years have been suspended through nonappropriation in the state budget should be permanently eliminated and that this is the purpose of this act.

SEC. 24. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that essential modifications in the process and extent of mandates imposed upon local agencies may be revised for the 1993–94 fiscal year, it is essential that this act take effect immediately.

CHAPTER 60

An act to amend Section 8261 of, and to repeal Sections 45452 and 45452.5 of, the Education Code, to amend Section 30501 of the Food and Agriculture Code, to amend Section 8690.6 of the Government Code, to amend Section 46050.1 of the Health and Safety Code, to amend Section 3711 of the Labor Code, to amend Section 42911 of the Public Resources Code, to amend Section 4108.5 of, and to add Section 10878 to, the Revenue and Taxation Code, to amend Section 2105 of the Streets and Highways Code, and to amend Section 275 of the Welfare and Institutions Code, relating to governmental operations, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

BILL NUMBER: AB 2831 CHAPTERED 09/20/94
BILL TEXT

CHAPTER 644
FILED WITH SECRETARY OF STATE SEPTEMBER 20, 1994
APPROVED BY GOVERNOR SEPTEMBER 19, 1994
PASSED THE ASSEMBLY AUGUST 31, 1994
PASSED THE SENATE AUGUST 27, 1994
AMENDED IN SENATE AUGUST 23, 1994
AMENDED IN SENATE AUGUST 17, 1994
AMENDED IN SENATE AUGUST 8, 1994
AMENDED IN ASSEMBLY MAY 31, 1994
AMENDED IN ASSEMBLY APRIL 19, 1994
AMENDED IN ASSEMBLY APRIL 7, 1994

INTRODUCED BY Assembly Member Mountjoy

FEBRUARY 14, 1994

An act to amend Section 8570 of the Government Code, to amend Sections 21670 and 21670.1 of, and to add Section 21674.7 to, the Public Utilities Code, relating to airports.

LEGISLATIVE COUNSEL'S DIGEST

AB 2831, Mountjoy. Airports: land use commissions: plans.

Existing law authorizes the Governor to take various actions in accordance with the State Emergency Plan and programs for the mitigation of the effects of an emergency in the state.

This bill would include within those actions the provision for the use of public airports.

Under existing law, each county in which there is an airport served by a scheduled airline and, with a specified exception, each county with an airport operated for the benefit of the general public, was required, prior to June 30, 1993, and permitted thereafter, to establish an airport land use commission. The commission is required to formulate a comprehensive land use plan to provide for the orderly growth of the airport and the area surrounding the airport within the jurisdiction of the commission.

This bill would impose a state-mandated local program by reinstating the requirement to establish an airport land use commission, but would provide an alternative procedure for the formulation of the land use plan other than by establishing the commission, under specified conditions.

The bill would also require an airport land use commission that formulates, adopts or amends a comprehensive airport land use plan to be guided by the Airport Land Use Planning Handbook published by the Division of Aeronautics of the Department of Transportation.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8570 of the Government Code is amended to read:

8570. The Governor may, in accordance with the State Emergency Plan and programs for the mitigation of the effects of an emergency in this state:

(a) Ascertain the requirements of the state or its political subdivisions for food, clothing, and other necessities of life in the event of an emergency.

(b) Plan for, procure, and pre-position supplies, medicines, materials, and equipment.

(c) Use and employ any of the property, services, and resources of the state as necessary to carry out the purposes of this chapter.

(d) Provide for the approval of local emergency plans.

(e) Provide for mobile support units.

(f) Provide for use of public airports.

(g) Institute training programs and public information programs.

(h) Make surveys of the industries, resources, and facilities, both public and private, within the state, as are necessary to carry out the purposes of this chapter.

(i) Plan for the use of any private facilities, services, and property and, when necessary, and when in fact used, provide for payment for that use under the terms and conditions as may be agreed upon.

(j) Take all other preparatory steps, including the partial or full mobilization of emergency organizations in advance of an actual emergency; and order those test exercises needed to insure the furnishing of adequately trained and equipped personnel in time of need.

SEC. 2. Section 21670 of the Public Utilities Code is amended to read:

21670. (a) The Legislature hereby finds and declares that:

(1) It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669 and to prevent the creation of new noise and safety problems.

(2) It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

(b) In order to achieve the purposes of this article, every county in which there is located an airport which is served by a scheduled airline shall establish an airport land use commission. Every county, in which there is located an airport which is not served by a scheduled airline, but is operated for the benefit of the general public, shall establish an airport land use commission, except that the board of supervisors of the county may, after consultation with the appropriate airport operators and affected local entities and after a public hearing, adopt a resolution finding that there are no noise, public safety, or land use issues affecting any airport in the county which require the creation of a commission and declaring

the county exempt from that requirement. The board shall, in this event, transmit a copy of the resolution to the Director of Transportation. For purposes of this section, "commission" means an airport land use commission. Each commission shall consist of seven members to be selected as follows:

(1) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county, except that if there are any cities contiguous or adjacent to the qualifying airport, at least one representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by paragraphs (2) and (3) shall each be increased by one.

(2) Two representing the county, appointed by the board of supervisors.

(3) Two having expertise in aviation, appointed by a selection committee comprised of the managers of all of the public airports within that county.

(4) One representing the general public, appointed by the other six members of the commission.

(c) Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

(d) Each member shall promptly appoint a single proxy to represent him or her in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the appointing member. A vacancy in the office of proxy shall be filled promptly by appointment of a new proxy.

(e) A person having an "expertise in aviation" means a person who, by way of education, training, business, experience, vocation, or avocation has acquired and possesses particular knowledge of, and familiarity with, the function, operation, and role of airports, or is an elected official of a local agency which owns or operates an airport.

SEC. 3. Section 21670.1 of the Public Utilities Code is amended to read:

21670.1. (a) Notwithstanding any other provision of this article, if the board of supervisors and the city selection committee of mayors in the county each makes a determination by a majority vote that proper land use planning can be accomplished through the actions of an appropriately designated body, then the body so designated shall assume the planning responsibilities of an airport land use commission as provided for in this article, and a commission need not be formed in that county.

(b) A body designated pursuant to subdivision (a) which does not include among its membership at least two members having an expertise in aviation, as defined in subdivision (e) of Section 21670, shall, when acting in the capacity of an airport land use commission, be augmented so that that body, as augmented, will have at least two members having that expertise. The commission shall be constituted pursuant to this section on and after March 1, 1988.

(c) (1) Notwithstanding subdivisions (a) and (b), and subdivision (b) of Section 21670, if the board of supervisors of a county and each affected city in that county each makes a determination that proper land use planning pursuant to this article can be accomplished pursuant to this subdivision, then a

commission need not be formed in that county.

(2) If the board of supervisors of a county and each affected city makes a determination that proper land use planning may be accomplished and a commission is not formed pursuant to paragraph (1) of this subdivision, that county and the appropriate affected cities having jurisdiction over an airport, subject to the review and approval by the Division of Aeronautics of the department, shall do all of the following:

(A) Adopt processes for the preparation, adoption, and amendment of the comprehensive airport land use plan for each airport that is served by a scheduled airline or operated for the benefit of the general public.

(B) Adopt processes for the notification of the general public, landowners, interested groups, and other public agencies regarding the preparation, adoption, and amendment of the comprehensive airport land use plans.

(C) Adopt processes for the mediation of disputes arising from the preparation, adoption, and amendment of the comprehensive airport land use plans.

(D) Adopt processes for the amendment of general and specific plans to be consistent with the comprehensive airport land use plans.

(E) Designate the agency that shall be responsible of the preparation, adoption, and amendment of each comprehensive airport land use plan.

(3) The Division of Aeronautics of the department shall review the processes adopted pursuant to paragraph (2), and shall approve the processes if the division determines that the processes are consistent with the procedure required by this article and will do all of the following:

(A) Result in the preparation, adoption, and implementation of plans within a reasonable amount of time.

(B) Rely on the height, use, noise, safety, and density criteria that are compatible with airport operations, as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations.

(C) Provide adequate opportunities for notice to, review of, and comment by the general public, landowners, interested groups, and other public agencies.

(4) If the county does not comply with the requirements of paragraph (3) within 120 days, then the plan and amendments shall not be considered adopted pursuant to this article and a commission shall be established within 90 days of the determination of noncompliance by the division and a plan shall be adopted pursuant to this article within 90 days of the establishment of the commission.

(d) A commission need not be formed in a county that has contracted for the preparation of comprehensive airport land use plans with the Division of Aeronautics under the California Aids to Airport Program (Title 21 (commencing with Section 4050) of the California Code of Regulations), Project Ker-VAR 90-1, and that submits all of the following information to the Division of Aeronautics for review and comment that the county and the cities affected by the airports within the county, as defined by the plans:

(1) Agree to adopt and implement the comprehensive airport plans that have been developed under contract.

(2) Incorporated the height, use, noise, safety, and density criteria that are compatible with airport operations as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations as part of the general and specific plans for the county and for each affected city.

(3) If the county does not comply with this subdivision on or before May 1, 1995, then a commission shall be established in accordance with this article.

(e) (1) A commission need not be formed in a county if all of the following conditions are met:

(A) The county has only one public use airport that is owned by a city.

(B) (i) The county and the affected city adopt the elements in paragraph (2) of subdivision (d), as part of their general and specific plans for the county and the affected city.

(ii) The general and specific plans shall be submitted, upon adoption, to the Division of Aeronautics. If the county and the affected city do not submit the elements specified in paragraph (2) of subdivision (d), on or before May 1, 1996, then a commission shall be established in accordance with this article.

SEC. 4. Section 21674.7 is added to the Public Utilities Code, to read:

21674.7. An airport land use commission that formulates, adopts or amends a comprehensive airport land use plan shall be guided by information prepared and updated pursuant to Section 21674.5 and referred to as the Airport Land Use Planning Handbook published by the Division of Aeronautics of the Department of Transportation.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

Senate Bill No. 1350

CHAPTER 506

An act to amend Sections 14482 and 14483 of the Business and Professions Code, to repeal Section 1279 of the Code of Civil Procedure, to amend Section 18025 of the Education Code, to amend Sections 3102, 3105, 6523.5, 6523.6, 6523.7, 15365.30, 23119, 23130, 23212, 23285, 29321, 36501, 51283.4, 54988, 61737.05, 65400, 66412, 66451.17, 66463.5, and 66499.19 of, to amend and renumber Section 6523.75 of, to add Section 6500.1 to, to repeal Section 16153 of, to repeal Division 2 (commencing with Section 60400) of Title 6 of, and to repeal and add Article 7 (commencing with Section 51296) of Chapter 7 of Part 1 of Division 1 of Title 5 of, the Government Code, to repeal Division 36 (commencing with Section 56000) of the Health and Safety Code, to amend Sections 3211.92 and 3211.93a of the Labor Code, to amend Section 26593 of the Public Resources Code, to amend Section 21670 of the Public Utilities Code, to amend Sections 10 and 10.2 of the County Water Authority Act (Chapter 545 of the Statutes of 1943), and to repeal Section 901 of the Pajaro River Watershed Flood Prevention Authority Act (Chapter 963 of the Statutes of 1999), relating to local agencies.

[Approved by Governor September 17, 2000. Filed with Secretary of State September 19, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1350, Committee on Local Government. Local Government Omnibus Act of 2000.

(1) Existing law provides for the registration of laundry marks by filing a description of the mark in the offices of the Secretary of State and the county clerk, and publishing a description of the mark in the county where the description was filed.

This bill would delete the provision for filing with the county clerk and change the required place of publication to the county where the principal place of business is located.

(2) Existing law requires a certified copy of a court decree changing a person's name to be filed in the office of the county clerk where the person lives.

This bill would delete that provision.

(3) Existing law requires the State Librarian to determine annually the amount of support for each public library and requires the amount appropriated to be based on the total amount of revenues previously received, and authorizes local agencies to waive that amount, as specified.

This bill would authorize local agencies to request from the State Librarian a specified waiver of the requirements as to the amount appropriated commencing with the 2000–01 fiscal year.

(4) Existing law requires the oath or affirmation of a disaster service worker of a county to be filed in the office of the county clerk, or, in certain instances, to be filed with the county auditor or the clerk of the board of supervisors.

This bill would delete the provisions relating to filing with the county auditor or the board of supervisors, authorize the filing to be in the official department personnel file of the worker, and authorize the oath to be destroyed after 5 years.

(5) Existing law establishes the California Central Valley International Trade Center in Tulare County to coordinate and work with ongoing international trade efforts in specified counties.

This bill would add Merced County to those counties.

(6) Existing law specifies the boundaries of Los Angeles County and Orange County.

This bill would revise those boundary specifications, as prescribed.

(7) Existing law provides that when a county boundary is changed, the boards of supervisors of the affected counties shall file with the State Board of Equalization and the assessors of the affected counties before the following January 1 certain documents concerning the new boundaries.

This bill would change that date to December 1.

(8) Existing law authorizes a board of supervisors to establish a revolving fund not to exceed $100,000 for use by any county officer.

This bill would increase that amount to $250,000.

(9) Existing law provides that the government of a general law city is vested in certain officers, including a city council of 5 members.

This bill would provide that the city council consists of at least 5 members.

(10) Existing law provides procedures for the cancellation or nullification of contracts that establish agricultural preserves and for the rescission of those contracts in order to place the land under a farmland security zone contract.

This bill would recodify and make technical, nonsubstantive changes in the provisions governing the procedures for the establishment and cancellation of farmland security zone contracts.

(11) Existing law requires a city or county to provide specified notice of a proposed lien for costs incurred in abating a nuisance.

This bill would require the notice to be mailed by certified mail to the last known address of the property owner.

(12) Existing law requires a community services district to approve various claims and demands by majority vote in an open meeting.

This bill would authorize certain warrants for claims and demands to be approved by the finance officer and ratified by the district board after payment.

(13) Existing law establishes procedures for the formation and conduct of the Rossmoor Special Community Services District.

This bill would repeal that law.

(14) Existing law requires the legislative body of a city or county to submit an annual report on the status of the general plan and progress in its implementation to various agencies on or before July 1 of each year.

This bill instead would require that the housing portion of that report be submitted to those agencies on or before October 1 of each year.

(15) Under existing law, when a local agency approves a vesting tentative map, that approval confers a vested right to proceed with the development in substantial compliance with specified ordinances, policies, and standards.

This bill would correct an obsolete reference to provisions relating to vesting tentative maps.

(16) The Urban Development Incentive Act provides for the planning and expedited permitting of large scale urban developments.

This bill would repeal those provisions.

(17) Under existing law, geologic hazard districts may borrow money from public agencies.

This bill would authorize those districts to borrow money from private sources.

(18) Existing law requires cities and counties to conform their general plans to the comprehensive land use plan of an airport land use commission.

This bill would declare the intent of the Legislature to clarify that special districts are also subject to that plan.

(19) Existing law does not provide a procedure to transfer a Mello-Roos Community Facilities District from a county to a special district.

This bill would authorize Riverside County to transfer the governance of a community facilities district to the Rancho California Water District.

(20) The bill would also delete obsolete provisions and make various clarifying, conforming, and other changes relating to, among other things, joint exercise of powers agreements, farmland preservation, subdivisions, redevelopment, and flood control.

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

SECTION 1. (a) This act shall be known and may be cited as the Local Government Omnibus Act of 2000.

(b) The Legislature finds and declares that Californians desire their government to be run efficiently and economically, and that public officials should avoid waste and duplication whenever possible. The Legislature further finds and declares that it desires to control its own operating costs by reducing the number of separate bills. Therefore, it is the intent of the Legislature in enacting this act to combine several minor, noncontroversial statutory changes relating to local agencies into a single measure.

SEC. 2. Section 14482 of the Business and Professions Code is amended to read:

14482. In order to register a name, mark or device under this article, the supplier shall do all of the following:

(a) File in the office of the Secretary of State a description of the names, marks, or devices so used.

(b) Cause the description of the name, mark or device to be printed once a week for three successive weeks in a newspaper published in the county in which the principal place of business of the supplier is located.

SEC. 3. Section 14483 of the Business and Professions Code is amended to read:

14483. The registrant shall pay to the Secretary of State for filing each laundry supply designation described and for issuing a certificate of filing a fee as set forth in subdivision (e) of Section 12193 of the Government Code.

SEC. 4. Section 1279 of the Code of Civil Procedure is repealed.

SEC. 5. Section 18025 of the Education Code is amended to read:

18025. (a) For the 1982–83 fiscal year and each fiscal year thereafter, the State Librarian shall determine the amount to which each public library is entitled for support of the library during the fiscal year. The amount shall be equal to 10 percent of the cost of the foundation program as determined pursuant to Section 18022.

(b) If local revenues appropriated for a public library for the 1982–83 fiscal year and each fiscal year thereafter, including tax revenues made available under Chapter 282 of the Statutes of 1979, total less than 90 percent of the cost of the foundation program as determined pursuant to Section 18022, the state allocation for that fiscal year shall be reduced proportionately. A proportional reduction in the state allocation as described in this subdivision shall not be made, however, commencing with the 1997–98 fiscal year and each fiscal year thereafter, if the amount appropriated to the Public Library Fund for that fiscal year is equal to or greater than the amount necessary to fund each public library in the amount it received for the prior fiscal year, thus providing the state's share of the cost of the foundation program to each library based only on its population served, as certified by the State Librarian. After the first fiscal year in which the proportional reduction is not made, no further reductions based on this subdivision shall be made in any

future fiscal year. It is the intent of this subdivision to make this change without harm to any library currently receiving an unreduced share of the state's cost of the foundation program.

(c) If local revenues appropriated for a public library for the 1982–83 fiscal year and each fiscal year thereafter, including tax revenues made available under the provisions of Chapter 282 of the Statutes of 1979, total more than 90 percent of the cost of the foundation program as determined pursuant to Section 18022, the state allocation for that fiscal year shall remain at 10 percent of the cost of the foundation program as determined pursuant to Section 18022.

(d) In order for a public library to receive state funds under this chapter in the 1983–84 fiscal year and any fiscal year thereafter, the total amount of local revenues appropriated for the public library for that fiscal year, including tax revenues made available under Chapter 282 of the Statutes of 1979 and other revenues deemed to be local revenues according to Section 18023, shall be equal to at least the total amount of local revenues, as defined, appropriated for the public library in the previous fiscal year. State funds provided under this chapter shall supplement, but not supplant, local revenues appropriated for the public library.

(e) (1) Notwithstanding subdivision (d), or any other provision of law, in the 1993–94 fiscal year, any city, county, district, or city and county, that reduces local revenues appropriated for the public library for the 1993–94 fiscal year shall continue to receive state funds appropriated under this chapter for the 1993–94 fiscal year only, provided that the amount of the reduction to the appropriation to that public library for the 1993–94 fiscal year is no more than 20 percent of the 1992–93 fiscal year appropriation made to that public library as certified by the fiscal officer of the public library and transmitted to the State Librarian pursuant to Section 18023.

(2) Commencing with the 1993–94 fiscal year, and each fiscal year thereafter, any city, county, district, or city and county may request from the State Librarian a waiver of the requirements of subdivision (d) or of paragraph (1) by demonstrating that the percentage of the reduction in local revenues appropriated for the public library is no greater than the percentage of the reduction of local revenues received by the city, county, district, or city and county operating the public library as a result of changes made to Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code by statutes enacted during or after the 1991–92 Regular Session having the effect of shifting property tax revenues from cities, counties, special districts, and redevelopment agencies to school districts and community colleges. Requests for the waiver and the substantiating documentation shall be submitted to the State Librarian along with the annual report of appropriation required by Section 18023 or any

other report of appropriations applying to public libraries required by any other provision of law.

(3) Commencing with the 1997-98 fiscal year, and each fiscal year thereafter, any city, county, district, or city and county may request from the State Librarian a waiver of the requirements of subdivision (d) by demonstrating that the percentage of reduction in local revenues appropriated for the public library is no greater than the percentage of reduction of local revenues received by the city, county, district, or city and county operating the public library as a result of the addition of Article XIII D, otherwise known as the Right to Vote on Taxes Act, to the California Constitution as approved by the voters at the November 5, 1996, general election. Requests for the waiver and the substantiating documentation shall be submitted to the State Librarian along with the annual report of appropriation required by Section 18023 or any other report of appropriations applying to public libraries required by any other provision of law.

(4) Commencing with the 2000–01 fiscal year, and each fiscal year thereafter, any city, county, district, or city and county may request from the State Librarian a waiver of the requirements of subdivision (d) or of paragraph (1) by demonstrating that the reduction in local revenues appropriated for the public library is no greater than the reduction in local revenues received by the city, county, district, or city and county operating the public library as a result of the automatic termination of a locally approved special tax or benefit assessment for that public library. Requests for the waiver and substantiating documentation shall be submitted to the State Librarian along with the annual report of appropriation required by Section 18023 or any other report of appropriations applying to public libraries required by any other provision of law.

(f) If the state allocations computed pursuant to this section exceed the total amount of funds appropriated for purposes of this section in any fiscal year, the State Librarian shall adjust on a pro rata basis public library allocations prescribed by this section so that the total amount in each fiscal year does not exceed this amount.

SEC. 6. Section 3102 of the Government Code is amended to read:

3102. (a) All disaster service workers shall, before they enter upon the duties of their employment, take and subscribe to the oath or affirmation required by this chapter.

(b) In the case of intermittent, temporary, emergency or successive employments, then in the discretion of the employing agency, an oath taken and subscribed as required by this chapter shall be effective for the purposes of this chapter for all successive periods of employment which commence within one calendar year from the date of that subscription.

(c) Notwithstanding subdivision (b), the oath taken and subscribed by a person who is a member of an emergency

organization sanctioned by a state agency or an accredited disaster council, whose members are duly enrolled or registered with the Office of Emergency Services, or any accredited disaster council of any political subdivision, shall be effective for the period the person remains a member with that organization.

SEC. 7. Section 3105 of the Government Code is amended to read:

3105. (a) The oath or affirmation of any disaster service worker of the state shall be filed as prescribed by State Personnel Board rule within 30 days of the date on which it is taken and subscribed.

(b) The oath or affirmation of any disaster service worker of any county shall be filed in the office of the county clerk of the county or in the official department personnel file of the county employee who is designated as a disaster service worker. The oath may be destroyed without duplication five years after the termination of the employee's employment by the county.

(c) The oath or affirmation of any disaster service worker of any city shall be filed in the office of the city clerk of the city.

(d) The oath or affirmation of any disaster service worker of any other agency or district shall be filed with any officer or employee of the agency or district that may be designated by the agency or district.

SEC. 8. Section 6500.1 is added to the Government Code, to read:

6500.1. This chapter shall be known and may be cited as the Joint Exercise of Powers Act.

SEC. 9. Section 6523.5 of the Government Code is amended to read:

6523.5. Notwithstanding any other provision of this chapter, a private, nonprofit hospital in the County of Contra Costa may enter into a joint powers agreement with a public agency, as defined in Section 6500.

SEC. 10. Section 6523.6 of the Government Code is amended to read:

6523.6. (a) Notwithstanding any other provision of this chapter, a private, nonprofit hospital in the County of Tulare may enter into a joint powers agreement with a public agency, as defined in Section 6500.

(b) Nonprofit hospitals and public agencies participating in a joint powers agreement entered into pursuant to subdivision (a) shall not reduce or eliminate any emergency services, as a result of that agreement, following the creation of the joint powers authority without a public hearing by the authority. The joint powers authority shall provide public notice of the hearing to the communities served by the authority not less than 14 days prior to the hearing and the notice shall contain a description of the proposed reductions or changes.

(c) Nothing in this section shall be construed to grant any power to any nonprofit hospital that participates in an agreement authorized under this section to levy any tax or assessment. Nothing in this section shall permit any entity, other than a nonprofit hospital corporation or a public agency, to participate as a party to an agreement authorized under this section.

SEC. 11. Section 6523.7 of the Government Code is amended to read:

6523.7. (a) Notwithstanding any other provision of this chapter, a private, nonprofit hospital in the County of Kings may enter into a joint powers agreement with a public agency, as defined in Section 6500.

(b) Nonprofit hospitals and public agencies participating in a joint powers agreement entered into pursuant to subdivision (a) shall not reduce or eliminate any emergency services, as a result of that agreement, following the creation of the joint powers authority without a public hearing by the authority. The joint powers authority shall provide public notice of the hearing to the communities served by the authority not less than 14 days prior to the hearing and the notice shall contain a description of the proposed reductions or changes.

(c) Nothing in this section shall be construed to grant any power to any nonprofit hospital that participates in an agreement authorized under this section to levy any tax or assessment. Nothing in this section shall permit any entity, other than a nonprofit hospital corporation or a public agency, to participate as a party to an agreement authorized under this section.

SEC. 12. Section 6523.75 of the Government Code is amended and renumbered to read:

6523.9. (a) Notwithstanding any other provision of this chapter, a nonprofit hospital in the County of San Diego may enter into a joint powers agreement with any public agency, as defined in Section 6500.

(b) Nonprofit hospitals and public agencies participating in a joint powers agreement entered into pursuant to subdivision (a) shall not reduce or eliminate any emergency services, as a result of that agreement, following the creation of the joint powers authority without a public hearing by the authority.

(c) The joint powers authority shall provide public notice of the hearing to the communities served by the authority not less than 14 days prior to the hearing and the notice shall contain a description of the proposed reductions or changes.

(d) Nothing in this section shall be construed to grant any power to any nonprofit hospital that participates in an agreement authorized under this section to levy any tax or assessment. Nothing in this section shall permit any entity, other than a nonprofit hospital

corporation or a public agency, to participate as a party to an agreement authorized under this section.

SEC. 13. Section 15365.30 of the Government Code is amended to read:

15365.30. (a) The California Central Valley International Trade Center in Tulare County has been created for the purpose of assisting Central Valley businesses interested in expanding their markets.

(b) It is the intent of the Legislature that the Central Valley International Trade Center in Tulare County coordinate and work cooperatively with other ongoing international trade efforts in the Central Valley, including the Counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus, and Tulare.

SEC. 14. Section 16153 of the Government Code is repealed.

SEC. 15. Section 23119 of the Government Code is amended to read:

23119. The boundaries of Los Angeles County are as follows:

Beginning at a point in the southwesterly boundary line of the State of California, said point being on the southerly prolongation of the westerly boundary line of Rancho Topanga Malibu Sequit; thence northerly along said prolongation and westerly line of said rancho to the northwesterly corner thereof; thence northeasterly in a direct line to corner number seven of the boundary of Rancho Simi; thence easterly along line number seven, northerly along line number eight, easterly along line number nine of the boundary of Rancho Simi to corner number ten of the boundary of Rancho Simi; thence following the boundary line as surveyed by E. T. Wright and J. T. Stow, county surveyors, in June and July, 1881, as shown on map recorded in book 43, page 25 et seq., miscellaneous records of Los Angeles County as follows: north 105.01 chains to a point; thence north 07 degrees 29 minutes W., 157.50 chains to a point; thence north 21 degrees 57 minutes W., to a point in the north line of Sec. 4, T. 8 N., R. 19 W., S. B. M., distant westerly along said north line 1,400 feet, more or less, from the northeast corner of said Sec. 4, said point being common to the boundaries of Kern, Ventura and Los Angeles; thence east along the north line of T. 8 N., S. B. M., to the northeast corner of T. 8 N., R. 8 W., S. B. M., said corner being a point common to the boundaries of San Bernardino, Kern, and Los Angeles;

Thence south along the range line between R. 7 and 8 W., to the southeast corner of T. 6 N., R. 8 W., S. B. M.; thence east along the township line between T. 5 and 6 N., to the northeast corner of T. 5 N., R. 8 W., S. B. M.; thence south along the range line between R. 7 and 8 W., to a point in the east line of Sec. 12, T. 4 N., R. 8 W., S. B. M., distant southerly 940 feet, measured along said east line, from the northeast corner of said Sec. 12; thence southerly in a direct line to the summit of San Antonio Peak; thence southerly along a straight line which passes through the northwest corner of the Rancho Cucamonga to a point in said straight line distant south 11°51′04″ west

thereon, 333.81 feet from its intersection with the north line of Tract 37, T. 2 N., R. 7 W., S. B. M.; thence north 25°38′59″ west, 15.06 feet; thence south 70°15′29″ west, 47.76 feet; thence south 09°57′30″ east, 62.51 feet; thence south 34°17′02″ east, 36.94 feet to said straight line; thence continuing southerly along said straight line to a point in said straight line distant north 11°51′04″ east, 547.37 feet from its intersection with the south line of said Tract 37; thence south 84°57′02″ west, 35.25 feet; thence south 23°47′27″ west, 75.70 feet to the beginning of a nontangent curve concave to the southwest having a radius of 181.00 feet and to which beginning a radial line bears south 29°24′24″ west; thence southeasterly along said curve through a central angle of 12°08′32″ an arc distance of 38.36 feet to the beginning of a reverse curve concave to the northeast having a radius of 169.00 feet; thence southeasterly 16.07 feet along said curve through a central angle of 05°26′52″ to said straight line; thence southwest in a direct line to the northwest corner of Rancho Cucamonga, thence southwesterly along the northwesterly boundary line of Rancho Cucamonga to the most westerly corner of Rancho Cucamonga; thence southwesterly in a direct line to the northeast corner of Rancho San Jose; thence southwesterly and westerly along the easterly and southerly boundary lines of Rancho San Jose to the range line between R. 8 and 9 W. in T. 2 S., S. B. M.;

Thence south along the range line between R. 8 and 9 W., to the southeast corner of Sec. 12, T. 2 S., R. 9 W., S. B. M., said corner being an angle point in the boundary line of the Rancho Santa Ana del Chino; thence westerly, southwesterly, southerly, easterly, and southerly along the boundary line of the Rancho Santa Ana del Chino to the southwest corner of the Rancho Santa Ana del Chino, said corner being the center of Sec. 35, T. 2 S., R. 9 W., S. B. M.; thence southeasterly in a straight line to a point in the south line of Sec. 36, T. 2 S., R. 9 W., S. B. M., distant 52.84 feet easterly thereon from the southwest corner of said Sec. 36, said point being common to the boundaries of San Bernardino, Orange, and Los Angeles; thence westerly along the northern line of Orange to the southeasterly corner of Tract No. 46685 filed in Book 1209, pages 56 and 57, of Maps, in the office of the Recorder of the County of Los Angeles, said southeasterly corner being common to the boundaries of Orange and Los Angeles; thence northerly following along the boundary of said Tract No. 46685, the following courses: north 13°53′07″ east 100.12 feet, north 76°01′25″ west 1018.58 feet, north 85°34′56″ west 163.25 feet, and south 00°57′29″ west 47.01 feet to a point in the northerly line of Tract No. 25335, filed in Book 775, pages 35 and 36, of said Maps, said point distant westerly along said northerly line 10.26 feet from the northeasterly corner of said Tract No. 25335; thence northwesterly following along the boundary of said Tract No. 25335 the following courses: north 76°00′59″ west 1224.52 feet and south 00°52′39″ west 564.75 feet to a point on the boundary common to

Orange and Los Angeles; thence westerly along the northern line of Orange to the southwesterly boundary line of the State of California; thence northwesterly along the southwesterly boundary line of the State of California to the point of beginning. Also the islands of Santa Catalina and San Clemente.

SEC. 16. Section 23130 of the Government Code is amended to read:

23130. The boundaries of Orange County are as follows:

Beginning at the northwest corner of San Diego County at a point in the Pacific Ocean opposite San Mateo point; thence northerly along the San Diego County line to the southerly line of the Rancho Mission Viejo as shown on the survey on file in book 8, pages 34 through 46 inclusive of Records of Survey in the office of the County Recorder of Orange County;

Thence, easterly and northeasterly to an angle point therein, said point being Rancho Mission Viejo Corner No. 7, as shown on said Record of Survey; thence northerly 12,693.95 feet along the northwestern boundary of San Diego County to the southwest corner of Section 33, T. 7 S., R. 6 W., said point being also the most southwest corner of Riverside County; thence northerly 1,324.46 feet along the western boundary of said Riverside County to the southwesterly corner of Government Lot 3, Fractional Section 33, T. 7 S., R. 6 W., S.B.M., as shown on that survey on file in book 122, pages 17 and 18 of Records of Survey in the office of the County Recorder of Orange County;

Thence leaving said western boundary south 89°25′11″ east, 2,042.68 feet to the southeast corner of the NE. 1/4 of the SE. 1/4 of said Section 33; thence north 01°00′50″ east, 1,320.33 feet to the northeast corner of the NE. 1/4 of the SE. 1/4 of said Section 33; thence north 00°27′14″ east, 2,647.46 feet to the northeast corner of said Section 33; thence along the north line of said section north 89°16′14″ west, 2,086.39 feet to the northwest corner of Government Lot 1 of said section, being a point on the existing western boundary of said Riverside County;

Thence along said boundary of Riverside County northerly, northeasterly, northwesterly, westerly, northerly, westerly and northwesterly to a point on the south line of Section 36, T. 3 S., R. 8 W., as shown on that survey on file in book 131, pages 24 and 25 of Records of Survey in the office of the Orange County Recorder, said point lying distant therein north 89°05′38″ west 151.58 feet from the southeast corner of said Section 36;

Thence leaving said existing boundary of Riverside County and along said south line north 89°05′38″ west, 2,484.00 feet; thence continuing along said south line, north 89°07′27″ west, 818.46 feet to the easterly line of the Rancho Lomas de Santiago; thence along said easterly line north 02°53′27″ west, 3,273.18 feet to a point on a nontangent curve, concave to the northwest and having a radius of

1,550.00 feet, a radial from said point bears north 14°05′30″ west; thence easterly, leaving said east line, along said curve through a central angle of 15°01′17″ and arc length of 406.35 feet; thence nontangent to said curve, south 84°32′29″ east, 155.61 feet; thence north 65°40′06″ east, 75.15 feet; thence north 48°16′56″ east, 150.70 feet; thence north 68°49′57″ east, 35.37 feet to said existing boundary of Riverside County;

Thence northwesterly along the said boundary to the corner common to Riverside, San Bernardino, and Orange Counties; thence northwesterly along the southwest boundary of San Bernardino County to the point of intersection of said boundary with the southerly line of T. 2 S., R. 9 W., being also the corner common to San Bernardino and Los Angeles Counties; thence westerly along the township line between T. 2 and 3 S., to the northeast corner of Annexation 69-1 (Ryness-Smith No. 2) to the City of Brea, said point also being the southeast corner of Tract No. 46685, per map filed in Book 1209, pages 56 and 57, of Maps, in the office of the Recorder of the County of Los Angeles, being distant north 89°00′53″ west, 1670.40 feet from the northeast corner of Section 3, Township 3 South, Range 10 West; thence, leaving the Township line between T. 2 and 3 S., along the boundary line of said Tract No. 46685, the following courses: north 13°53′07″ east, along the easterly line of said Tract, 100.12 feet to the northeast corner thereof; thence, north 76°01′25″ west, along the northeasterly line of said Tract, 1018.58 feet to the easterly terminus of that course shown as "north 86°32′58″ west, 163.32 feet" on said Tract; thence, north 85°34′56″ west, along the northerly line of said Tract, 163.25 feet to the northwest corner thereof; thence, south 00°57′29″ west, along the most westerly line of said Tract, 47.01 feet, to the northeasterly boundary line of Tract No. 25335, per map filed in Book 775, pages 35 and 36, of Maps, in the office of the Recorder of the County of Los Angeles, said point being north 76°00′59″ west, along said northeasterly line 10.26 feet, from the northeast corner of said Tract; thence along the boundary of said Tract No. 25335, the following courses: north 76°00′59″ west, along said northeasterly line of said Tract, 1224.52 feet to the northwest corner thereof; thence south 00°52′39″ west, along the westerly line of said Tract, 564.75 feet to the southwest corner of said Tract, being a point of intersection with the Township line between T. 2 and 3 S., distant south 89°00′53″ east, 1449.86 feet from the northwest corner of said Section 3, Township 3 South, Range 10 West; thence, leaving said boundary of Tract No. 25335, westerly along the Township line between T. 2 and 3 S., to the corner common to T. 2 and 3 S., R. 10 and 11 W.; thence southerly along the range line between R. 10 and 11 W., to the southeast corner of Section 13, T. 3 S., R. 11 W., in the Rancho Los Coyotes; thence in a general southwesterly direction along section lines, quarter section lines and quarter quarter section lines in the Rancho Los Coyotes, as follows: westerly along the section

line to the quarter corner on the south line of said Section 13; thence southerly along the quarter section line to the center of Section 24, T. 3 S., R. 11 W.; thence westerly along the quarter section line to the quarter corner on the west line of said Section 24; thence southerly along the section line to the southwest corner of said Section 24; thence westerly along the section line to the quarter corner on the north line of Section 26, T. 3 S., R. 11 W.; thence southerly along the quarter section line to the center of said Section 26;

Thence westerly along the quarter section line to the quarter corner on the west line of said Section 26; thence southerly along the section line to the southwest corner of said Section 26; thence westerly along the section line to the northeast corner of Section 33, T. 3 S., R. 11 W.; thence southerly along the section line to the quarter corner on the east line of said Section 33; thence westerly along the quarter section line to the center of said Section 33; thence southerly along the quarter section line to the northeast corner of the SE. 1/4 of the SW. 1/4 of said Section 33; thence westerly along the quarter quarter section line to the center of the SW. 1/4 of said Section 33; thence southerly along the quarter quarter section line to the south line of said Section 33; thence westerly along the township line between T. 3 and 4 S., to the northeast corner of Section 5, T. 4 S., R. 11 W.; thence southerly along the section line to the northeast corner of the SE. 1/4 of said Section 5; thence westerly along the quarter section line to the northwest corner of the NE. 1/4 of the SE. 1/4 of said Section 5; thence southerly along the quarter quarter section line to the center of the SE. 1/4 of said Section 5; thence westerly along the quarter quarter section line to the westerly line of the SE. 1/4 of said Section 5; thence southerly along the quarter section line to the quarter corner on the south line of said Section 5; thence westerly along the section line to the northeast corner of the NW. 1/4 of the NW. 1/4 of Section 8, T. 4 S., R. 11 W.;

Thence southerly along the quarter quarter section lines to the northeast corner of the SW. 1/4 of the SW. 1/4 of said Section 8; thence southwesterly in a straight line to a point on the south line of the Moody Creek Channel as shown on that survey on file in book 120, page 5 of Records of Survey in the office of the Recorder of Orange County, said point being on a nontangent curve, concave southeasterly and having a radius of 950.00 feet, a radial from said point bears south 03°41′24″ east; thence westerly along said south line and said curve through a central angle of 26°34′39″ and an arc length of 440.67 feet to its point of intersection with the east line of the Coyote Creek Channel, said point being on a nontangent curve concave northwesterly and having a radius of 5,200.00 feet, a radial from said point bears north 75°11′46″ west; thence southwesterly along said easterly line and said curve through a central angle of 03°10′38″ and an arc length of 288.36 feet; thence continuing along said easterly line, tangent to said curve, south 17°58′52″ west, 132.27

feet to a point on the existing boundary of Los Angeles County; thence southwesterly along said boundary in a straight line to the southwest corner of Section 8, T. 4 S., R. 11 W. said corner also being Los Angeles/Orange County Corner No. 11 as shown on Los Angeles County Surveyor's Map No. 8175 on file in the office of the Surveyor of the County of Los Angeles;

Thence south 00°11′50″ east, along the section line to a point on the boundary line between Rancho Los Coyotes and Rancho Los Alamitos, said point also being Los Angeles/Orange County Corner No. 10;

Thence south 59°07′40″ west, a distance of 3,391.48 feet to Los Angeles/Orange County Corner No. 9;

Thence south 39°48′20″ west, a distance of 5,650.97 feet to Los Angeles/Orange County Corner No. 8;

Thence south 11°36′55″ west, a distance of 2,241.41 feet to Los Angeles/Orange County Corner No. 7;

Thence south 27°55′55″ west, a distance of 8,375.40 feet to Los Angeles/Orange County Corner No. 6;

Thence south 31°22′50″ east, a distance of 1,296.21 feet to Los Angeles/Orange County Corner No. 5;

Thence south 27°12′00″ east, a distance of 2,106.10 feet to Los Angeles/Orange County Corner No. 4;

Thence south 16°46′45″ east, a distance of 1,444.82 feet to Los Angeles/Orange County Corner No. 3;

Thence south 2°48′35″ east, a distance of 2,207.94 feet to Los Angeles/Orange County Corner No. 2;

Thence south 57°10′40″ west, a distance of 8,238.78 feet to Los Angeles/Orange County Corner No. 1;

Thence south 33°00′00″ west, a distance of 622.43 feet to a point on the northeasterly line of block 59, Alamitos Bay tract, as shown on the map recorded in map book 5, page 137, on file in the office of the Recorder of the County of Los Angeles, distant thereon south 57°50′45″ east, a distance of 428.91 feet from the most northerly corner of said block 59; thence continuing south 33°00′00″ west, a distance of three miles, more or less to the southwesterly boundary line of the State of California (the boundary line between Los Angeles and Orange hereinabove described and established being shown on said county surveyor's map No. 8175; and likewise on map No. 300 on file in the office of the Surveyor of Orange County); thence southeasterly along the state line to the point of beginning.

SEC. 17. Section 23212 of the Government Code is amended to read:

23212. When a county boundary is changed pursuant to this article, the boards of supervisors of the affected counties shall file before the following December 1, with the State Board of Equalization and with the assessors of the affected counties, a statement setting forth the legal description of the boundary, as

changed, together with a map or plat indicating the boundary. The change of the boundary shall not be effective for purposes of assessment or taxation unless the statement, together with the map or plat is filed with the assessors and the State Board of Equalization on or before December 1 of the year immediately preceding the year in which the assessments or taxes are to be levied.

SEC. 18. Section 23285 of the Government Code is amended to read:

23285. Whenever county boundaries are changed pursuant to this article, the board of supervisors of both affected counties shall cause to be filed before the following December 1, with the State Board of Equalization and with the assessors of both affected counties, a statement setting forth the legal description of the boundaries, as changed, together with a map or plat indicating those boundaries. The change of the boundaries shall not be effective for purposes of assessment or taxation unless the statement, together with the map or plat required by this section, is filed with the county assessors and with the State Board of Equalization on or before December 1 of the year immediately preceding the year in which the assessments or taxes are to be levied.

SEC. 19. Section 29321 of the Government Code is amended to read:

29321. The board of supervisors may establish a revolving fund for the use of any officer of the county by adopting a resolution setting forth: (a) the necessity for the fund, (b) the office, department, service, or institution for which the fund is available, and (c) the amount of the fund, which shall not exceed two hundred fifty thousand dollars ($250,000).

SEC. 20. Section 36501 of the Government Code is amended to read:

36501. The government of a general law city is vested in:

(a) A city council of at least five members.

(b) A city clerk.

(c) A city treasurer.

(d) A chief of police.

(e) A fire chief.

(f) Any subordinate officers or employees provided by law.

SEC. 21. Section 51283.4 of the Government Code is amended to read:

51283.4. (a) Upon tentative approval of a petition accompanied by a proposal for a specified alternative use of the land, the clerk of the board or council shall record in the office of the county recorder of the county in which is located the land as to which the contract is applicable a certificate of tentative cancellation, which shall set forth the name of the landowner requesting the cancellation, the fact that a certificate of cancellation of contract will be issued and recorded at the time that specified conditions and contingencies are satisfied,

a description of the conditions and contingencies which must be satisfied, and a legal description of the property. Conditions to be satisfied shall include payment in full of the amount of the fee computed under the provisions of Section 51283, together with a statement that unless the fee is paid, or a certificate of cancellation of contract is issued within one year from the date of the recording of the certificate of tentative cancellation, the fee shall be recomputed as of the date of notice described in subdivision (b). Any provisions related to the waiver of the fee or portion thereof shall be treated in the manner provided for in the certificate of tentative cancellation. Contingencies to be satisfied shall include a requirement that the landowner obtain all permits necessary to commence the project. The board or council may, at the request of the landowner, amend a tentatively approved specified alternative use if it finds that the amendment is consistent with the findings made pursuant to subdivision (a) of Section 51282.

(b) The landowner shall notify the board or council when he or she has satisfied the conditions and contingencies enumerated in the certificate of tentative cancellation. Within 30 days of receipt of the notice, and upon a determination that the conditions and contingencies have been satisfied, the board or council shall execute a certificate of cancellation of contract and cause the same to be recorded.

(c) If the landowner has been unable to satisfy the conditions and contingencies enumerated in the certificate of tentative cancellation, the landowner shall notify the board or council of the particular conditions or contingencies he or she is unable to satisfy. Within 30 days of receipt of the notice, and upon a determination that the landowner is unable to satisfy the conditions and contingencies listed, the board or council shall execute a certificate of withdrawal of tentative approval of a cancellation of contract and cause the same to be recorded. However, the landowner shall not be entitled to the refund of any cancellation fee paid.

SEC. 22. Article 7 (commencing with Section 51296) of Chapter 7 of Part 1 of Division 1 of Title 5 of the Government Code is repealed.

SEC. 23. Article 7 (commencing with Section 51296) is added to Chapter 7 of Part 1 of Division 1 of Title 5 of the Government Code, to read:

Article 7. Farmland Security Zones

51296. The Legislature finds and declares that it is desirable to expand options available to landowners for the preservation of agricultural land. It is therefore the intent of the Legislature in enacting this article to encourage the creation of longer term voluntary enforceable restrictions within agricultural preserves.

51296.1. A landowner or group of landowners may petition the board to rescind a contract or contracts entered into pursuant to this chapter in order to simultaneously place the land subject to that contract or those contracts under a new contract designating the property as a farmland security zone. A landowner or group of landowners may also petition the board to create a farmland security zone for the purpose of entering into farmland security zone contracts pursuant to this section.

(a) Before approving the rescission of a contract or contracts entered into pursuant to this chapter in order to simultaneously place the land under a new farmland security zone contract, the board shall create a farmland security zone, pursuant to the requirements of Section 51230, within an existing agricultural preserve.

(b) No land shall be included in a farmland security zone unless expressly requested by the landowner. Any land located within a city's sphere of influence shall not be included within a farmland security zone, unless the creation of the farmland security zone within the sphere of influence has been expressly approved by resolution by the city with jurisdiction within the sphere of influence.

(c) If more than one landowner requests the creation of a farmland security zone and the parcels are contiguous, the county shall place those parcels in the same farmland security zone.

(d) A contract entered into pursuant to this section shall be for an initial term of no less than 20 years. Each contract shall provide that on the anniversary date of the contract or on another annual date as specified by the contract, a year shall be added automatically to the initial term unless a notice of nonrenewal is given pursuant to Section 51245.

(e) Upon termination of a farmland security zone contract, the farmland security zone designation for that parcel shall simultaneously be terminated.

51296.2. Both of the following shall apply to land within a designated farmland security zone:

(a) The land shall be eligible for property tax valuation pursuant to Section 423.4 of the Revenue and Taxation Code.

(b) Notwithstanding any other provision of law, any special tax approved by the voters for urban-related services on or after January 1, 1999, on the land or any living improvement shall be levied at a reduced rate unless the tax directly benefits the land or the living improvements.

51296.3. Notwithstanding any provision of the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000)), a local agency formation commission shall not approve a change of organization or reorganization that would result in the annexation of land within a designated farmland security zone to a city. However, this subdivision shall not apply under any of the following circumstances:

(a) If the farmland security zone is located within a designated, delineated area that has been approved by the voters as a limit for existing and future urban facilities, utilities, and services.

(b) If annexation of a parcel or a portion of a parcel is necessary for the location of a public improvement, as defined in Section 51290.5, except as provided in subdivision (f) or (g) of this section.

(c) If the landowner consents to the annexation.

51296.4. Notwithstanding any provision of the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000)), a local agency formation commission shall not approve a change of organization or reorganization that would result in the annexation of land within a designated farmland security zone to a special district that provides sewers, nonagricultural water, or streets and roads, unless the facilities or services provided by the special district benefit land uses that are allowed under the contract and the landowner consents to the change of organization or reorganization.

51296.5. Notwithstanding Article 5 (commencing with Section 53090) of Chapter 1 of Division 2 of Title 5, a school district shall not render inapplicable a county zoning ordinance to the use of land by the school district if the land is within a designated farmland security zone.

51296.6. Notwithstanding any other provision of law, a school district shall not acquire any land that is within a designated farmland security zone.

51296.7. The board shall not approve any use of land within a designated farmland security zone based on the compatible use provisions contained in subdivision (c) of Section 51238.1.

51296.8. Sections 51296 to 51297.4, inclusive, shall only apply to land that is designated on the Important Farmland Series maps, prepared pursuant to Section 65570 as predominantly one or more of the following:

(a) Prime farmland.

(b) Farmland of statewide significance.

(c) Unique farmland.

(d) Farmland of local importance.

If the proposed farmland security zone is in an area that is not designated on the Important Farmland Series maps, the land shall qualify if it is predominantly prime agricultural land, as defined in subdivision (c) of Section 51201.

51296.9. Nonrenewal of a farmland security zone contract shall be pursuant to Article 3 (commencing with Section 51240), except as otherwise provided in this article.

51297. A petition for cancellation of a farmland security zone contract created under this article may be filed only by the landowner with the city or county within which the contracted land is located. The city or county may grant a petition only in accordance

with the procedures provided for in Article 5 (commencing with Section 51280) and only if all the following requirements are met:

(a) The city or county shall make both of the findings specified in paragraphs (1) and (2) of subdivision (a) of Section 51282, based on substantial evidence in the record. Subdivisions (b) to (e), inclusive, of Section 51282 shall apply to the findings made by the city or county.

(b) In its resolution tentatively approving cancellation of the contract, the city or county shall find all of the following:

(1) That no beneficial public purpose would be served by the continuation of the contract.

(2) That the uneconomic nature of the agricultural use is primarily attributable to circumstances beyond the control of the landowner and the local government.

(3) That the landowner has paid a cancellation fee equal to 25 percent of the cancellation valuation calculated in accordance with subdivision (b) of Section 51283.

(c) The Director of Conservation approves the cancellation. The director may approve the cancellation after reviewing the record of the tentative cancellation provided by the city or county, only if he or she finds both of the following:

(1) That there is substantial evidence in the record supporting the decision.

(2) That no beneficial public purpose would be served by the continuation of the contract.

(d) A finding that no authorized use may be made of a remnant contract parcel of five acres or less left by public acquisition pursuant to Section 51295, may be substituted for the finding in subdivision (a).

51297.1. All of the provisions of Article 6 (commencing with Section 51290) shall apply to farmland security zones created pursuant to this article except as specifically provided in this article.

51297.2. No state agency, as defined in Section 65934, or local agency, as defined in Section 65930, shall require any land to be placed under a farmland security zone contract as a condition of the issuance of any entitlement to use or the approval of a legislative or adjudicative act involving, but not limited to, the planning, use, or development of real property, or a change of organization or reorganization, as defined in Section 56021 or 56073. No contract shall be executed as a condition of an entitlement to use issued by an agency of the United States government.

51297.3. Sections 51296.3 and 51296.4 shall not apply during the three-year period preceding the termination of a farmland security zone contract.

51297.4. Nothing in Sections 51296 to 51297.4, inclusive, shall be construed to limit the authority of a board to rescind a portion or portions of a Williamson Act contract or contracts for the purpose of immediately enrolling the land in a farmland security zone contract so long as the remaining land is retained in a Williamson Act contract

and the board determines that its action would improve the conservation of agricultural land within the county where the rescission occurs. The creation of multiple contracts under this section does not constitute a subdivision of the land.

SEC. 24. Section 54988 of the Government Code is amended to read:

54988. (a) (1) In addition to any other remedy provided by law, including the current powers of charter cities, the legislative body of a city, county, or city and county may collect any fee, cost, or charge incurred in (A) the abatement of public nuisances; (B) the correction of any violation of any law or regulation that would also be a violation of Section 1941.1 of the Civil Code; (C) the enforcement of zoning ordinances adopted pursuant to Chapter 4 (commencing with Section 65800) of Division 1 of Title 7 or any other constitutional or statutory authority; (D) inspections and abatement of violations of Article 1 (commencing with Section 13100) of Chapter 2 of Part 2 of Division 12 of the Health and Safety Code; (E) inspections and abatement of violations of the State Housing Law, Part 1.5 (commencing with Section 17910) of Division 13 of the Health and Safety Code and regulations adopted pursuant thereto; (F) inspections and abatement of violations of the California Building Standards Code, Title 24 of the California Code of Regulations; or (G) inspections and abatement related to local ordinances and regulations that implement any of the foregoing, if the fee, cost, or charge has not been paid within 45 days of notice thereof, by making the amount of the unpaid fee, cost, or charge a proposed lien against the property that is the subject of the enforcement activity. Except as provided in subdivision (c), the amount of the proposed lien may be collected at the same time and in the same manner as property taxes are collected. All laws applicable to the levy, collection, and enforcement of ad valorem taxes shall be applicable to the proposed lien, except that if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of taxes would become delinquent, then the lien that would otherwise be imposed by this section shall not attach to real property and the costs of enforcement relating to the property shall be transferred to the unsecured roll for collection.

(2) The amount of any fee, cost, or charge shall not exceed the actual cost incurred performing the inspections and enforcement activity, including permit fees, fines, late charges, and interest.

(3) This section shall not apply to owner-occupied residential dwelling units.

(4) This section does not apply to any enforcement, abatement, correction, or inspection activity regarding a violation in which the violation was evident on the plans that received a building permit.

(b) (1) A city, county, or city and county shall provide the owner of the property with written notice in plain language of the proposed lien, a description of the basis for the amounts comprising the lien, a minimum of 45 days after notice to pay the fee, cost, or charge, and an opportunity to appear before the legislative body and be heard regarding the amount of the proposed lien. The notice shall be mailed by certified mail to the last known address of the owner of the property.

(2) In any city, county, or city and county, the legislative body may delegate the holding of the hearing required by paragraph (1) to a hearing board designated by the legislative body. The hearing board may be the housing appeals board established pursuant to Section 17920.5 of the Health and Safety Code or any other body designated by the legislative body. The hearing board shall make a written recommendation to the legislative body which shall include factual findings based on evidence introduced at the hearing. The legislative body may adopt the recommendation without further notice of hearing, or may set the matter for a de novo hearing before the legislative body. Notice in writing of the de novo hearing shall be provided to the property owner at least 10 days in advance of the scheduled hearing.

(c) If the legislative body determines that the proposed lien authorized pursuant to subdivision (a) shall become a lien, the body may also cause a notice of lien to be recorded. This lien shall attach upon recordation in the office of the county recorder of the county in which the property is situated and shall have the same force, priority, and effect as a judgment lien, not a tax lien. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, set forth the date upon which the lien was created against the property, and include a description of the real property subject to the lien and the amount of the lien.

SEC. 25. Division 2 (commencing with Section 60400) of Title 6 of the Government Code is repealed.

SEC. 26. Section 61737.05 of the Government Code is amended to read:

61737.05. (a) Bond principal and interest and salaries shall be paid when due. Except as provided in subdivisions (b) and (c), all other claims and demands shall be approved in an open meeting by a majority of the members of the board.

(b) Warrants drawn in payment of claims and demands approved by the finance officer as conforming to an approved budget need not be approved by the board prior to payment.

(c) Claims and demands paid by warrants pursuant to subdivision (b) shall be presented to the board for ratification and approval in the audited comprehensive annual financial report.

SEC. 27. Section 65400 of the Government Code is amended to read:

65400. After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(a) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(b) (1) Provide an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development on the status of the plan and progress in its implementation, including the progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

(2) The housing portion of the annual report required to be provided to the Office of Planning and Research and the Department of Housing and Community Development pursuant to this subdivision shall be prepared through the use of forms and definitions adopted by the Department of Housing and Community Development pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of, Chapter 4 (commencing with Section 11370) of, and Chapter 5 (commencing with Section 11500) of, Part 1 of Division 3 of Title 2). This report shall be provided to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development on or before October 1 of each year.

SEC. 28. Section 66412 of the Government Code is amended to read:

66412. This division shall be inapplicable to:

(a) The financing or leasing of apartments, offices, stores, or similar space within apartment buildings, industrial buildings, commercial buildings, mobilehome parks, or trailer parks.

(b) Mineral, oil, or gas leases.

(c) Land dedicated for cemetery purposes under the Health and Safety Code.

(d) A lot line adjustment between two or more existing adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, provided the lot line adjustment is approved

by the local agency, or advisory agency. A local agency or advisory agency shall limit its review and approval to a determination of whether or not the parcels resulting from the lot line adjustment will conform to local zoning and building ordinances. An advisory agency or local agency shall not impose conditions or exactions on its approval of a lot line adjustment except to conform to local zoning and building ordinances, to require the prepayment of real property taxes prior to the approval of the lot line adjustment, or to facilitate the relocation of existing utilities, infrastructure, or easements. No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment. The lot line adjustment shall be reflected in a deed, which shall be recorded. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code.

(e) Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party.

(f) Any separate assessment under Section 2188.7 of the Revenue and Taxation Code.

(g) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a community apartment project, as defined in Section 1351 of the Civil Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 75 percent of the units in the project were occupied by record owners of the project on March 31, 1982.

(2) A final or parcel map of the project was properly recorded, if the property was subdivided, as defined in Section 66424, after January 1, 1964, with all of the conditions of that map remaining in effect after the conversion.

(3) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(4) Subject to compliance with subdivision (e) of Section 1351 of the Civil Code, all conveyances and other documents necessary to effectuate the conversion shall be executed by the required number of owners in the project as specified in the bylaws or other organizational documents. If the bylaws or other organizational documents do not expressly specify the number of owners necessary to execute the conveyances and other documents, a majority of owners in the project shall be required to execute the conveyances or other documents. Conveyances and other documents executed under the foregoing provisions shall be binding upon and affect the interests of all parties in the project.

(h) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a stock cooperative, as defined in Section 1351 of the Civil Code, to a condominium, as

defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 51 percent of the units in the cooperative were occupied by stockholders of the cooperative on January 1, 1981, or individually owned by stockholders of the cooperative on January 1, 1981. As used in this paragraph, a cooperative unit is "individually owned" if and only if the stockholder of that unit owns or partially owns an interest in no more than one unit in the cooperative.

(2) No more than 25 percent of the shares of the cooperative were owned by any one person, as defined in Section 17, including an incorporator or director of the cooperative, on January 1, 1981.

(3) A person renting a unit in a cooperative shall be entitled at the time of conversion to all tenant rights in state or local law, including, but not limited to, rights respecting first refusal, notice, and displacement and relocation benefits.

(4) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for that certification.

(5) Subject to compliance with subdivision (e) of Section 1351 of the Civil Code, all conveyances and other documents necessary to effectuate the conversion shall be executed by the required number of owners in the cooperative as specified in the bylaws or other organizational documents. If the bylaws or other organizational documents do not expressly specify the number of owners necessary to execute the conveyances and other documents, a majority of owners in the cooperative shall be required to execute the conveyances or other documents. Conveyances and other documents executed under the foregoing provisions shall be binding upon and affect the interests of all parties in the cooperative.

(i) The leasing of, or the granting of an easement to, a parcel of land, or any portion or portions thereof, in conjunction with the financing, erection, and sale or lease of a windpowered electrical generation device on the land, if the project is subject to discretionary action by the advisory agency or legislative body.

(j) The leasing or licensing of a portion of a parcel, or the granting of an easement, use permit, or similar right on a portion of a parcel, to a telephone corporation as defined in Section 234 of the Public Utilities Code, exclusively for the placement and operation of cellular radio transmission facilities, including, but not limited to, antennae support structures, microwave dishes, structures to house cellular communications transmission equipment, power sources, and other equipment incidental to the transmission of cellular communications, if the project is subject to discretionary action by the advisory agency or legislative body.

(k) Leases of agricultural land for agricultural purposes. As used in this subdivision, "agricultural purposes" means the cultivation of food or fiber, or the grazing or pasturing of livestock.

SEC. 29. Section 66451.17 of the Government Code is amended to read:

66451.17. If, within the 30-day period specified in Section 66451.14, the owner does not file a request for a hearing in accordance with Section 66451.16, the local agency may, at any time thereafter, make a determination that the affected parcels are to be merged or are not to be merged. A determination of merger shall be recorded as provided for in Section 66451.12 no later than 90 days following the mailing of notice required by Section 66451.13.

SEC. 30. 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 five 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. 31. Section 66499.19 of the Government Code is amended to read:

66499.19. When a reversion is effective, all fees and deposits shall be returned to the current owner of the property and all improvement security released, except those retained pursuant to Section 66499.17.

SEC. 32. Division 36 (commencing with Section 56000) of the Health and Safety Code is repealed.

SEC. 33. Section 3211.92 of the Labor Code is amended to read:

3211.92. (a) "Disaster service worker" means any natural person who is registered with an accredited disaster council or a state agency for the purpose of engaging in disaster service pursuant to the California Emergency Services Act without pay or other consideration.

(b) "Disaster service worker" includes public employees performing disaster work that is outside the course and scope of their regular employment without pay and also includes any unregistered person impressed into service during a state of war emergency, a

state of emergency, or a local emergency by a person having authority to command the aid of citizens in the execution of his or her duties.

(c) Persons registered with a disaster council at the time that council becomes accredited need not reregister in order to be entitled to the benefits provided by Chapter 10 (commencing with Section 4351).

(d) "Disaster service worker" does not include any member registered as an active firefighting member of any regularly organized volunteer fire department, having official recognition, and full or partial support of the county, city, or district in which the fire department is located.

SEC. 34. Section 3211.93a of the Labor Code is amended to read:

3211.93a. "Disaster service" does not include any activities or functions performed by a person if the accredited disaster council with which that person is registered receives a fee or other compensation for the performance of those activities or functions by that person.

SEC. 35. Section 26593 of the Public Resources Code is amended to read:

26593. A district may borrow money from or otherwise incur an indebtedness to a local agency, the state, any instrumentality or political subdivision thereof, the federal government, or any private source, and may comply with any conditions imposed upon the incurring of that indebtedness.

SEC. 36. Section 21670 of the Public Utilities Code is amended to read:

21670. (a) The Legislature hereby finds and declares that:

(1) It is in the public interest to provide for the orderly development of each public use airport in this state and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669 and to prevent the creation of new noise and safety problems.

(2) It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.

(b) In order to achieve the purposes of this article, every county in which there is located an airport which is served by a scheduled airline shall establish an airport land use commission. Every county, in which there is located an airport which is not served by a scheduled airline, but is operated for the benefit of the general public, shall establish an airport land use commission, except that the board of supervisors of the county may, after consultation with the

appropriate airport operators and affected local entities and after a public hearing, adopt a resolution finding that there are no noise, public safety, or land use issues affecting any airport in the county which require the creation of a commission and declaring the county exempt from that requirement. The board shall, in this event, transmit a copy of the resolution to the Director of Transportation. For purposes of this section, "commission" means an airport land use commission. Each commission shall consist of seven members to be selected as follows:

(1) Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county, except that if there are any cities contiguous or adjacent to the qualifying airport, at least one representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by paragraphs (2) and (3) shall each be increased by one.

(2) Two representing the county, appointed by the board of supervisors.

(3) Two having expertise in aviation, appointed by a selection committee comprised of the managers of all of the public airports within that county.

(4) One representing the general public, appointed by the other six members of the commission.

(c) Public officers, whether elected or appointed, may be appointed and serve as members of the commission during their terms of public office.

(d) Each member shall promptly appoint a single proxy to represent him or her in commission affairs and to vote on all matters when the member is not in attendance. The proxy shall be designated in a signed written instrument which shall be kept on file at the commission offices, and the proxy shall serve at the pleasure of the appointing member. A vacancy in the office of proxy shall be filled promptly by appointment of a new proxy.

(e) A person having an "expertise in aviation" means a person who, by way of education, training, business, experience, vocation, or avocation has acquired and possesses particular knowledge of, and familiarity with, the function, operation, and role of airports, or is an elected official of a local agency which owns or operates an airport.

(f) It is the intent of the Legislature to clarify that, for the purposes of this article, special districts are included among the local agencies that are subject to airport land use laws and other requirements of this article.

SEC. 37. Section 10 of the County Water Authority Act (Chapter 545 of the Statutes of 1943), as amended by Section 66 of Chapter 829 of the Statutes of 1998, is amended to read:

Sec. 10. (a) For the purposes of this section, the following definitions apply to the terms used: the term "city" means and

includes any municipal corporation or municipality of the State of California, whether organized under a freeholder's charter or under the provisions of general law of the type and class of cities and incorporated towns; and the term "water district" means and includes any municipal water district, municipal utility district, public utility district, county water district, irrigation district, or any other public corporation or agency of the State of California of similar character.

(b) Territory may be annexed to any county water authority organized under this act by one of the following methods:

(1) By annexation to, or consolidation with, the area of any city, the area of which, as a separate unit, has become a part of any county water authority organized under this act, the annexation or consolidation to occur upon compliance with the provisions of law governing the annexation to, or consolidation with, the area of the city. Upon completion of the annexation to, or consolidation with, the city in compliance with the provisions of law applicable thereto, the territory shall become, and be, a part of the county water authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority, including the payment of bonds and other obligations of the authority at the time authorized or outstanding.

(2) By annexation to, or consolidation with, any city which, as a separate unit, has become a part of any water district whose area, as a separate unit, has become a part of any county water authority organized under this act, in instances where, under the applicable provisions of law governing the change of boundaries of the water district, the annexation or consolidation automatically will result in the enlargement of the area of the water district, the annexation or consolidation to occur upon compliance with the provisions of law governing the annexation to, or consolidation with, the area of the city. Upon completion of the annexation to, or consolidation with, the city in compliance with the provisions of law applicable thereto, the territory shall become, and be, a part of the water district and of the county water authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of the water district and of the county water authority, including payment of bonds and other obligations of the water district and of the county water authority at the time authorized or outstanding. If any territory has been so annexed to, or consolidated with, any city prior to the effective date of this paragraph, under conditions which would have resulted in the enlargement of the area of the county water authority had this paragraph then been in effect, upon compliance with the following provisions of this paragraph, the territory shall be annexed to, and shall become and be part of, the county water authority and shall be a part of the water district for all purposes, the last-mentioned provisions being as follows:

(A) The governing body of the city, at any time after the effective date of this paragraph, may adopt an ordinance which, after reciting that the territory has been annexed to, or consolidated with, the city by proceedings previously taken under statutory authority, and after referring to the applicable statutes and to the date and place of filing of the certificate or certificates evidencing the annexation or consolidation, shall describe the territory and shall determine and declare that the territory shall be, and thereby is, annexed to the county water authority, and the ordinance shall further determine and declare that the territory shall become and be, and thereby is, a part of the county water authority, and shall be, and thereby is, a part of the water district for all purposes.

(B) The governing body, or clerk thereof, of the city shall file a certified copy of the ordinance with the county clerk of the county in which the county water authority is situated. Upon the filing of the certified copy of the ordinance in the office of the county clerk of the county in which the county water authority is situated, the territory shall become, and be, a part of the county water authority and shall be a part of the water district for all purposes, and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority and of the water district, including the payment of bonds and other obligations of the county water authority at the time authorized or outstanding.

(C) Upon the filing of the certified copy of the ordinance, the county clerk of the county in which the county water authority is situated shall, within 10 days, issue a certificate, describing the territory, reciting the filing of the certified copy of the ordinance and the annexation of the territory to the county water authority, and declaring that the territory is a part of the county water authority and of the water district. The county clerk of the county in which the county water authority is situated shall transmit the original of the certificate to the secretary of the county water authority and a duplicate of the original certificate to the clerk of the governing body of the water district.

(3) Upon terms and conditions fixed by the board of directors of the county water authority and in the manner provided in subdivision (c), by direct annexation, as a separate unit, of the corporate area of any water district or city.

(4) Upon terms and conditions fixed by the board of directors of the county water authority and in the manner provided in subdivision (d), by annexation to, or consolidation with, any water district, the area of which, in whole or in part, is included within the county water authority as a separate unit; provided that, unless the territory is so annexed to the county water authority with the consent of the board of directors, the annexation of territory to, or the consolidation of the territory with, the water district does not authorize or entitle the water district or the territory to demand or

receive any water from the county water authority for use in the territory; and provided further, that, except where automatic annexation results under the conditions specified in paragraph (2), nothing in this act prevents the annexation of territory to, or the consolidation of territory with, any water district for its local purposes only and without annexing their territory to the county water authority, and the local annexation or consolidation may occur without requesting or obtaining the consent thereto of the board of directors of the county water authority.

(c) The governing body of any water district or city may apply to the board of directors of the county water authority for consent to annex the corporate area of the water district or city to the county water authority. The board of directors may grant or deny the application and, in granting the application, may fix the terms and conditions upon which the corporate area of the water district or city may be annexed to, and become a part of, the county water authority. These terms and conditions may provide, among other things, for the levy by the county water authority of special taxes upon taxable property within the water district or city, in addition to the taxes authorized to be levied by the county water authority by other provisions of this act. In case these terms and conditions provide for the levy of these special taxes, the board of directors, in fixing these terms and conditions, shall specify the aggregate amount to be so raised and the number of years prescribed for raising the aggregate sum, and that substantially equal annual levies will be made for the purpose of raising the sum over the period so prescribed. The action of the board of directors, evidenced by resolution, shall be promptly transmitted to the governing body of the applying water district or city and, if the action grants consent to the annexation, the governing body may thereupon submit, to the qualified electors of the water district or city at any general or special election held therein, the proposition of the annexation subject to the terms and conditions. Notice of the election shall be mailed to each voter qualified to vote at the election and shall be given by posting or publication. When notice is given by posting, the notices shall be posted at least 10 days and in three public places in the water district or city. When notice is given by publication, the notice shall be published in the water district or city pursuant to Section 6061 of the Government Code, at least 10 days before the date fixed for the election. The notice shall contain the substance of the terms and conditions fixed by the board of directors. The election shall be conducted and the returns thereof canvassed in the manner provided by law for elections in the water district or city. If the proposition receives the affirmative vote of a majority of electors of the water district or city voting thereon at the election, the governing body of the water district or city shall certify the result of the election on the proposition to the board of directors of the county water authority, together with a legal description of the

boundaries of the corporate area of the water district or city, accompanied by a map or plat indicating those boundaries. A certificate of proceedings shall be made by the secretary of the county water authority and filed with the county clerk of the county in which the county water authority is situated. Upon the filing thereof in the office of the county clerk of the county in which the county water authority is situated, the corporate area of the water district or city shall become, and be, an integral part of the county water authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority, including the payment of bonds and other obligations of the county water authority at the time authorized or outstanding, and the board of directors of the county water authority may do all things necessary to enforce and make effective the terms and conditions of annexation fixed as authorized. Upon the filing of the certificate of proceedings, the county clerk of the county in which the county water authority is situated shall, within 10 days, issue a certificate, reciting the filing of the papers and the annexation of the corporate area of the water district or city to the county water authority. The county clerk of the county in which the county water authority is situated shall transmit the original of the certificate to the secretary of the county water authority.

(l) If a water district applies to a county water authority for consent to annex its corporate area, as a separate unit, the water district shall include as a part of its corporate area the corporate areas of any cities (whether one or more) which are already included within the county water authority as separate units, or the water district shall include as a part of its corporate area the corporate areas, or portion thereof, already included within the county water authority, of any water districts (whether one or more) whose corporate areas, in whole or in part, are already included within the county water authority as separate units. That fact shall be taken into consideration by the board of directors of the county water authority in fixing the terms and conditions upon which the applying water district may be annexed to the county water authority, to the end that the areas within the unit member cities or water districts which are already a part of the county water authority, shall not be required to assume any greater financial burden or obligation to the county water authority than they would have had if they had remained a part of the county water authority as separate units.

Concurrently with any election called by an applying water district to submit to the qualified electors of the water district the question of whether the terms and conditions fixed by the board of directors of the county water authority for annexation shall be approved, the governing bodies of the unit member cities or water districts may call and hold elections within their respective corporate limits or portions thereof already included within the county water authority, to

determine whether or not the cities or water districts shall withdraw from the county water authority as separate units, and the proposed withdrawal may be made and submitted conditioned upon and effective when the applying water district has finally been annexed to the county water authority.

The effect of the concurrent elections, if a majority of the electors of the applying water district voting thereat vote in favor of annexation, and a majority of the electors of the unit member cities or water districts voting thereat vote in favor of withdrawing, shall be that the annexing water district thereafter shall be authorized to exercise the privileges and to discharge the duties prescribed in this act for public agencies whose areas, as separate units, are included within the county water authority, in place of and instead of the cities or water districts so withdrawing. Notwithstanding Section 11 of this act, the areas within the withdrawing cities or water districts shall remain a part of the county water authority and shall not be excluded therefrom, notwithstanding the fact that the cities or water districts, as corporate entities, have withdrawn from the authority.

If the water district does annex to the county water authority, the directors representing the withdrawing cities or water districts on the board of directors of the county water authority shall continue to act until their successors have been chosen and designated by the appropriate officers of the annexing water district and have qualified as members of the board of directors of the county water authority, after which time the directors representing the withdrawing cities or water districts shall no longer sit or vote on the board.

(2) If a water district applies to a county water authority for consent to annex its corporate area as a separate unit, the water district shall include as a part of its corporate area lands which are in public ownership exempt from taxation by a county water authority, and not within or adjacent to the area within the water district served with water by the district, and which are not to be supplied by the water district with water obtained from, and by reason of, its annexation to the county water authority. That fact may be taken into consideration by the board of directors of the county water authority in fixing the terms and conditions upon which the water district may be annexed to the county water authority and in determining the boundaries of the area to be annexed, and the county water authority may, in the discretion of its board of directors, annex all of the corporate area of the water district as a separate unit excepting that portion consisting of the publicly owned and tax-exempt lands.

(d) The governing body of any water district, the area of which, in whole or in part, is included within a county water authority as a separate unit, may apply to the board of directors of the county water authority for consent to annex to the county water authority territory which the water district seeks to annex to, or consolidate with, the water district, or territory which, without making the territory a part

of the county water authority, already has been annexed to, or consolidated with, the water district. The board of directors may grant or deny the application and, in granting the application, may fix the terms and conditions upon which the territory may be annexed to, and become a part of, the county water authority. The terms and conditions may provide, among other things, for the levy by the county water authority of special taxes upon taxable property within the territory in addition to the taxes authorized to be levied by the county water authority by other provisions of this act. In case the terms and conditions provide for the levy of those special taxes, the board of directors, in fixing those terms and conditions, shall specify the aggregate amount to be so raised and the number of years prescribed for raising that aggregate sum and that substantially equal annual levies will be made for the purpose of raising that sum over the period so prescribed. The action of the board of directors evidenced by resolution shall be promptly transmitted to the governing body of the applying water district and to the executive officer of the local agency formation commission of the county in which the county water authority is situated, who may defer the issuance of a certificate of filing until receipt of that resolution, and if the action grants consent to the annexation, the territory may be annexed to the county water authority as provided in paragraph (1) or (2).

(1) If the territory has not been previously annexed to, or consolidated with, the water district, upon completion of the annexation to, or consolidation with, the water district in compliance with the provisions of law applicable thereto, including this section, the territory shall become and be a part of the county water authority and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority, including the payment of bonds and other obligations of the county water authority at the time authorized or outstanding, and the board of directors of the county water authority may do all things necessary to enforce and make effective the terms and conditions of annexation fixed; provided that, if the applicable provisions of law governing the annexation to, or consolidation with, the water district require any notice of any election called for the purpose of determining whether the proposed annexation or consolidation shall occur, or shall require any notice of hearing or other notice to be given to the residents or electors of, or owners of property in, the territory, the notice shall contain the substance of the terms and conditions of annexation to the county water authority fixed by the board of directors of the county water authority; and provided further, that the local agency formation commission shall require that the annexation to the water district be subject to the terms and conditions fixed by the board of directors of the county water authority in addition to any other terms and conditions that may be required by the commission; and

provided further, that the executive officer of the local agency formation commission having the duty of preparing, executing, and filing a certificate of completion resulting in the annexation to, or consolidation with, the water district, pursuant to the provisions of law applicable thereto, shall include in the certificate of completion the terms and conditions fixed by the board of directors of the county water authority in accordance with the provisions of this act, and shall file a duplicate of the certificate with the board of directors of the county water authority.

(2) If the territory sought to be annexed to a county water authority has been previously annexed to, or consolidated with, the water district, the governing body of the water district, upon being advised of the action of the board of directors of the county water authority, and if the action grants consent to the annexation, may submit to the qualified electors of the territory, if the territory has 12 or more registered voters, at any general or special election held therein, the proposition of the annexation to the county water authority subject to the terms and conditions fixed by the board of directors of the county water authority. Notice of the election shall be given by publication. When the notice is given by posting, the notice shall be posted at least 10 days and in three public places in the territory. When the notice is given by publication, the notice shall be published in the water district pursuant to Section 6061 of the Government Code at least 10 days before the date fixed for the election. The notice shall contain the substance of the terms and conditions fixed by the board of directors. The election shall be conducted and the returns thereof canvassed by the governing body of the water district in the manner provided by law for elections in the water district. If the proposition receives the affirmative vote of a majority of electors of the territory voting thereon at the election, the governing body of the water district shall certify the result of the election on the proposition to the board of directors of the county water authority. If the territory has less than 12 registered voters, no election shall be required, and, following written notice to each owner of property shown on the last equalized assessment roll and the holding of a hearing not less than 10 days after that notice, the annexation may be approved upon the written consent of the owners of more than 50 percent of the assessed valuation of the territory. A certificate of proceedings shall be made by the secretary of the county water authority and filed with the county clerk of the county in which the county water authority is situated. Upon the filing thereof in the office of the county clerk of the county in which the county water authority is situated, the territory shall become, and be, a part of the county water authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of the county water authority, including the payment of bonds and other obligations of the county water authority at the time authorized or

outstanding, and the board of directors of the county water authority may do all things necessary to enforce and make effective the terms and conditions of annexation of the territory to the county water authority fixed by its board of directors. Upon the filing of the certificate of proceedings, the county clerk of the county in which the county water authority is situated shall, within 10 days, issue a certificate reciting the filing of the papers and the annexation of the territory to the county water authority. The county clerk of the county in which the county water authority is situated shall transmit the original of the certificate to the secretary of the county water authority.

(e) Should the corporate area, or all portions thereof already included within a county water authority, of any water district or city, the corporate area of which, in whole or in part, already is included within the county water authority as a separate unit, annex to a water district or city the corporate area of which, in whole or in part, already is a part of the county water authority as a separate unit, upon the completion of the annexation pursuant to the law pertaining thereto, the water district or city, the corporate area (or portions thereof) of which is so annexed, shall automatically cease to be a separate unit member of the county water authority, but the corporate area (or portions thereof) shall remain a part of the county water authority as a part of the unit member water district or city to which it was annexed. The executive officer of the local agency formation commission having the duty of preparing, executing, and filing the certificate of completion shall file, in addition to any other filings that may be required by law, a duplicate of the certificate with the board of directors of the county water authority.

Should any water district or city, the corporate area of which, in whole or in part, already is included within a county water authority as a separate unit, consolidate with a water district or city the corporate area of which, in whole or in part, already is a part of the county water authority as a separate unit, under the provisions of any law by the terms of which, after consolidation, a new district or city will result and the former water districts or cities participating in the consolidation shall no longer exist, the resulting new water district or city shall be substituted for the water districts or cities whose corporate existence has been terminated by the consolidation as a unit member of the county water authority, and the corporate areas (or portions thereof) of the former water district or cities shall remain a part of the county water authority as a part of the consolidation. The executive officer of the local agency formation commission having the duty of preparing, executing, and filing a certificate of completion shall file, in addition to any other filings that may be required by law, a duplicate of the certificate with the board of directors of the county water authority.

(f) The validity of any proceedings for the annexation to any county water authority organized under this act, of the corporate area of a water district or city as a separate unit, or of territory annexed to, or consolidated with, a water district or city which, as a unit, has been included within a county water authority, shall not be contested in any action unless the action has been brought within three months after the completion of the annexation or, in case the annexation is completed prior to the time that this subdivision takes effect, then within three months after this subdivision became effective.

(g) Whenever territory is annexed to or consolidated with any water district, the corporate area of which, as a unit, has become a part of any county water authority organized under this act, regardless of whether the territory is annexed to and becomes a part of the county water authority, or whenever territory is annexed to any city under the conditions specified in paragraph (1) or (2) of subdivision (b), or whenever territory previously annexed to any city is annexed to the county water authority under the conditions specified in paragraph (2) of subdivision (b), the governing or legislative body, or clerk thereof, of the water district or city, shall file with the board of directors of the county water authority a statement of the change of boundaries of the water district or city, setting forth the legal description of the boundaries of the water district or city, as so changed, and of the part thereof within the county water authority, which statement shall be accompanied by a map or plat indicating those boundaries.

(h) The inclusion in a county water authority of the corporate area, in whole or in part, of any municipal water district, municipal utility district, public utility district, county water district, irrigation district, or other public corporation or agency of the state of similar character, referred to in Section 2, shall not destroy the identity or legal existence or impair the powers of any municipal water district, municipal utility district, public utility district, county water district, irrigation district, or other public corporation or agency of the state of similar character, notwithstanding the identity of purpose or substantial identity of purpose of the county water authority.

(i) In determining the number of members of the board of directors of a county water authority organized under this act from the component public agencies, the corporate areas of which, in whole or in part, are included as units within the county water authority, there shall be considered only the assessed valuation of the property taxable for county water authority purposes lying in the public agencies and in the county water authority. The directors shall be appointed by the chief executive officers, with the consent and approval of the governing bodies, of the component public agencies, respectively, without regard to whether the chief executive officers or members of the governing bodies have been chosen from, or

represent, areas of their respective public agencies which lie outside of the county water authority. The phrase "any water district, the corporate area of which is included within the county water authority" and the phrase "each city, the area of which shall be a part of any county water authority incorporated under this act," and like phrases, used elsewhere in this act, shall be deemed to mean and refer to any water district or city, the corporate area of which, either in whole or in part, is included within the county water authority, but the duties and obligations of the county water authority shall extend only to that part of the corporate area of the water district or city that lies within the county water authority. As to the water district, city, or public agency, the corporate area of which lies partly within and partly without the county water authority, the word "therein" and the phrase "within the city" and like words and phrases, used elsewhere in this act, shall be deemed to mean and refer to that part of the corporate area of the water district, city, or public agency which lies within the county water authority. The charges for water supplied by the county water authority to any component public agency, pursuant to its request, shall be and become an obligation of the public agency, regardless of whether the entire corporate area of the public agency is included within the county water authority, and the county water authority, in administrative and contractual matters, shall deal with the chief executive officers and governing bodies and other proper officials of the component public agencies as chosen or constituted under applicable laws governing the respective public agencies.

SEC. 38. Section 10.2 of the County Water Authority Act (Chapter 545 of the Statutes of 1943), as amended by Section 67 of Chapter 829 of the Statutes of 1998, is amended to read:

Sec. 10.2. (a) Notwithstanding any other provisions of this act, territory within a federal military reservation may be annexed to any county water authority organized hereunder as a single member of an authority in the manner provided in this section. As used in this section, "federal military reservation" or "military reservation" means a single federal military reservation or separate but contiguous federal military reservations which are jointly annexed to a county water authority as a single member agency of an authority.

(b) Proceedings for the annexation of a military reservation shall be initiated by the adoption by the board of directors of an authority of a resolution proposing annexation of a military reservation to an authority as a member of an authority.

(c) The resolution proposing the annexation may provide that the annexation shall include one or more separate areas, which may be separately identified for assessing and tax collecting purposes, and that each such area may be subject to one or more of the following terms and conditions:

(1) The fixing and establishment of priorities for the use of, or right to use, water, or capacity rights in any public improvement or facilities, and the determination of, or limitation on, the quantity of, the purposes for which, and the places where, water may be delivered by the authority to the military reservation for military purposes and uses incidental thereto, as well as for nonmilitary purposes.

(2) The levying by the authority of special taxes upon any private leasehold, possessory interest or other taxable property within the territory annexed, and the imposition and collection of special fees or charges prior to the annexation.

(3) Should portions of any area annexed hereunder be subsequently made available for nonmilitary purposes not in existence at the time of the annexation of the area, the board of directors of the authority may impose new terms and conditions for any subsequent service of water, directly or indirectly, by the authority to that area, including the separation of such an area for assessing and tax collecting purposes and the levying by the authority of special taxes on those portions.

(4) The effective date of the annexation.

(5) Any other matters necessary or incidental to any of the foregoing.

(d) A certified copy of the resolution proposing annexation shall be sent to the official in authority over the military reservation. If the military reservation consents in writing to the annexation and to the terms and conditions established by the board of directors, the board may, by resolution, order the annexation to the authority of the territory situated within the military reservation, subject to said terms and conditions.

(e) A certificate of proceedings taken hereunder shall be made by the secretary of the authority and filed with the county clerk of the county in which the county water authority is situated. Upon the filing in his or her office of the certificate of proceedings, the county clerk of the county in which the county water authority is situated shall, within 10 days, issue a certificate reciting the filing of those papers in his or her office and the annexation of the territory to the authority. The county clerk of the county in which the county water authority is situated shall transmit the original of said certificate to the secretary of the authority.

(f) Upon the filing of the certificate of proceedings with the county clerk of the county in which the county water authority is situated, or upon the effective date of the annexation provided for in the terms and conditions, whichever is later, the territory within the military reservation shall become and be an integral part of the authority, and the taxable property therein shall be subject to taxation thereafter for the purposes of said authority, including the payment of bonds and other obligations of the authority at the time

authorized or outstanding, and the board of directors of the authority shall be empowered to do all things necessary to enforce and make effective the terms and conditions of annexation fixed as hereinabove authorized.

(g) On and after the effective date of the annexation, the military reservation shall be a separate unit member of the authority and shall be entitled to one representative on the board of directors of the authority. For the purposes of this act, a military reservation shall be deemed a public agency. The representative shall be designated and appointed by the official in authority over the military reservation, shall hold office for a term of six years or until his or her successor is appointed and qualified, and may be recalled by that official.

(h) The transfer of ownership of the fee title of a military reservation, or of any portion thereof, to nonmilitary ownership after annexation to the authority pursuant to this section shall result in the automatic exclusion from the authority of the territory transferred to that ownership.

(i) If a county water authority is a member public agency of a metropolitan water district organized under the Metropolitan Water District Act (Chapter 200 of the Statutes of 1969), that metropolitan water district may impose any or all of the terms and conditions that may be imposed by a county water authority pursuant to subdivisions (a) through (h) of this section in any resolution fixing the terms and conditions for the concurrent annexation of territory in a military reservation.

SEC. 39. Section 901 of the Pajaro River Watershed Flood Prevention Authority Act (Chapter 963 of the Statutes of 1999), is repealed.

SEC. 40. (a) The County of Riverside and the legislative body of Community Facilities District No. 89-5 of the County of Riverside may transfer the governance of that district to the Rancho California Water District consistent with Article 6 (commencing with Section 53368) of Chapter 2.5 of Part 1 of Division 2 of Title 5 of the Government Code.

(b) For the purposes of this section, "city," as defined in Section 53368 of the Government Code, shall include the Rancho California Water District.

(c) In enacting this section, 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 geographical and fiscal circumstances involving Community Facilities District No. 89-5 of the County of Riverside.

O

Assembly Bill No. 3026

CHAPTER 438

An act to amend Sections 14035, 14038, 14553.6, 14553.8, and 14554.8 of, and to repeal Section 14404 of, the Government Code, to amend Sections 10265 and 19100 of the Public Contract Code, to amend Section 21096 of the Public Resources Code, to amend Sections 21602, 21670.1, 21670.2, 21670.4, 21671.5, 21674, 21674.5, 21674.7, 21675, 21675.1, 21676, 21676.5, 21679, 21679.5, 21681, and 21702 of the Public Utilities Code, to amend Sections 150, 164.16, 170, and 216 of the Streets and Highways Code, and to amend Section 22656 of the Vehicle Code, relating to transportation.

[Approved by Governor September 7, 2002. Filed with Secretary of State September 9, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3026, Committee on Transportation. Transportation.

(1) Existing law authorizes the Department of Transportation to enter into contracts with the National Railroad Passenger Corporation.

This bill would make nonsubstantive changes to those provisions, deleting references to obsolete federal law.

(2) Existing law continuously appropriates to the Treasurer the amounts identified in the Budget Act as having been deposited in the State Highway Account in the State Transportation Fund from federal transportation funds and pledged by the California Transportation Commission, for the purposes of issuing federal highway grant anticipation notes to fund transportation projects selected by the commission. Projects eligible for this special funding are limited to transportation projects that have been designated for accelerated construction by the commission, including toll bridge seismic retrofit projects, projects approved for funding under the Traffic Congestion Relief Act of 2000, and projects programmed under the current adopted State Transportation Improvement Program (STIP) or the current State Highway Operation and Protection Program.

Existing law requires that all federal and state funds to be allocated by the commission or expended by the Department of Transportation for transportation improvements under the STIP, except as specified, be programmed 40 percent in County Group No. 1, as defined, and 60 percent in County Group No. 2, as defined, and allocated among the counties in each county group in accordance with certain county share formulas.

Existing law requires that all funds allocated to a project under the provisions of existing law described above relating to federal highway grant anticipation notes be counted against the STIP county share for the county in which the project is located.

This bill would instead provide that the projects included in the STIP would be counted against the STIP interregional improvement program share for a project in the interregional improvement program and the county share for the county in which a project is located for a project in a regional improvement program.

(3) Existing law requires a political subdivision to adopt a comprehensive land use plan to provide for the orderly growth of a public airport within its jurisdiction.

This bill would change the term to "airport land use compatibility plan" in those provisions.

(4) Existing law designates certain state highways and segments of those highways as part of the interregional road system.

This bill would include within this designation the segment of Route 246 between Routes 1 and 101. The bill would also make nonsubstantive changes to provisions pertaining to the state highway system.

(5) Under existing law, any peace officer, as defined, may remove a vehicle from the right-of-way of a railroad, street railway, or light rail line located within the territorial limits in which the officer is empowered to act if the vehicle is parked or abandoned upon any track or within $7^1/_2$ feet of the nearest rail.

This bill would also authorize the officer to remove a vehicle that is parked beyond $7^1/_2$ feet of the nearest rail but within the right-of-way of a railroad, street railway, or light rail if signs are posted giving notice that vehicles may be removed.

(6) Existing law describes the parameters of State Highway Route 91 that constitute the Willard Murray Freeway.

This bill would require the Department of Transportation to revise the description of this freeway.

(7) Under existing law, in the absence of an express provision to the contrary, the last enacted statute prevails over a statute enacted earlier during the same year of a session.

This bill would specify that irrespective of the sequence of enactment, the provisions of another statute enacted during the 2002 calendar year that takes effect on or before January 1, 2003, and that affects a provision amended, added, or repealed by this act would prevail over this act.

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

SECTION 1. Section 14035 of the Government Code is amended to read:

14035. (a) The department may enter into contracts with the National Railroad Passenger Corporation under Section 403(b) of the Rail Passenger Service Act of 1970 to provide commuter and intercity passenger rail services. The contracts may include, but are not limited to, the extension of intercity passenger rail services or the upgrading of commuter rail services.

(b) The department may contract with railroad corporations for the use of tracks and other facilities and the provision of passenger services on terms and conditions as the parties may agree.

(c) The department may construct, acquire, or lease, and improve and operate, rail passenger terminals and related facilities that provide intermodal passenger services along the following corridors: the San Diego-Los Angeles-Santa Barbara corridor, the San Francisco-San Jose-Monterey corridor, the Los Angeles-Riverside-San Bernardino-Calexico corridor, the San Jose-Oakland-Sacramento-Reno corridor, the Los Angeles-Bakersfield-Fresno-Stockton-Sacramento-Oakland corridor, and the Los Angeles-Santa Barbara-Oakland-Sacramento-Redding corridor.

(d) The department may enter into a contract with the National Railroad Passenger Corporation to provide additional trains over the San Joaquin route running between Bakersfield and Oakland and to extend the existing route to Sacramento.

(e) The Transportation Agency of Monterey County may be a party to any contract entered into under this section between the department and the National Railroad Passenger Corporation for passenger rail service along the San Francisco-San Jose-Monterey corridor.

SEC. 2. Section 14038 of the Government Code is amended to read:

14038. (a) The department may purchase, sell, and lease rail passenger cars and locomotives and other self-propelled rail vehicles.

(b) The department may acquire, lease, design, construct, and improve track lines and related facilities, and the department may contract with the private sector for the design, improvement, or construction of track lines and related facilities. If a railroad corporation refuses to allow improvements to tracks and related facilities, the Public Utilities Commission shall, within 60 days after application by the department, order the institution of those improvements, if it finds that the improvements are necessary to the safety of the railroad

corporation's employees, passengers, customers, and the public, and the operating efficiency of the service for which they are requested.

(c) Any facility or equipment acquired or improved by any entity with funds made available to it pursuant to this section shall become the property of that entity at the time and under the conditions as are agreed upon by the department in the agreement that makes the funds available to the entity. Section 10295 of the Public Contract Code does not apply to any agreement entered into pursuant to this section.

(d) The department shall deposit in the Passenger Equipment Acquisition Fund, for expenditure pursuant to Section 14066, the net proceeds from the sale of rail passenger cars and locomotives and other self-propelled rail vehicles.

SEC. 3. Section 14404 of the Government Code is repealed.

SEC. 4. Section 14553.6 of the Government Code is amended to read:

14553.6. Funds allocated to a State Transportation Improvement Program project under this chapter, including cost overruns and financing costs, shall be counted against the interregional improvement program share in the case of a project in the interregional improvement program and the county share for the county in which the project is located in the case of a project in a regional improvement program.

SEC. 5. Section 14553.8 of the Government Code is amended to read:

14553.8. Before notes are issued under this chapter, the commission, in cooperation with the department and the Department of Finance, shall consider and determine the appropriateness of the mechanism authorized by this chapter in comparison to other funding mechanisms, including, but not limited to, pay-as-you-go, federal advance construction, federal incremental advance construction, or other funding methods authorized under federal law to achieve maximum efficiency from the state's federal allocation of transportation funds.

SEC. 6. Section 14554.8 of the Government Code is amended to read:

14554.8. (a) Notwithstanding Section 13340 of the Government Code or any other provision of law, the amounts specified in the annual Budget Act as having been deposited in the State Highway Account in the State Transportation Fund from federal transportation funds, and pledged by the commission under this chapter, are hereby continuously appropriated, without regard to fiscal years, to the Treasurer for the purposes of, and in accordance with, this chapter.

(b) Funds that are subject to Section 1 or 2 of Article XIX of the California Constitution may be used as the state or local principal match

for any project that is eligible for federal matching funds and is funded pursuant to this chapter.

SEC. 7. Section 10265 of the Public Contract Code is amended to read:

10265. A claim pursuant to Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code is not required, but legal action on any claim shall be commenced within the time period specified in Section 10240.1. The department may compromise or otherwise settle any claims arising from the contract at any time.

SEC. 8. Section 19100 of the Public Contract Code is amended to read:

19100. (a) Presentation of a claim pursuant to Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code is not required to commence a legal action or arbitration proceeding for money or damages on a contract with the state, but any action or proceeding shall be commenced not later than six months after either of the following:

(1) The contracting agency's final written decision under contract claim provisions.

(2) The accrual of the cause of action, if there are no contract claim provisions.

(b) This section shall not apply to a claim that is subject to the provisions of Section 10240.1.

SEC. 8.5. Section 21096 of the Public Resources Code is amended to read:

21096. (a) If a lead agency prepares an environmental impact report for a project situated within airport land use compatibility plan boundaries, or, if an airport land use compatibility plan has not been adopted, for a project within two nautical miles of a public airport or public use airport, the Airport Land Use Planning Handbook published by the Division of Aeronautics of the Department of Transportation, in compliance with Section 21674.5 of the Public Utilities Code and other documents, shall be utilized as technical resources to assist in the preparation of the environmental impact report as the report relates to airport-related safety hazards and noise problems.

(b) A lead agency shall not adopt a negative declaration for a project described in subdivision (a) unless the lead agency considers whether the project will result in a safety hazard or noise problem for persons using the airport or for persons residing or working in the project area.

SEC. 9. Section 21602 of the Public Utilities Code is amended to read:

21602. (a) Subject to the terms and within the limits of special appropriations made by the Legislature, the department may render

financial assistance by grant or loan, or both, to political subdivisions jointly, in the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled, by a political subdivision or subdivisions, if the financial assistance has been shown by public hearing to be appropriate to the proper development or maintenance of a statewide system of airports. Financial assistance may be furnished in connection with federal or other financial aid for the same purpose.

(b) Notwithstanding subdivision (a) of Section 21681, a city or county designated by the Airport Land Use Commission is eligible to compete for funds held in the Aeronautics Account in the State Transportation Fund on behalf of any privately owned, public use airport that is included in an airport land use compatibility plan. However, the city or county shall be eligible to compete for the funds only when zoning on the parcel is tantamount to a taking of all reasonable uses that might otherwise be permitted on the parcel. The eligible airport and aviation purposes are limited to those specified in paragraphs (4), (5), (6), (9), and (14) of subdivision (f) of Section 21681, and, further, any capital improvements or acquisitions shall become the property of the designated city or county. Matching funds pursuant to subdivision (a) of Section 21684 may include the in-kind contribution of real property, with the approval of the department.

(c) Any grant of funds held in the Aeronautics Account in the State Highway Account on behalf of any privately owned airports shall contain a covenant that the airport remain open for public use for 20 years. Any grant made to a city or county on behalf of a privately owned airport shall contain a payback provision based upon existing market value at the time the private airport ceases to be open for public use.

(d) Upon request, California Aid to Airports Program (CAAP) projects included within the adopted Aeronautics Program, may be funded in advance of the year programmed, with the concurrence of the department, in order to better utilize funds in the account.

(e) There is, in the Aeronautics Account in the State Transportation Fund, a subaccount for the management of funds for loans to local entities pursuant to this chapter. All funds for airport loans in the Special Deposit Fund are hereby transferred to the subaccount. With the approval of the Department of Finance, the department shall deposit in the subaccount all money received by the department from repayments of and interest on existing and future airport loans including, but not limited to, the sums of five hundred forty thousand dollars ($540,000) in repayments from the General Fund due in July 1987, and July 1988, and may, upon appropriation, transfer additional funds from the Aeronautics Account in the State Transportation Fund to the subaccount

as the department deems appropriate. Interest on money in the subaccount shall be credited to the subaccount as it accrues.

(f) Notwithstanding Section 13340 of the Government Code, the money in the subaccount created by subdivision (e) is hereby continuously appropriated to the department without regard to fiscal years for purposes of loans to political subdivisions for airport purposes.

SEC. 10. Section 21670.1 of the Public Utilities Code is amended to read:

21670.1. (a) Notwithstanding any other provision of this article, if the board of supervisors and the city selection committee of mayors in the county each makes a determination by a majority vote that proper land use planning can be accomplished through the actions of an appropriately designated body, then the body so designated shall assume the planning responsibilities of an airport land use commission as provided for in this article, and a commission need not be formed in that county.

(b) A body designated pursuant to subdivision (a) which does not include among its membership at least two members having an expertise in aviation, as defined in subdivision (e) of Section 21670, shall, when acting in the capacity of an airport land use commission, be augmented so that body, as augmented, will have at least two members having that expertise. The commission shall be constituted pursuant to this section on and after March 1, 1988.

(c) (1) Notwithstanding subdivisions (a) and (b), and subdivision (b) of Section 21670, if the board of supervisors of a county and each affected city in that county each makes a determination that proper land use planning pursuant to this article can be accomplished pursuant to this subdivision, then a commission need not be formed in that county.

(2) If the board of supervisors of a county and each affected city makes a determination that proper land use planning may be accomplished and a commission is not formed pursuant to paragraph (1), that county and the appropriate affected cities having jurisdiction over an airport, subject to the review and approval by the Division of Aeronautics of the department, shall do all of the following:

(A) Adopt processes for the preparation, adoption, and amendment of the airport land use compatibility plan for each airport that is served by a scheduled airline or operated for the benefit of the general public.

(B) Adopt processes for the notification of the general public, landowners, interested groups, and other public agencies regarding the preparation, adoption, and amendment of the airport land use compatibility plans.

(C) Adopt processes for the mediation of disputes arising from the preparation, adoption, and amendment of the airport land use compatibility plans.

(D) Adopt processes for the amendment of general and specific plans to be consistent with the airport land use compatibility plans.

(E) Designate the agency that shall be responsible of the preparation, adoption, and amendment of each airport land use compatibility plan.

(3) The Division of Aeronautics of the department shall review the processes adopted pursuant to paragraph (2), and shall approve the processes if the division determines that the processes are consistent with the procedure required by this article and will do all of the following:

(A) Result in the preparation, adoption, and implementation of plans within a reasonable amount of time.

(B) Rely on the height, use, noise, safety, and density criteria that are compatible with airport operations, as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations.

(C) Provide adequate opportunities for notice to, review of, and comment by the general public, landowners, interested groups, and other public agencies.

(4) If the county does not comply with the requirements of paragraph (2) within 120 days, then the airport land use compatibility plan and amendments shall not be considered adopted pursuant to this article and a commission shall be established within 90 days of the determination of noncompliance by the division and an airport land use compatibility plan shall be adopted pursuant to this article within 90 days of the establishment of the commission.

(d) A commission need not be formed in a county that has contracted for the preparation of airport land use compatibility plans with the Division of Aeronautics under the California Aid to Airports Program (Title 21 (commencing with Section 4050) of the California Code of Regulations), Project Ker-VAR 90-1, and that submits all of the following information to the Division of Aeronautics for review and comment that the county and the cities affected by the airports within the county, as defined by the airport land use compatibility plans:

(1) Agree to adopt and implement the airport land use compatibility plans that have been developed under contract.

(2) Incorporated the height, use, noise, safety, and density criteria that are compatible with airport operations as established by this article, and referred to as the Airport Land Use Planning Handbook, published by

the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations as part of the general and specific plans for the county and for each affected city.

(3) If the county does not comply with this subdivision on or before May 1, 1995, then a commission shall be established in accordance with this article.

(e) (1) A commission need not be formed in a county if all of the following conditions are met:

(A) The county has only one public use airport that is owned by a city.

(B) (i) The county and the affected city adopt the elements in paragraph (2) of subdivision (d), as part of their general and specific plans for the county and the affected city.

(ii) The general and specific plans shall be submitted, upon adoption, to the Division of Aeronautics. If the county and the affected city do not submit the elements specified in paragraph (2) of subdivision (d), on or before May 1, 1996, then a commission shall be established in accordance with this article.

SEC. 11. Section 21670.2 of the Public Utilities Code is amended to read:

21670.2. (a) Sections 21670 and 21670.1 do not apply to the County of Los Angeles. In that county, the county regional planning commission has the responsibility for coordinating the airport planning of public agencies within the county. In instances where impasses result relative to this planning, an appeal may be made to the county regional planning commission by any public agency involved. The action taken by the county regional planning commission on an appeal may be overruled by a four-fifths vote of the governing body of a public agency whose planning led to the appeal.

(b) By January 1, 1992, the county regional planning commission shall adopt the airport land use compatibility plans required pursuant to Section 21675.

(c) Sections 21675.1, 21675.2, and 21679.5 do not apply to the County of Los Angeles until January 1, 1992. If the airport land use compatibility plans required pursuant to Section 21675 are not adopted by the county regional planning commission by January 1, 1992, Sections 21675.1 and 21675.2 shall apply to the County of Los Angeles until the airport land use compatibility plans are adopted.

SEC. 12. Section 21670.4 of the Public Utilities Code is amended to read:

21670.4. (a) As used in this section, "intercounty airport" means any airport bisected by a county line through its runways, runway protection zones, inner safety zones, inner turning zones, outer safety

zones, or sideline safety zones, as defined by the department's Airport Land Use Planning Handbook and referenced in the airport land use compatibility plan formulated under Section 21675.

(b) It is the purpose of this section to provide the opportunity to establish a separate airport land use commission so that an intercounty airport may be served by a single airport land use planning agency, rather than having to look separately to the airport land use commissions of the affected counties.

(c) In addition to the airport land use commissions created under Section 21670 or the alternatives established under Section 21670.1, for their respective counties, the boards of supervisors and city selection committees for the affected counties, by independent majority vote of each county's two delegations, for any intercounty airport, may do either of the following:

(1) Establish a single separate airport land use commission for that airport. That commission shall consist of seven members to be selected as follows:

(A) One representing the cities in each of the counties, appointed by that county's city selection committee.

(B) One representing each of the counties, appointed by the board of supervisors of each county.

(C) One from each county having expertise in aviation, appointed by a selection committee comprised of the managers of all the public airports within that county.

(D) One representing the general public, appointed by the other six members of the commission.

(2) In accordance with subdivision (a) or (b) of Section 21670.1, designate an existing appropriate entity as that airport's land use commission.

SEC. 13. Section 21671.5 of the Public Utilities Code is amended to read:

21671.5. (a) Except for the terms of office of the members of the first commission, the term of office of each member shall be four years and until the appointment and qualification of his or her successor. The members of the first commission shall classify themselves by lot so that the term of office of one member is one year, of two members is two years, of two members is three years, and of two members is four years. The body that originally appointed a member whose term has expired shall appoint his or her successor for a full term of four years. Any member may be removed at any time and without cause by the body appointing that member. The expiration date of the term of office of each member shall be the first Monday in May in the year in which that member's term is to expire. Any vacancy in the membership of the

commission shall be filled for the unexpired term by appointment by the body which originally appointed the member whose office has become vacant. The chairperson of the commission shall be selected by the members thereof.

(b) Compensation, if any, shall be determined by the board of supervisors.

(c) Staff assistance, including the mailing of notices and the keeping of minutes and necessary quarters, equipment, and supplies shall be provided by the county. The usual and necessary operating expenses of the commission shall be a county charge.

(d) Notwithstanding any other provisions of this article, the commission shall not employ any personnel either as employees or independent contractors without the prior approval of the board of supervisors.

(e) The commission shall meet at the call of the commission chairperson or at the request of the majority of the commission members. A majority of the commission members shall constitute a quorum for the transaction of business. No action shall be taken by the commission except by the recorded vote of a majority of the full membership.

(f) The commission may establish a schedule of fees necessary to comply with this article. Those fees shall be charged to the proponents of actions, regulations, or permits, shall not exceed the estimated reasonable cost of providing the service, and shall be imposed pursuant to Section 66016 of the Government Code. Except as provided in subdivision (g), after June 30, 1991, a commission that has not adopted the airport land use compatibility plan required by Section 21675 shall not charge fees pursuant to this subdivision until the commission adopts the plan.

(g) In any county that has undertaken by contract or otherwise completed airport land use compatibility plans for at least one-half of all public use airports in the county, the commission may continue to charge fees necessary to comply with this article until June 30, 1992, and, if the airport land use compatibility plans are complete by that date, may continue charging fees after June 30, 1992. If the airport land use compatibility plans are not complete by June 30, 1992, the commission shall not charge fees pursuant to subdivision (f) until the commission adopts the land use plans.

SEC. 14. Section 21674 of the Public Utilities Code is amended to read:

21674. The commission has the following powers and duties, subject to the limitations upon its jurisdiction set forth in Section 21676:

(a) To assist local agencies in ensuring compatible land uses in the vicinity of all new airports and in the vicinity of existing airports to the

extent that the land in the vicinity of those airports is not already devoted to incompatible uses.

(b) To coordinate planning at the state, regional, and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety, and welfare.

(c) To prepare and adopt an airport land use compatibility plan pursuant to Section 21675.

(d) To review the plans, regulations, and other actions of local agencies and airport operators pursuant to Section 21676.

(e) The powers of the commission shall in no way be construed to give the commission jurisdiction over the operation of any airport.

(f) In order to carry out its responsibilities, the commission may adopt rules and regulations consistent with this article.

SEC. 15. Section 21674.5 of the Public Utilities Code is amended to read:

21674.5. (a) The Department of Transportation shall develop and implement a program or programs to assist in the training and development of the staff of airport land use commissions, after consulting with airport land use commissions, cities, counties, and other appropriate public entities.

(b) The training and development program or programs are intended to assist the staff of airport land use commissions in addressing high priority needs, and may include, but need not be limited to, the following:

(1) The establishment of a process for the development and adoption of airport land use compatibility plans.

(2) The development of criteria for determining airport land use planning boundaries.

(3) The identification of essential elements that should be included in the airport land use compatibility plans.

(4) Appropriate criteria and procedures for reviewing proposed developments and determining whether proposed developments are compatible with the airport use.

(5) Any other organizational, operational, procedural, or technical responsibilities and functions that the department determines to be appropriate to provide to commission staff and for which it determines there is a need for staff training or development.

(c) The department may provide training and development programs for airport land use commission staff pursuant to this section by any means it deems appropriate. Those programs may be presented in any of the following ways:

(1) By offering formal courses or training programs.

(2) By sponsoring or assisting in the organization and sponsorship of conferences, seminars, or other similar events.

(3) By producing and making available written information.

(4) Any other feasible method of providing information and assisting in the training and development of airport land use commission staff.

SEC. 16. Section 21674.7 of the Public Utilities Code is amended to read:

21674.7. An airport land use commission that formulates, adopts, or amends an airport land use compatibility plan shall be guided by information prepared and updated pursuant to Section 21674.5 and referred to as the Airport Land Use Planning Handbook published by the Division of Aeronautics of the Department of Transportation.

SEC. 17. Section 21675 of the Public Utilities Code is amended to read:

21675. (a) Each commission shall formulate an airport land use compatibility plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The airport land use compatibility plan shall include and shall be based on a long-range master plan or an airport layout plan, as determined by the Division of Aeronautics of the Department of Transportation, that reflects the anticipated growth of the airport during at least the next 20 years. In formulating an airport land use compatibility plan, the commission may develop height restrictions on buildings, specify use of land, and determine building standards, including soundproofing adjacent to airports, within the planning area. The airport land use compatibility plan shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year.

(b) The commission may include, within its airport land use compatibility plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding any federal military airport for all of the purposes specified in subdivision (a). This subdivision does not give the commission any jurisdiction or authority over the territory or operations of any military airport.

(c) The planning boundaries shall be established by the commission after hearing and consultation with the involved agencies.

(d) The commission shall submit to the Division of Aeronautics of the department one copy of the airport land use compatibility plan and each amendment to the airport land use compatibility plan.

(e) If an airport land use compatibility plan does not include the matters required to be included pursuant to this article, the Division of

Aeronautics of the department shall notify the commission responsible for the airport land use compatibility plan.

SEC. 18. Section 21675.1 of the Public Utilities Code is amended to read:

21675.1. (a) By June 30, 1991, each commission shall adopt the airport land use compatibility plan required pursuant to Section 21675, except that any county that has undertaken by contract or otherwise completed airport land use compatibility plans for at least one-half of all public use airports in the county, shall adopt that airport land use compatibility plan on or before June 30, 1992.

(b) Until a commission adopts an airport land use compatibility plan, a city or county shall first submit all actions, regulations, and permits within the vicinity of a public airport to the commission for review and approval. Before the commission approves or disapproves any actions, regulations, or permits, the commission shall give public notice in the same manner as the city or county is required to give for those actions, regulations, or permits. As used in this section, "vicinity" means land that will be included or reasonably could be included within the airport land use compatibility plan. If the commission has not designated a study area for the airport land use compatibility plan, then "vicinity" means land within two miles of the boundary of a public airport.

(c) The commission may approve an action, regulation, or permit if it finds, based on substantial evidence in the record, all of the following:

(1) The commission is making substantial progress toward the completion of the airport land use compatibility plan.

(2) There is a reasonable probability that the action, regulation, or permit will be consistent with the airport land use compatibility plan being prepared by the commission.

(3) There is little or no probability of substantial detriment to or interference with the future adopted airport land use compatibility plan if the action, regulation, or permit is ultimately inconsistent with the airport land use compatibility plan.

(d) If the commission disapproves an action, regulation, or permit, the commission shall notify the city or county. The city or county may overrule the commission, by a two-thirds vote of its governing body, if it makes specific findings that the proposed action, regulation, or permit is consistent with the purposes of this article, as stated in Section 21670.

(e) If a city or county overrules the commission pursuant to subdivision (d), that action shall not relieve the city or county from further compliance with this article after the commission adopts the airport land use compatibility plan.

(f) If a city or county overrules the commission pursuant to subdivision (d) with respect to a publicly owned airport that the city or

county does not operate, the operator of the airport is not liable for damages to property or personal injury resulting from the city's or county's decision to proceed with the action, regulation, or permit.

(g) A commission may adopt rules and regulations that exempt any ministerial permit for single-family dwellings from the requirements of subdivision (b) if it makes the findings required pursuant to subdivision (c) for the proposed rules and regulations, except that the rules and regulations may not exempt either of the following:

(1) More than two single-family dwellings by the same applicant within a subdivision prior to June 30, 1991.

(2) Single-family dwellings in a subdivision where 25 percent or more of the parcels are undeveloped.

SEC. 19. Section 21676 of the Public Utilities Code is amended to read:

21676. (a) Each local agency whose general plan includes areas covered by an airport land use compatibility plan shall, by July 1, 1983, submit a copy of its plan or specific plans to the airport land use commission. The commission shall determine by August 31, 1983, whether the plan or plans are consistent or inconsistent with the airport land use compatibility plan. If the plan or plans are inconsistent with the airport land use compatibility plan, the local agency shall be notified and that local agency shall have another hearing to reconsider its airport land use compatibility plans. The local agency may overrule the commission after the hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.

(b) Prior to the amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the airport land use commission pursuant to Section 21675, the local agency shall first refer the proposed action to the commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The local agency may, after a public hearing, overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.

(c) Each public agency owning any airport within the boundaries of an airport land use compatibility plan shall, prior to modification of its airport master plan, refer any proposed change to the airport land use commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The public agency may, after a public hearing, overrule the commission by a two-thirds vote of its governing body if it makes

specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670.

(d) Each commission determination pursuant to subdivision (b) or (c) shall be made within 60 days from the date of referral of the proposed action. If a commission fails to make the determination within that period, the proposed action shall be deemed consistent with the airport land use compatibility plan.

SEC. 20. Section 21676.5 of the Public Utilities Code is amended to read:

21676.5. (a) If the commission finds that a local agency has not revised its general plan or specific plan or overruled the commission by a two-thirds vote of its governing body after making specific findings that the proposed action is consistent with the purposes of this article as stated in Section 21670, the commission may require that the local agency submit all subsequent actions, regulations, and permits to the commission for review until its general plan or specific plan is revised or the specific findings are made. If, in the determination of the commission, an action, regulation, or permit of the local agency is inconsistent with the airport land use compatibility plan, the local agency shall be notified and that local agency shall hold a hearing to reconsider its plan. The local agency may overrule the commission after the hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article as stated in Section 21670.

(b) Whenever the local agency has revised its general plan or specific plan or has overruled the commission pursuant to subdivision (a), the proposed action of the local agency shall not be subject to further commission review, unless the commission and the local agency agree that individual projects shall be reviewed by the commission.

SEC. 21. Section 21679 of the Public Utilities Code is amended to read:

21679. (a) In any county in which there is no airport land use commission or other body designated to assume the responsibilities of an airport land use commission, or in which the commission or other designated body has not adopted an airport land use compatibility plan, an interested party may initiate proceedings in a court of competent jurisdiction to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, that directly affects the use of land within one mile of the boundary of a public airport within the county.

(b) The court may issue an injunction that postpones the effective date of the zoning change, zoning variance, permit, or regulation until the

governing body of the local agency that took the action does one of the following:

(1) In the case of an action that is a legislative act, adopts a resolution declaring that the proposed action is consistent with the purposes of this article stated in Section 21670.

(2) In the case of an action that is not a legislative act, adopts a resolution making findings based on substantial evidence in the record that the proposed action is consistent with the purposes of this article stated in Section 21670.

(3) Rescinds the action.

(4) Amends its action to make it consistent with the purposes of this article stated in Section 21670, and complies with either paragraph (1) or (2), whichever is applicable.

(c) The court shall not issue an injunction pursuant to subdivision (b) if the local agency that took the action demonstrates that the general plan and any applicable specific plan of the agency accomplishes the purposes of an airport land use compatibility plan as provided in Section 21675.

(d) An action brought pursuant to subdivision (a) shall be commenced within 30 days of the decision or within the appropriate time periods set by Section 21167 of the Public Resources Code, whichever is longer.

(e) If the governing body of the local agency adopts a resolution pursuant to subdivision (b) with respect to a publicly owned airport that the local agency does not operate, the operator of the airport shall be immune from liability for damages to property or personal injury from the local agency's decision to proceed with the zoning change, zoning variance, permit, or regulation.

(f) As used in this section, "interested party" means any owner of land within two miles of the boundary of the airport or any organization with a demonstrated interest in airport safety and efficiency.

SEC. 22. Section 21679.5 of the Public Utilities Code is amended to read:

21679.5. (a) Until June 30, 1991, no action pursuant to Section 21679 to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport, shall be commenced in any county in which the commission or other designated body has not adopted an airport land use compatibility plan, but is making substantial progress toward the completion of the airport land use compatibility plan.

(b) If a commission has been prevented from adopting the airport land use compatibility plan by June 30, 1991, or if the adopted airport land

use compatibility plan could not become effective, because of a lawsuit involving the adoption of the airport land use compatibility plan, the June 30, 1991, date in subdivision (a) shall be extended by the period of time during which the lawsuit was pending in a court of competent jurisdiction.

(c) Any action pursuant to Section 21679 commenced prior to January 1, 1990, in a county in which the commission or other designated body has not adopted an airport land use compatibility plan, but is making substantial progress toward the completion of the airport land use compatibility plan, which has not proceeded to final judgment, shall be held in abeyance until June 30, 1991. If the commission or other designated body adopts an airport land use compatibility plan on or before June 30, 1991, the action shall be dismissed. If the commission or other designated body does not adopt an airport land use compatibility plan on or before June 30, 1991, the plaintiff or plaintiffs may proceed with the action.

(d) An action to postpone the effective date of a zoning change, a zoning variance, the issuance of a permit, or the adoption of a regulation by a local agency, directly affecting the use of land within one mile of the boundary of a public airport for which an airport land use compatibility plan has not been adopted by June 30, 1991, shall be commenced within 30 days of June 30, 1991, or within 30 days of the decision by the local agency, or within the appropriate time periods set by Section 21167 of the Public Resources Code, whichever date is later.

SEC. 23. Section 21681 of the Public Utilities Code is amended to read:

21681. As used in this article, the following terms have the following meanings:

(a) "Own and operate" means that the public entity shall own the property in fee simple or by a long-term lease of a minimum of 20 years, unless otherwise approved by the department, and shall maintain dominion and control of the property, except that the public entity may provide by contract with a person for the operation and management of an airport otherwise meeting the requirements of this article. Operations of the airport shall be for, and on behalf of, the public entity. All leases to the public entity of property are required to be approved by the department. A lease of the property by the public entity to an agent or agency other than to a public entity does not meet the criteria for participation in airport assistance funds.

(b) "Matching funds" means money that is provided by the public entity and does not consist of funds previously received from state or federal agencies or public entity funds previously used to match federal or state funds. This definition shall be retroactive to July 1, 1967.

(c) "General aviation" means all aviation except air carrier and military aviation.

(d) "Public entity" means any city, county, airport district, airport authority, port district, port authority, public district, public authority, political subdivision, airport land use commission, community services district, or public corporation and the University of California.

(e) "Public agency" means the various agencies of the State of California and the federal government.

(f) "Airport and aviation purposes" means expenditures of a capital improvement nature, including the repair or replacement of a capital improvement, and expenditures for compatible land use planning in the area surrounding an airport, for any of the following purposes:

(1) Land acquisition for development and improvement of general aviation aircraft landing facilities.

(2) Grading and drainage necessary for the construction or reconstruction of runways or taxiways.

(3) Construction or reconstruction of runways or taxiways.

(4) Acquisition of "runway protection zones" as defined in Federal Aviation Administration Advisory Circular 150/1500-13.

(5) Acquisition of easements through, or other interests in, airspace as may be reasonably required for safeguarding aircraft operations in the vicinity of an aircraft landing facility.

(6) Removal of natural obstructions from runway protection zones.

(7) Installation of "segmented circle airport marker systems" as defined in current regulations of the Federal Aviation Administration.

(8) Installation of runway, taxiway, boundary, or obstruction lights, together with directly related electrical equipment.

(9) Installation of minimum security fencing around the perimeter of an aircraft landing facility.

(10) Grading and drainage necessary to provide for parking of transient general aviation aircraft.

(11) Construction or reconstruction of transient general aviation aircraft parking areas.

(12) Servicing of revenue or general obligation bonds issued to finance capital improvements for airport and aviation purposes.

(13) Air navigational facilities.

(14) Engineering and preliminary engineering related directly to a project funded under this article.

(15) Other capital improvements as may be designated in rules and regulations adopted by the department.

(16) Activities of an airport land use commission in connection with the preparation of a new or updated airport land use compatibility plan pursuant to Section 21675. Expenditures that cannot be clearly

identified as capital improvements shall be submitted to the department for consideration and approval.

(17) Airport master plans and airport layout plans.

(g) "Operation and maintenance" means expenditures for wages or salaries, utilities, service vehicles, and all other noncapital expenditures that are included in insurance, professional services, supplies, construction equipment, upkeep and landscaping, and other items of expenditure designated as "operation and maintenance" in rules and regulations adopted by the department.

(h) "Enplanement" means the boarding of an aircraft by a revenue passenger, including an original, stopover, or transfer boarding of the aircraft. For purposes of this subdivision, a stopover is a deliberate and intentional interruption of a journey by a passenger scheduled to exceed four hours in the case of an intrastate or interstate passenger or not to exceed 24 hours in the case of an international passenger at a point between the point of departure and the point of destination, and a transfer is an occurrence at an intermediate point in an itinerary whereby a passenger or shipment changes from a flight of one carrier to another flight either of the same or a different carrier with or without a stopover.

SEC. 24. Section 21702 of the Public Utilities Code is amended to read:

21702. The California Aviation System Plan shall include, but not be limited to, all of the following elements:

(a) A background and introduction element, which summarizes aviation activity in California and establishes goals and objectives for aviation improvement.

(b) An air transportation issues element, which addresses issues such as aviation safety, airport noise, airport ground access, transportation systems management, airport financing, airport land use compatibility planning, and institutional relationships.

(c) A regional plan alternative element, which consists of the aviation elements of the regional transportation plans prepared by each transportation planning agency. This element shall include consideration of regional air transportation matters relating to growth, capacity needs, county activity, airport activity, and systemwide activity in order to evaluate adequately the overall impacts of regional activity in relation to the statewide air transportation system. This element shall propose general aviation and air carrier public use airports for consideration by the commission for funding eligibility under this chapter.

(d) A state plan alternative element, which includes consideration of statewide air transportation matters relating to growth, including, but not limited to, county activity, airport activity, and systemwide activity in

order to evaluate adequately the state aviation system and to designate an adequate number of general aviation and air carrier public use airports for state funding in order to provide a level of air service and safety acceptable to the public.

(e) A comparative element, which compares and contrasts the regional plan alternative with the state plan alternative, including, but not limited to, airport noise, air quality, toxic waste cleanup, energy, economics, and passengers served.

(f) A 10-year capital improvement program, which is divided into two five-year phases for each airport, based on the airport's adopted master plan, prepared by each transportation planning agency, and submitted to the division for inclusion in the California Aviation System Plan.

(g) Any other element deemed appropriate by the division and the transportation planning agencies.

(h) A summary and conclusion element, which presents the findings and recommended course of action.

SEC. 25. Section 150 of the Streets and Highways Code is amended to read:

150. When the department, in cooperation with rapid transit districts, recommends that mass public transportation facilities should be located along a proposed freeway corridor in order to establish a planned balanced transportation system, the commission shall consider this recommendation in making its decision as to the location of the freeway.

If the commission determines that the location of mass public transportation facilities should be located along the proposed freeway corridor, it may also direct the department to plan, design, and construct the freeway so as to provide locations for those facilities, and the cost thereof shall be considered as part of the cost of constructing the state highway. In making this determination, the commission shall consider the extent to which the mass public transportation facilities will reduce the volume of traffic on the proposed freeway and the impact the joint development will have on community values. The commission shall also consider whether the rapid transit district has adopted a general plan for the development of its mass public transportation facilities and the likelihood as to whether sufficient funds will be available for the development of mass public transportation service in those locations. The commission shall authorize the department to provide those locations along federal-aid highways only in instances in which it has received assurances of full federal financial participation in the cost of providing those locations.

If mass public transportation facilities other than roadways and other facilities for use of buses are to be constructed and placed in use in those locations, the department may enter into agreements for the sale of the locations to transit districts for that use at a price equal to the market value of the property at the time of sale. If mass public transportation facilities are not placed in use in the locations provided within five years of completion of the freeway, the department may develop those locations for freeway purposes, or it may lease or otherwise dispose of the locations in accordance with the provisions of this code.

The department may, in cooperation with rapid transit districts, develop exclusive or preferential bus lanes in those locations in accordance with Section 149.

SEC. 26. Section 164.16 of the Streets and Highways Code is amended to read:

164.16. For purposes of Section 164.3, the eligible interregional and intercounty routes include all of the following:

Route 120, between Route 5 and Route 395.

Route 126, between the east urban limits of Oxnard-Ventura-Thousand Oaks and Route 5.

Route 127.

Route 128.

Route 129, between Route 1 and Route 101.

Route 132, west of Route 99.

Route 138, between Route 5 and Route 14 in Los Angeles County and between Route 14 in Los Angeles County and Route 18 near Crestline in San Bernardino County.

Route 139, between Route 299 and the Oregon state line.

Route 246, between Route 1 and Route 101.

SEC. 27. Section 170 of the Streets and Highways Code is amended to read:

170. Where it is estimated by the department that the work involved in a project to be constructed under the State Contract Act (Chapter 1 (commencing with Section 10100) of Part 2 of Division 2 of the Public Contract Code) will not be completed within a given fiscal year, the department, in the contract specifications, may provide a limitation upon the amounts that will be paid to the contractor during the first or second fiscal years of the construction period. Subject to this limitation, the contracts shall provide for the completion of the work and full payment therefor.

For the purposes of complying with Section 169, the department may include in any proposed budget, and the commission may allocate, at least the amounts with reference to those construction projects as would

be payable during the fiscal year, together with all necessary engineering and other charges.

SEC. 28. Section 216 of the Streets and Highways Code is amended to read:

216. (a) The noise level produced by the traffic on, or by the construction of, a state freeway shall be measured in the classrooms, libraries, multipurpose rooms, and spaces used for pupil personnel services of a public or private elementary or secondary school if the rooms or spaces are being used for the purpose for which they were constructed and they were constructed under any of the following circumstances:

(1) Prior to the award of the initial construction contract for the freeway route and prior to January 1, 1974.

(2) After December 31, 1973, and prior to the issuance of a statement of present and projected noise levels of the freeway route by the department pursuant to subdivision (f) of Section 65302 of the Government Code.

(3) Subsequent to the construction of the freeway but prior to any alteration or expansion of the freeway that results in a significant and perceptible increase in ambient noise levels in the rooms or spaces.

(b) The measurements shall be made at appropriate times during regular school hours and shall not include noise from sources that exceed the maximum permitted by law.

(c) If the noise level produced from the freeway traffic, or the construction of the freeway, exceeds 55dBA, L10, or 52dBA, Leq., the department shall undertake a noise abatement program in any classroom, library, multipurpose room, or space used for pupil personnel services to reduce the freeway traffic noise level therein to 55dBA, L10, or 52dBA, Leq., or less, by, measures including, but not limited to, installing acoustical materials, eliminating windows, installing air-conditioning, or constructing sound baffle structures.

(d) If the department determines that the construction of the freeway will result in a noise level exceeding 55dBA, L10, or 52dBA, Leq., the department shall complete the temporary or permanent noise abatement program prior to commencing that construction, or as soon as practicable thereafter.

(e) If it becomes necessary to convert the classrooms, libraries, multipurpose rooms, or spaces used for pupil personnel services to other school-related purposes because the freeway traffic noise level therein exceeds 55dBA, L10, or 52dBA, Leq., the department shall pay the cost of the conversions.

(f) If the noise level generated from sources within and without the classrooms, libraries, multipurpose rooms, or spaces used for pupil

personnel services exceeds 55dBA, L10, or 52dBA, Leq. prior to construction of the freeway or completion of the alteration or expansion of the freeway, as the case may be, and the noise from the freeway, or its construction, alteration, or expansion, also exceeds 55dBA, L10, or 52dBA, Leq., the department shall undertake a noise abatement program that will reduce the noise to its preconstruction, prealteration, or preexpansion level.

(g) Priority for noise abatement programs shall be given to those public and private elementary and secondary classrooms, libraries, multipurpose rooms, and spaces used for pupil personnel services constructed in conformance with Article 3 (commencing with Section 17280) of Chapter 3 of Part 10.5 of Division 1 of Title 1 of the Education Code or subject to paragraph (3) of subdivision (a).

(h) As used in this section, dBA means decibels measured by the "A" weighting described in Section 3.1 of the American National Standard specification for sound level meters, S1.4-1971, approved April 27, 1971, and published by the American National Standards Institute. L10 is the sound level that is exceeded 10 percent of the time for the period under consideration and is a value which is an indicator of both the magnitude and frequency of occurrence of the loudest noise events. Leq. is the equivalent steady state sound which in a stated period of time would contain the same acoustic energy as the time-varying sound level during the same time period.

SEC. 29. Section 22656 of the Vehicle Code is amended to read:

22656. Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove a vehicle from the right-of-way of a railroad, street railway, or light rail line located within the territorial limits in which the officer is empowered to act if the vehicle is parked or abandoned upon any track or within $7^1/_2$ feet of the nearest rail. The officer may also remove a vehicle that is parked beyond $7^1/_2$ feet of the nearest rail but within the right-of-way of a railroad, street railway, or light rail if signs are posted giving notice that vehicles may be removed.

SEC. 30. The Department of Transportation shall revise the existing designation of the Willard Murray Freeway from "the portion of State Highway Route 91 in the City of Compton from Alameda Road to Central Avenue" to "the segment of State Highway Route 91 between State Highway Route 605 and State Highway Route 110."

SEC. 31. Any section of any act enacted by the Legislature during the 2002 calendar year that does both of the following shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act:

(a) Takes effect on or before January 1, 2003.

(b) Amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, added, or repealed by this act.

O

Senate Bill No. 1468

CHAPTER 971

An act to amend Sections 65040.2, 65302, 65302.3, 65560, and 65583 of, and to add Section 65040.9 to, the Government Code, and to amend Section 21675 of the Public Utilities Code, relating to local planning.

[Approved by Governor September 26, 2002. Filed with Secretary of State September 27, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1468, Knight. General plans: military facilities.

(1) The Planning and Zoning Law requires that a city or county general plan consist of various elements, including, among other things, land use, circulation, housing, open space, and conservation elements, which are required to meet specified requirements.

This bill would require the land use element to consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land or other territory adjacent to those military facilities, or underlying designated military aviation routes and airspace. The bill would, with respect to the open-space element, define open-space land to include areas adjacent to military installations, military training routes, and restricted airspace.

The bill would also require the circulation element to consist of the general location and extent of existing and proposed military airports and ports. The bill would also provide that a city or county is not required to comply with these provisions until a specified agreement is entered into between the federal government and the state to fully reimburse all claims approved by the Commission on State Mandates and paid by the Controller that cities and counties would be eligible to file as a result of the enactment of this bill and until the city's or county's next general plan revision. It would make these provisions inoperative on the January 1 following the date that this agreement is terminated.

By increasing the duties of local agency officials, the bill would impose a state-mandated local program.

(2) Existing law establishes the Governor's Office of Planning and Research as the comprehensive state planning agency, responsible for long-range planning with responsibilities to, among other things, provide planning assistance to city and county planning agencies. The office is required to develop and adopt guidelines for the preparation and

content of the mandatory elements required in city and county general plans.

This bill would require the office, on or before January 1, 2004, if sufficient federal funds become available, to prepare and publish an advisory planning handbook for local officials, planners, and builders, and to develop and adopt guidelines that, among other things, explain how to reduce land use conflicts between the effects of civilian development and military readiness activities carried out on specified military installations and areas.

(3) Existing law requires the California Public Utilities Commission to formulate a comprehensive land use plan that provides, among other things, for the orderly growth of public airports and the area surrounding the airport that is within the jurisdiction of the commission. The plan may include the area within the jurisdiction of the commission surrounding any federal military airport.

This bill instead would require that the area within the jurisdiction of the commission surrounding any military airport be included in the plan, and would require that the plan be consistent with the safety and noise standards in the Air Installation Compatible Use Zone prepared for that military airport. The bill would also require that a county's general plan and any applicable specific plan be consistent with these safety and noise standards in each county where an airport land use commission does not exist, but where there is a military airport.

(4) This bill also would incorporate additional changes in Section 65040.2 of the Government Code proposed by AB 2175, to be operative if AB 2175 and this bill are both enacted and become effective on or before January 1, 2003, and this bill is enacted last.

This bill also would incorporate additional changes in Section 65560 of the Government Code proposed by AB 3057, to be operative if AB 3057 and this bill are both enacted and become effective on or before January 1, 2003, and this bill is enacted last.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

(1) California contains an integrated system of military installations and special use airspace, connected by low-level flight corridors, that provides a key foundation for our nation's security. This integrated system provides for the training of military personnel, as well as the research, development, testing, and evaluation of military hardware.

(2) The military is a key component of California's economy comprising direct economic expenditures of over $29,800,000,000 each year, making the military larger than other economic sectors of the state, including agriculture, and the military represented over 263,000 working adults in the 2000–01 fiscal year.

(3) The federal Department of Defense's research, development, test, and evaluation programs, which included $3,900,000,000 in direct 2000–01 fiscal year contracts in California, make an important contribution to maintaining the state's lead in technology development.

(b) The Legislature therefore finds that the protection of this integrated system of military installations and special use airspace is in the public interest.

SEC. 1.5. Section 65040.2 of the Government Code is amended to read:

65040.2. (a) In connection with its responsibilities under subdivision (*l*) of Section 65040, the office shall develop and adopt guidelines for the preparation and content of the mandatory elements required in city and county general plans by Article 5 (commencing with Section 65300) of Chapter 3. For purposes of this section, the guidelines prepared pursuant to Section 50459 of the Health and Safety Code shall be the guidelines for the housing element required by Section 65302. In the event that additional elements are hereafter required in city and county general plans by Article 5 (commencing with Section 65300) of Chapter 3, the office shall adopt guidelines for those elements within six months of the effective date of the legislation requiring those additional elements.

(b) The office may request from each state department and agency, as it deems appropriate, and the department or agency shall provide, technical assistance in readopting, amending, or repealing the guidelines.

(c) The guidelines shall be advisory to each city and county in order to provide assistance in preparing and maintaining their respective general plans.

(d) The guidelines shall contain the guidelines for addressing environmental justice matters developed pursuant to Section 65040.12.

(e) The guidelines shall contain advice including recommendations for best practices to allow for collaborative land use planning of adjacent civilian and military lands and facilities. The guidelines shall encourage enhanced land use compatibility between civilian lands and any adjacent or nearby military facilities through the examination of potential impacts upon one another.

(f) The guidelines shall contain advice for addressing the effects of civilian development on military readiness activities carried out on all of the following:

(1) Military installations.
(2) Military operating areas.
(3) Military training areas.
(4) Military training routes.
(5) Military airspace.
(6) Other territory adjacent to those installations and areas.

(g) The office shall provide for regular review and revision of the guidelines established pursuant to this section.

SEC. 1.7. Section 65040.2 of the Government Code is amended to read:

65040.2. (a) In connection with its responsibilities under subdivision (*l*) of Section 65040, the office shall develop and adopt guidelines for the preparation and content of the mandatory elements required in city and county general plans by Article 5 (commencing with Section 65300) of Chapter 3. For purposes of this section, the guidelines prepared pursuant to Section 50459 of the Health and Safety Code shall be the guidelines for the housing element required by Section 65302. In the event that additional elements are hereafter required in city and county general plans by Article 5 (commencing with Section 65300) of Chapter 3, the office shall adopt guidelines for those elements within six months of the effective date of the legislation requiring those additional elements.

(b) The office may request from each state department and agency, as it deems appropriate, and the department or agency shall provide, technical assistance in readopting, amending, or repealing the guidelines.

(c) The guidelines shall be advisory to each city and county in order to provide assistance in preparing and maintaining their respective general plans.

(d) The guidelines shall contain the guidelines for addressing environmental justice matters developed pursuant to Section 65040.12.

(e) The guidelines shall contain advice including recommendations for best practices to allow for collaborative land use planning of adjacent civilian and military lands and facilities. The guidelines shall encourage enhanced land use compatibility between civilian lands and any adjacent or nearby military facilities through the examination of potential impacts upon one another.

(f) The guidelines shall contain advice for addressing the effects of civilian development on military readiness activities carried out on all of the following:

(1) Military installations.

(2) Military operating areas.

(3) Military training areas.

(4) Military training routes.

(5) Military airspace.

(6) Other territory adjacent to those installations and areas.

(g) The guidelines shall include guidelines for addressing human services matters within the context of a general plan. For the purposes of this section, "human services matters" means provisions that assist a community in its efforts to establish goals to address the needs of targeted community members, which may include, but are not limited to, seniors, children, young adults, families, workers, and persons with disabilities, with the objective of improving the overall quality of life of both the targeted community members and the community. In preparing guidelines for addressing human services matters, the office shall consult with interested persons, organizations, and public agencies that have knowledge, training, and experience in the organization and delivery of human services and services for persons with disabilities. The office shall hold at least one public hearing prior to the release of any draft guidelines for addressing human services matters, and at least one public hearing after the release of the draft guidelines. The hearings may be held at regular meetings of the Planning Advisory and Assistance Council.

(h) The office shall provide for regular review and revision of the guidelines established pursuant to this section.

SEC. 2. Section 65040.9 is added to the Government Code, to read:

65040.9. (a) On or before January 1, 2004, the Office of Planning and Research shall, if sufficient federal funds become available for this purpose, prepare and publish an advisory planning handbook for use by local officials, planners, and builders that explains how to reduce land use conflicts between the effects of civilian development and military readiness activities carried out on military installations, military operating areas, military training areas, military training routes, and

military airspace, and other territory adjacent to those installations and areas.

(b) At a minimum, the advisory planning handbook shall include advice regarding all of the following:

(1) The collection and preparation of data and analysis.

(2) The preparation and adoption of goals, policies, and standards.

(3) The adoption and monitoring of feasible implementation measures.

(4) Methods to resolve conflicts between civilian and military land uses and activities.

(5) Recommendations for cities and counties to provide drafts of general plan and zoning changes that may directly impact military facilities, and opportunities to consult with the military base personnel prior to approving development adjacent to military facilities.

(c) In preparing the advisory planning handbook, the office shall collaborate with the Office of Military Base Retention and Reuse within the Trade, Technology, and Commerce Agency. The office shall consult with persons and organizations with knowledge and experience in land use issues affecting military installations and activities.

(d) The office may accept and expend any grants and gifts from any source, public or private, for the purposes of this section.

SEC. 3. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to those areas. The land use element shall also do both of the following:

(1) Designate in a land use category that provides for timber production those parcels of real property zoned for timberland production pursuant to the California Timberland Productivity Act of 1982, Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5.

(2) Consider the impact of new growth on military readiness activities carried out on military bases, installations, and operating and training areas, when proposing zoning ordinances or designating land uses covered by the general plan for land, or other territory adjacent to military facilities, or underlying designated military aviation routes and airspace.

(A) In determining the impact of new growth on military readiness activities, information provided by military facilities shall be considered. Cities and counties shall address military impacts based on information that the military provides.

(B) The following definitions govern this paragraph:

(i) "Military readiness activities" mean all of the following:

(I) Training, support, and operations that prepare the men and women of the military for combat.

(II) Operation, maintenance, and security of any military installation.

(III) Testing of military equipment, vehicles, weapons, and sensors for proper operation or suitability for combat use.

(ii) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the United States Department of Defense as defined in paragraph (1) of subsection (e) of Section 2687 of Title 10 of the United States Code.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. The conservation element shall consider the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands, including military installations. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies that have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. Coordination shall include the discussion and evaluation of any water supply and demand information described in Section 65352.5, if that information has been submitted by the water agency to the city or county. The conservation element may also cover the following:

(1) The reclamation of land and waters.

(2) Prevention and control of the pollution of streams and other waters.

(3) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(4) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(5) Protection of watersheds.

(6) The location, quantity and quality of the rock, sand and gravel resources.

(7) Flood control.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) A noise element which shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control in the State Department of Health Services and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(1) Highways and freeways.

(2) Primary arterials and major local streets.

(3) Passenger and freight on-line railroad operations and ground rapid transit systems.

(4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(5) Local industrial plants, including, but not limited to, railroad classification yards.

(6) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level (L_{dn}). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence, liquefaction and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wild land and urban fires. The safety element shall include mapping of known seismic and other geologic hazards. It shall also address evacuation routes, military installations, peakload water supply requirements, and minimum road widths and clearances around structures, as those items relate to identified fire and geologic hazards. Prior to the periodic review of its general plan and prior to preparing or revising its safety element, each city and county shall consult the Division of Mines and Geology of the Department of Conservation and the Office of Emergency Services for the purpose of including information known by and available to the department and the office required by this subdivision.

To the extent that a county's safety element is sufficiently detailed and contains appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's safety element that pertains to the city's planning area in satisfaction of the requirement imposed by this subdivision.

At least 45 days prior to adoption or amendment of the safety element, each county and city shall submit to the Division of Mines and Geology of the Department of Conservation one copy of a draft of the safety element or amendment and any technical studies used for developing the safety element. The division may review drafts submitted to it to determine whether they incorporate known seismic and other geologic hazard information, and report its findings to the planning agency within 30 days of receipt of the draft of the safety element or amendment pursuant to this subdivision. The legislative body shall consider the division's findings prior to final adoption of the safety element or amendment unless the division's findings are not available within the above prescribed time limits or unless the division has indicated to the city or county that the division will not review the safety element. If the division's findings are not available within those prescribed time limits, the legislative body may take the division's findings into consideration at the time it considers future amendments to the safety element. Each

county and city shall provide the division with a copy of its adopted safety element or amendments. The division may review adopted safety elements or amendments and report its findings. All findings made by the division shall be advisory to the planning agency and legislative body.

SEC. 4. Section 65302.3 of the Government Code is amended to read:

65302.3. (a) The general plan, and any applicable specific plan prepared pursuant to Article 8 (commencing with Section 65450), shall be consistent with the plan adopted or amended pursuant to Section 21675 of the Public Utilities Code.

(b) The general plan, and any applicable specific plan, shall be amended, as necessary, within 180 days of any amendment to the plan required under Section 21675 of the Public Utilities Code.

(c) If the legislative body does not concur with any provision of the plan required under Section 21675 of the Public Utilities Code, it may satisfy the provisions of this section by adopting findings pursuant to Section 21676 of the Public Utilities Code.

(d) In each county where an airport land use commission does not exist, but where there is a military airport, the general plan, and any applicable specific plan prepared pursuant to Article 8 (commencing with Section 65450), shall be consistent with the safety and noise standards in the Air Installation Compatible Use Zone prepared for that military airport.

SEC. 5. Section 65560 of the Government Code is amended to read:

65560. (a) "Local open-space plan" is the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to Section 65563.

(b) "Open-space land" is any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional or state open-space plan as any of the following:

(1) Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays and estuaries; areas adjacent to military installations, military training routes, and restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands; and coastal beaches, lakeshores, banks of rivers and streams, and watershed lands.

(2) Open space used for the managed production of resources, including but not limited to, forest lands, rangeland, agricultural lands and areas of economic importance for the production of food or fiber; areas required for recharge of ground water basins; bays, estuaries, marshes, rivers and streams which are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open space for outdoor recreation, including but not limited to, areas of outstanding scenic, historic and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas which serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.

(4) Open space for public health and safety, including, but not limited to, areas which require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs and areas required for the protection and enhancement of air quality.

SEC. 5.5. Section 65560 of the Government Code is amended to read:

65560. (a) The "local agricultural and open-space element" is the component of a county or city general plan adopted by the board or council, either as the local open-space element or as the interim local open-space element adopted pursuant to Section 65563.

(b) "Agricultural and open-space land" is any parcel or area of land or water that is essentially unimproved and devoted to an agricultural or open-space use as defined in this section, and that is designated on a local, regional or state open-space plan as any of the following:

(1) Land used for the production of food and fiber, including, but not limited to, rangeland and agricultural lands.

(2) Lands used for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays and estuaries; areas adjacent to military installations, military training routes, and restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands; and coastal beaches, lakeshores, banks of rivers and streams, and watershed lands.

(3) Land used for the managed production of resources, including but not limited to, forest lands ; areas required for recharge of groundwater

basins; bays, estuaries, marshes, rivers and streams which are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(4) Land used for outdoor recreation, including but not limited to, areas of outstanding scenic, historic and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas which serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.

(5) Land used for public health and safety, including, but not limited to, areas which require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs and areas required for the protection and enhancement of air quality.

SEC. 6. Section 65583 of the Government Code is amended to read:

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all

income levels and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities identified pursuant to paragraph (6).

(5) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.

(7) An analysis of opportunities for energy conservation with respect to residential development.

(8) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement

housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) (A) Identify adequate sites which will be made available through appropriate zoning and development standards and with services and facilities, including sewage collection and treatment, domestic water supply, and septic tanks and wells, needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional housing in order to meet the community's housing goals as identified in subdivision (b).

(i) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low and low-income households.

(ii) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(B) For purposes of this paragraph, the phrase "use by right" shall mean the use does not require a conditional use permit, except when the proposed project is a mixed-use project involving both commercial or industrial uses and residential uses. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(C) The requirements of this subdivision regarding identification of sites for farmworker housing shall apply commencing with the next revision of housing elements required by Section 65588 following the enactment of this subparagraph.

(2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, or provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) (A) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (8) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (8) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(B) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) The analysis and program for preserving assisted housing developments required by the amendments to this section enacted by the Statutes of 1989 shall be adopted as an amendment to the housing element by July 1, 1992.

(e) Failure of the department to review and report its findings pursuant to Section 65585 to the local government between July 1, 1992, and the next periodic review and revision required by Section 65588, concerning the housing element amendment required by the amendments to this section by the Statutes of 1989, shall not be used as a basis for allocation or denial of any housing assistance administered pursuant to Part 2 (commencing with Section 50400) of Division 31 of the Health and Safety Code.

SEC. 7. Section 21675 of the Public Utilities Code is amended to read:

21675. (a) Each commission shall formulate a comprehensive land use plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission plan shall include and shall be based on a long-range master plan or an airport layout plan, as determined by the Division of Aeronautics of the Department of Transportation, that reflects the

anticipated growth of the airport during at least the next 20 years. In formulating a land use plan, the commission may develop height restrictions on buildings, specify use of land, and determine building standards, including soundproofing adjacent to airports, within the planning area. The comprehensive land use plan shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year.

(b) The commission shall include, within its plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding any military airport for all of the purposes specified in subdivision (a). The plan shall be consistent with the safety and noise standards in the Air Installation Compatible Use Zone prepared for that military airport. This subdivision does not give the commission any jurisdiction or authority over the territory or operations of any military airport.

(c) The planning boundaries shall be established by the commission after hearing and consultation with the involved agencies.

(d) The commission shall submit to the Division of Aeronautics of the department one copy of the plan and each amendment to the plan.

(e) If a comprehensive land use plan does not include the matters required to be included pursuant to this article, the Division of Aeronautics of the department shall notify the commission responsible for the plan.

SEC. 8. (a) A city or county shall not be required to comply with the amendments made by this act to Sections 65302, 65302.3, 65560, and 65583 of the Government Code, relating to military readiness activities, military personnel, military airports, and military installations, until both of the following occur:

(1) An agreement is entered into between the United States Department of Defense or other federal agency and the State of California, through the Governor's Office of Planning and Research, for the federal government to fully reimburse all claims approved by the Commission on State Mandates and paid by the Controller that cities and counties would be eligible to file as a result of the enactment of this act.

(2) The city or county undertakes its next general plan revision.

(b) The amendments made by this act to Sections 65302, 65302.2, 65560, and 65583 of the Government Code shall become inoperative on the January 1 following the date that the Director of Planning and Research executes a declaration stating that the agreement described in paragraph (1) of subdivision (a) has been terminated by either party.

SEC. 9. Section 1.7 of this bill incorporates amendments to Section 65040.2 of the Government Code proposed by both this bill and AB 2175. It shall only become operative if (1) both bills are enacted and

become effective on or before January 1, 2003, (2) each bill amends Section 65040.2 of the Government Code, and (3) this bill is enacted after AB 2175, in which case Section 1.5 of this bill shall not become operative.

SEC. 10. Section 5.5 of this bill incorporates amendments to Section 65560 of the Government Code proposed by both this bill and AB 3057. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) each bill amends Section 65560 of the Government Code, and (3) this bill is enacted after AB 3057, in which case Section 5 of this bill shall not become operative.

SEC. 11. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

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of the bid if so determined by the board of the district, but no bid shall be accepted which is not accompanied by a certified or cashier's check for at least 1 percent of the amount of the bid as determined by the board.

SEC. 10. Section 25333.5 is added to the Water Code, to read:

25333.5. In the case of any district described in Section 20560.1 with respect to construction bonds issued for purposes of financing the works described in that section or bonds issued to refund those bonds, notwithstanding any other provision of this division, the board may determine by resolution entered upon the minutes that a negotiated sale of any bonds of the district payable solely from revenue will be in the best interest of the district, in which case the bonds may be sold at a negotiated sale on such terms as may be approved by the board.

ENVIRONMENTAL IMPACT REPORTS—OLYMPIC GAMES—EXEMPTION

Assembly Bill No. 713

CHAPTER 872

An act to amend, repeal, and add Section 21080 of the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1983. Filed with Secretary of State September 16, 1983.]

LEGISLATIVE COUNSEL'S DIGEST

AB 713, Stirling. Environmental quality: exemption: Olympic games.

(1) Under the California Environmental Quality Act, lead public agencies, state and local, are generally required to prepare or cause to be prepared by contract, and certify the completion of, an environmental impact report on any discretionary project, as defined, they propose to carry out or approve which may result in a substantial, or potentially substantial, adverse effect on the environment or, if they determine that a proposed project will not have that effect, to adopt a negative declaration. Existing law exempts from the act activities necessary to the bidding for, hosting or staging of, and funding or carrying out of the Olympic games, but not the construction of facilities necessary for those games.

This bill would exempt, until August 1, 1984, the construction of an Olympic shooting range from the act, but would also require specified findings by the board of supervisors of the county, or the city council of the city, in which an Olympic shooting range is proposed to be located before it may be constructed.

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(2) The bill would incorporate additional changes in Section 21080 of the Public Resources Code made by AB 1462, to be operative only if both this bill and AB 713 are chaptered before January 1, 1984, and this bill is chaptered last.

(3) The bill would take effect immediately as an urgency statute.

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

SECTION 1. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division applies to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where the project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division does not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions, necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration or other document, or documents, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located; provided that the environmental impact report, negative declaration or other document, or documents, <u>includes</u> the environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under

the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games other than an Olympic shooting range. However, no shooting range shall be constructed for use in connection with an Olympic games unless, upon consideration of the matter, the board of supervisors of the county in whose unincorporated area the shooting range is proposed to be located, or the city council of the city in which the shooting range is proposed to be located, whichever is applicable, expressly finds that it does not threaten significant damage to endangered species or inhibit access to other recreational facilities.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares or other charges by public agencies which the public agency finds are for the purpose of (1) meeting operating expenses, including employee wage rates and fringe benefits, (2) purchasing or leasing supplies, equipment, or materials, (3) meeting financial reserve needs and requirements, (4) obtaining funds for capital projects▽necessary to maintain service within existing service areas, or (5) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) Actions taken prior to January 1, 1982, by a public agency to implement the transition from the property taxation system in effect prior to June 1, 1978, to the system provided for by Article XIII A of the California Constitution. Those actions shall be limited to projects defined in subdivision (a) or (b) of Section 21065 which initiate or increase fees, rates, or charges charged for any existing public service, program, or activity; reduce or eliminate the availability of an existing public service, program, or activity; close publicly owned or operated facilities; or reduce or eliminate the availability of an existing publicly owned transit service, program, or activity.

(10) All classes of projects designated pursuant to Section 21084.

(11) A project for the institution or increase of passenger or commuter service on rail or highway rights-of-way already in use, including the modernization of existing stations and parking facilities.

(12) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.

(13) Facility extensions not to exceed four miles in length which are required for transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

(14) A project for the development of a regional transportation improvement program or the state transportation improvement program.

(15) Any project, or portion thereof, located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 or similar state laws

of that state. Any emissions or discharges that would have a significant effect on the environment in the State of California are subject to this division.

(16) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect in the plan or other written documentation required by Section 21080.5 is subject to this division.

(17) A project for the granting of an easement or franchise for the use of highway or street rights-of-way for high-speed intercity passenger rail purposes.

(18) A project for the granting of a certificate of public convenience and necessity for a railroad corporation whose primary business is the transportation of passengers, notwithstanding Sections 1001 and 1002 of the Public Utilities Code, except that the commission may require the applicant to submit information regarding energy requirements.

(c) If a lead agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect.

(d) This section shall remain in effect only until August 1, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before August 1, 1984, deletes or extends that date.

SEC. 2. Section 21080 is added to the Public Resources Code, to read:

21080. (a) Except as otherwise provided in this division, this division applies to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where the project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division does not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions, necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration or other document, or documents, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located; provided that the environmental impact report, negative declaration or other document, or documents, includes the environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares or other charges by public agencies which the public agency finds are for the purpose of (1) meeting operating expenses, including employee wage rates and fringe benefits, (2) purchasing or leasing supplies, equipment, or materials, (3) meeting financial reserve needs and requirements, (4) obtaining funds for capital projects necessary to maintain service within existing service areas, or (5) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) Actions taken prior to January 1, 1982, by a public agency to implement the transition from the property taxation system in effect prior to June 1, 1978, to the system provided for by Article XIII A of the California Constitution. Those actions shall be limited to projects defined in subdivision (a) or (b) of Section 21065 which initiate or increase fees, rates, or charges charged for any existing public service, program, or activity; reduce or eliminate the availability of an existing public service, program, or activity; close publicly owned or operated facilities; or reduce or eliminate the availability of an existing publicly owned transit service, program, or activity.

(10) All classes of projects designated pursuant to Section 21084.

(11) A project for the institution or increase of passenger or commuter service on rail or highway rights-of-way already in use, including the modernization of existing stations and parking facilities.

(12) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.

(13) Facility extensions not to exceed four miles in length which are required for transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

(14) A project for the development of a regional transportation improvement program or the state transportation improvement program.

(15) Any project, or portion thereof, located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in the State of California are subject to this division.

(16) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect in the plan or other written documentation required by Section 21080.5 is subject to this division.

(17) A project for the granting of an easement or franchise for the use of highway or street rights-of-way for high-speed intercity passenger rail purposes.

(18) A project for the granting of a certificate of public convenience and necessity for a railroad corporation whose primary business is the transportation of passengers, notwithstanding Sections 1001 and 1002 of the Public Utilities Code, except that the commission may require the applicant to submit information regarding energy requirements.

(c) If a lead agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect.

(d) This section shall become operative on August 1, 1984.

SEC. 3. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division applies to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where the project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division does not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been

proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions, necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration or other document, or documents, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located; provided that the environmental impact report, negative declaration or other document, or documents, includes the environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games other than an Olympic shooting range. However, no shooting range shall be constructed for use in connection with an Olympic games unless, upon consideration of the matter, the board of supervisors of the county in whose unincorporated area the shooting range is proposed to be located, or the city council of the city in which the shooting range is proposed to be located, whichever is applicable, expressly finds that it does not threaten significant damage to endangered species or inhibit access to other recreational facilities.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares or other charges by public agencies which the public agency finds are for the purpose of (1) meeting operating expenses, including employee wage rates and fringe benefits, (2) purchasing or leasing supplies, equipment, or materials, (3) meeting financial reserve needs and requirements, (4) obtaining funds for capital projects necessary to maintain service within existing service areas, or (5) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) Actions taken prior to January 1, 1982, by a public agency to implement the transition from the property taxation system in effect prior to June 1, 1978, to the system provided for by Article XIII A of the California Constitution. Those actions shall be limited to projects defined in subdivision (a) or (b) of Section 21065 which initiate or

increase fees, rates, or charges charged for any existing public service, program, or activity; reduce or eliminate the availability of an existing public service, program, or activity; close publicly owned or operated facilities; or reduce or eliminate the availability of an existing publicly owned transit service, program, or activity.

(10) All classes of projects designated pursuant to Section 21084.

(11) A project for the institution or increase of passenger or commuter service on rail or highway rights-of-way already in use, including the modernization of existing stations and parking facilities.

(12) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.

(13) Facility extensions not to exceed four miles in length which are required for transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

(14) A project for the development of a regional transportation improvement program or the state transportation improvement program.

(15) Any project, or portion thereof, located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in the State of California are subject to this division.

(16) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect in the plan or other written documentation required by Section 21080.5 is subject to this division.

(17) A project for the granting of an easement or franchise for the use of highway or street rights-of-way for high-speed intercity passenger rail purposes.

(18) A project for the granting of a certificate of public convenience and necessity for a railroad corporation whose primary business is the transportation of passengers, notwithstanding Sections 1001 and 1002 of the Public Utilities Code, except that the commission may require the applicant to submit information regarding energy requirements.

(c) If a lead agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect. The negative declaration shall be prepared for the proposed project in either of the following circumstances:

(1) There is no substantial evidence before the agency that the project may have a significant effect on the environment.

(2) An initial study identifies potentially significant effects on the environment but (i) revisions in the project plans or proposals made

by or agreed to by the applicant before the proposed negative declaration is released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and (ii) there is no substantial evidence before the agency that the project, as revised, may have a significant effect on the environment.

(d) This section shall remain in effect only until August 1, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before August 1, 1984, deletes or extends that date.

SEC. 4. Section 21080 is added to the Public Resources Code, to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where the project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division shall not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions, necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration or other document, or documents, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located; provided that the environmental impact report, negative declaration or other document, or documents, shall include the environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under

the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares or other charges by public agencies which the public agency finds are for the purpose of (1) meeting operating expenses, including employee wage rates and fringe benefits, (2) purchasing or leasing supplies, equipment or materials, (3) meeting financial reserve needs and requirements, (4) obtaining funds for capital projects, necessary to maintain service within existing service areas, or (5) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) Actions taken prior to January 1, 1982, by a public agency to implement the transition from the property taxation system in effect prior to June 1, 1978, to the system provided for by Article XIII A of the California Constitution. Those actions shall be limited to projects defined in subdivision (a) or (b) of Section 21065 which initiate or increase fees, rates, or charges charged for any existing public service, program, or activity; reduce or eliminate the availability of an existing public service, program, or activity; close publicly owned or operated facilities; or reduce or eliminate the availability of an existing publicly owned transit service, program, or activity.

(10) All classes of projects designated pursuant to Section 21084.

(11) A project for the institution or increase of passenger or commuter service on rail or highway rights-of-way already in use, including the modernization of existing stations and parking facilities.

(12) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.

(13) Facility extensions not to exceed four miles in length which are required for transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

(14) A project for the development of a regional transportation improvement program or the state transportation improvement program.

(15) Any project or portion thereof located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in the State of California are subject to this division.

(16) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect in the plan or other written documentation required by Section 21080.5 is subject to this division.

(17) A project for the granting of an easement or franchise for the use of highway or street rights-of-way for high-speed intercity passenger rail purposes.

(18) A project for the granting of a certificate of public convenience and necessity for a railroad corporation whose primary business is the transportation of passengers, notwithstanding Sections 1001 and 1002 of the Public Utilities Code, except that the commission may require the applicant to submit information regarding energy requirements.

(c) In the event that a lead agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect. The negative declaration shall be prepared for the proposed project in either of the following circumstances:

(1) There is no substantial evidence before the agency that the project may have a significant effect on the environment.

(2) An initial study identifies potentially significant effects on the environment but (i) revisions in the project plans or proposals made by or agreed to by the applicant before the proposed negative declaration is released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and (ii) there is no substantial evidence before the agency that the project, as revised, may have a significant effect on the environment.

(d) This section shall become operative on August 1, 1984.

SEC. 5. Sections 3 and 4 of this bill incorporate amendments to Section 21080 of the Public Resources Code proposed by both this bill and AB 1462. They shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1984, but this bill becomes operative first, (2) each bill amends Section 21080 of the Public Resources Code, and (3) this bill is enacted after AB 1462, in which case Section 21080 of the Public Resources Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 1462, at which time Section 3 of this bill shall become operative and Section 2 of this bill shall not become operative.

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 shooting range facilities necessary for the 1984 Olympic games may be constructed prior to the hosting and staging of those games in the summer of 1984, it is necessary that this act take effect immediately.

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TRANSPORTATION—PASSENGER RAIL SYSTEM

Assembly Bill No. 43

CHAPTER 392

An act to amend Section 92107 of the Government Code, and to amend Sections 21080 and 30114 of the Public Resources Code, relating to transportation.

[Approved by Governor July 30, 1985. Filed with Secretary of State July 30, 1985.]

LEGISLATIVE COUNSEL'S DIGEST

AB 43, Mojonnier. Transportation: passenger rail system.

(1) Under the California Environmental Quality Act, public agencies proposing to carry out or approve discretionary projects, as specified, are required to comply with environmental impact report requirements. A project granting an easement or franchise for the use of highway or street rights-of-way for high-speed intercity passenger rail purposes and a project granting a certificate of public convenience and necessity for a railroad corporation whose primary business is the transportation of passengers are exempted projects for the purposes of the act.

This bill would repeal those exemptions. The bill would thereby impose a state-mandated local program by requiring local agencies proposing to carry out or approve either of the specified projects to comply with environmental impact report requirements.

(2) Under the California Coastal Act of 1976, specified public transportation facilities are not considered public works for purposes of the act, including a railroad whose primary business is the transportation of passengers, which is not considered public works or a development under the act if at least 90% of its routes located within the coastal zone utilize existing rail or highway rights-of-way.

This bill would delete that exemption.

(3) The bill would also correct an obsolete cross-reference.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 92107 of the Government Code is amended to read:

92107. The commission shall, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2,

adopt all necessary rules and regulations to carry out its powers and duties under this title.

SEC. 2. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits and the approval of tentative subdivision maps (except where the project is exempt from the preparation of an environmental impact report pursuant to Section 21166).

(b) This division shall not apply to the following:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions▽ necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report or negative declaration or other document, or documents, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located; provided that the environmental impact report, negative declaration or other document, or documents, shall include the environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of (1) meeting operating expenses, including employee wage rates and fringe benefits, (2) purchasing or leasing supplies, equipment, or materials,

(3) meeting financial reserve needs and requirements, (4) obtaining funds for capital projects▽necessary to maintain service within existing service areas, or (5) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) Actions taken prior to January 1, 1982, by a public agency to implement the transition from the property taxation system in effect prior to June 1, 1978, to the system provided for by Article XIII A of the California Constitution. Those actions shall be limited to projects defined in subdivision (a) or (b) of Section 21065 which initiate or increase fees, rates, or charges charged for any existing public service, program, or activity; reduce or eliminate the availability of an existing public service, program, or activity; close publicly owned or operated facilities; or reduce or eliminate the availability of an existing publicly owned transit service, program, or activity.

(10) All classes of projects designated pursuant to Section 21084.

(11) A project for the institution or increase of passenger or commuter services on rail or highway rights-of-way already in use, including▽modernization of existing stations and parking facilities.

(12) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.

(13) Facility extensions not to exceed four miles in length which are required for transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

(14) A project for the development of a regional transportation improvement program or the state transportation improvement program.

(15) Any project or portion thereof located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in the State of California are subject to this division.

(16) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect in the plan or other written documentation required by Section 21080.5 is subject to this division.

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(c) If a lead agency determines that a proposed project, not otherwise exempt from the provisions of this division, does not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect. The negative declaration shall be prepared for the proposed project in either of the following circumstances:

(1) There is no substantial evidence before the agency that the project may have a significant effect on the environment.

(2) An initial study identifies potentially significant effects on the environment, but (i) revisions in the project plans or proposals made by or agreed to by the applicant before the proposed negative declaration is released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and (ii) there is no substantial evidence before the agency that the project, as revised, may have a significant effect on the environment.

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SEC. 3. Section 30114 of the Public Resources Code is amended to read:

30114. "Public works" means the following:

(a) All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.

(b) All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities. For purposes of this division, neither the Ports of Hueneme, Long Beach, Los Angeles, nor San Diego Unified Port District nor any of the developments within these ports shall be considered public works.▽

(c) All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.

(d) All community college facilities.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

(2) The contentions that were settled or otherwise agreed upon and the nature of that agreement.

(3) The efforts made by each party to settle the unresolved issues.

(4) The list of participants in the settlement proceedings.

(f) If the litigation is not settled, the court, in its discretion, may, or at the request of any party, shall, schedule a further settlement conference before a judge of the superior court. If the petition or complaint is later heard on its merits, the judge hearing the matter shall not be the same judge conducting the settlement conference, except in counties * * * that have only one judge of the superior court.

(g) The failure of any party, who was notified pursuant to subdivision (a), to participate in the litigation settlement process * * *, without good cause, may result in an imposition of sanctions by the court. The failure of the petitioner or plaintiff to participate in that process * * *, without good cause, shall result in dismissal with prejudice of the action or proceeding.

SEC. 23. Section 21168.3 of the Public Resources Code is repealed.

SEC. 24. This act shall become operative only if Senate Bill 919 of the 1993–94 Regular Session of the Legislature is enacted and takes effect.

SEC. 25. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

ENVIRONMENT—IMPACT REPORTS

CHAPTER 1131

S.B. No. 919

AN ACT to amend Section 65941 of the Government Code, to amend Section 42302.1 of the Health and Safety Code, and to amend Sections 21080, 21081, 21082.2, 21168.9, and 21177 of, and to add Article 4 (commencing with Section 21159) to Chapter 4.5 of Division 13 of, the Public Resources Code, relating to environmental quality.

[Approved by Governor October 10, 1993.]

[Filed with Secretary of State October 11, 1993.]

LEGISLATIVE COUNSEL'S DIGEST

SB 919, Dills. Environmental quality.

(1) Existing law, the California Environmental Quality Act, requires a lead agency, as defined, to prepare an environmental impact report on any project which it proposes to carry out or approve that may have a significant effect on the environment, with specified exemptions.

This bill would exempt from the act a discretionary decision by an air quality management district for a project consisting of the application of coatings within an existing facility at an automotive manufacturing plant if the district makes specified findings. The bill would impose a state-mandated local program by imposing new duties on local agencies with regard to determining the applicability of, and giving notice of, the exemption.

The bill would require an environmental impact report to be prepared if there is substantial evidence, as defined, in light of the whole record before the agency that the project may have a significant effect on the environment, and would prescribe related matters.

(2) The act prohibits a public agency from carrying out or approving a project for which an environmental impact report has been completed which identifies one or more significant

effects on the environment unless the agency makes one or more of specified findings, which may include a finding that specific economic, social, or other considerations make infeasible the mitigation measures or alternatives identified in the environmental impact report.

This bill would include legal and technological considerations and provide that those considerations include considerations for the provision of employment opportunities for highly trained workers.

(3) The act requires the lead agency to determine whether a project may have a significant effect on the environment based on substantial evidence in the record, and requires a court, in an action or proceeding challenging an action of a public agency on the grounds of noncompliance with the act, to determine whether the action of the agency is supported by substantial evidence in light of the whole record. State guidelines adopted by the Secretary of the Resources Agency to implement the act require the preparation of an environmental impact report if it can be fairly argued on the basis of substantial evidence that the proposed project may have a significant effect on the environment.

This bill would require the lead agency to make its determination based on substantial evidence in light of the whole record, as specified.

The bill would require the court to make a specified finding before issuing an order requiring a public agency or real party in interest to suspend activity relating to a project in an action or proceeding under the act, as specified. The bill would prohibit the bringing of an action or proceeding under the act unless the alleged grounds for noncompliance with the act were presented to the public agency, and unless the person bringing the action or proceeding objected during the public comment period, or prior to the close of the public hearing on the project.

(4) Existing law prohibits a lead agency under the act, in establishing criteria for the completeness of an application for a development project, from requiring the informational equivalent of an environmental impact report as a prerequisite for completeness of the application.

This bill would also apply that prohibition to a responsible agency, and would prohibit the lead or responsible agency from otherwise requiring proof of compliance with the act as such a prerequisite. The bill would require a responsibe[1] agency, at the request of the applicant, to commence processing the permit application prior to final action by the lead agency, to the extent that necessary information is available, thereby imposing a state-mandated local program.

(5) The bill would require certain state agencies to perform an environmental analysis containing specified information at the time of adopting a specified rule or regulation, performance standard, or treatment requirement.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(7) The bill would become operative only if AB 1888 is enacted and takes effect.

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

SECTION 1. (a) The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) shall not apply to a discretionary decision by an air quality management district for a project consisting of the application of coatings within an existing facility at an automotive manufacturing plant if the district finds all of the following:

(1) The project will not cause a net increase in any emissions of any pollutant for which a national or state ambient air quality standard has been established after the internal emission accounting for previous emission reductions achieved at the facility and recognized by the district.

[1] So in enrolled bill.

(2) The project will not cause a net increase in adverse impacts of toxic air contaminants as determined by a health risk assessment. For purposes of this section, the term "net increase in adverse impacts of toxic air contaminants as determined by a health risk assessment" shall be determined in accordance with the rules and regulations of the district.

(3) The project will not cause any other adverse effect on the environment.

(b) The district shall provide a 10-day notice, at the time of the issuance of a permit, of any such exemption by mail to any person who requests such a notice in writing, and by publication in two newspapers of general circulation in the area of the project. The notice shall state that the complete file on the project and the basis for the district's findings is available for inspection and copying at the office of the air quality management district.

(c) Any person may appeal to the hearing board as provided in Section 42302.1 of the Health and Safety Code, from the issuance of a permit after a decision of any district that a project is exempt pursuant to this section. If there is substantial evidence in light of the whole record before the hearing board that the project may not satisfy one or more of the criteria established pursuant to subdivision (a), the permit shall be revoked. If there is no such substantial evidence, the exemption shall be upheld and there shall be no further compliance with the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code. Any appeal under this subdivision shall be scheduled for hearing on the calendar of the hearing board within 10 working days of the appeal being filed. The hearing board shall give the appeal priority on its calendar and shall render a decision on the appeal within 21 working days of the appeal being filed. The hearing board may delegate the authority to hear and decide such an appeal to a subcommittee of the hearing board.

(d) On or before December 31, 1995, the Resources Agency shall prepare and submit to the Legislature and the Governor a study on the exemption established pursuant to this section in order to determine the advisability of expanding this exemption to include other industrial facilities. The study shall identify the potential benefits and adverse impacts on the environment from an expansion of the exemption and shall determine the potential benefits and adverse impacts on public participation in such an exemption process.

SEC. 2. Section 65941 of the Government Code is amended to read:

65941. (a) The information compiled pursuant to Section 65940 shall also indicate the criteria which the agency will apply in order to determine the completeness of any application submitted to it for a development project.

* * * (b) If a public agency is a lead or responsible agency for purposes of the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code, that criteria shall not require the applicant to submit the informational equivalent of an environmental impact report as part of a complete application * * *, or to otherwise require proof of compliance with that act as a prerequisite to a permit application being deemed complete. However, that * * * criteria may require sufficient information to permit the agency to make the determination required by Section 21080.1 of the Public Resources Code.

(c) Consistent with this chapter, a responsible agency shall, at the request of the applicant, commence processing a permit application for a development project prior to final action on the project by a lead agency to the extent that the information necessary to commence the processing is available. For purposes of this subdivision, "lead agency" and "responsible agency" shall have the same meaning as those terms are defined in Section 21067 of the Public Resources Code and Section 21069 of the Public Resources Code, respectively.

SEC. 3. Section 42302.1 of the Health and Safety Code is amended to read:

42302.1. Within 10 days of any decision or action pertaining to the issuance of a permit by a district, or within 10 days after mailing of the notice of issuance of the permit to any person who has requested notice or within 10 days of the publication and mailing of notice provided for in Section 1 of the act amending this section in the 1993 Regular Session of the Legislature, any aggrieved person who, in person or through a representative, appeared, submitted written testimony, or otherwise participated in the action before the district may request the hearing board of the district to hold a public hearing to determine whether the permit was properly issued. * * * Except as provided in Section 1 of the act amending this section in the 1993 Regular Session of the Legislature, within 30 days of the request, the

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mended to read:

Section 65940 shall also indicate the
e the completeness of any application

agency for purposes of the California
with Section 21000) of the Public
plicant to submit the informational
f a complete application * * *, or to
a prerequisite to a permit application
may require sufficient information to
d by Section 21080.1 of the Public

shall, at the request of the applicant,
ment project prior to final action on
rmation necessary to commence the
ion. "lead agency" and "responsible
are defined in Section 21067 of the
blic Resources Code, respectively.

de is amended to read:

aining to the issuance of a permit by
issuance of the permit to any person
ation and mailing of notice provided
the 1993 Regular Session of the
hrough a representative, appeared,
n the action before the district may
c hearing to determine whether the
n Section 1 of the act amending this
within 30 days of the request, the

letions by asterisks * * *

earing board shall hold a public hearing and shall render a decision on whether the permit as properly issued.

SEC. 5. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to iscretionary projects proposed to be carried out or approved by public agencies, including, ut not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning ariances, the issuance of conditional use permits, and the approval of tentative subdivision aps * * * unless the project is exempt from * * * this division.

(b) This division shall not apply to any of the following activities:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, estore, demolish, or replace property or facilities damaged or destroyed as a result of a isaster in a disaster-stricken area in which a state of emergency has been proclaimed by the overnor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the overnment Code.

(4) Specific actions necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report, negative declaration, or other document, * * * prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located * * * if the environmental impact report, negative declaration, or document * * * includes the environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of (A) meeting operating expenses, including employee wage rates and fringe benefits, (B) purchasing or leasing supplies, equipment, or materials, (C) meeting financial reserve needs and requirements, (D) obtaining funds for capital projects necessary to maintain service within existing service areas, or (E) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

* * *

(9) All classes of projects designated pursuant to Section 21084.

(10) A project for the institution or increase of passenger or commuter services on rail or highway rights-of-way already in use, including modernization of existing stations and parking facilities.

(11) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.

(12) Facility extensions not to exceed four miles in length which are required for the transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

(13) A project for the development of a regional transportation improvement program or the state transportation improvement program.

(14) Any project or portion thereof located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in * * * this state * * * are subject to this division.

(15) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect on the environment in the plan or other written documentation required by Section 21080.5 is subject to this division.

(c) If a lead agency determines that a proposed project, not otherwise exempt from * * * this division, does not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect. The negative declaration shall be prepared for the proposed project in either of the following circumstances:

(1) There is no substantial evidence in light of the whole record before the lead agency that the project may have a significant effect on the environment.

(2) An initial study identifies potentially significant effects on the environment, but (A) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration is released for public review would avoid the effects or mitigate the effects to a point where clearly no significant * * * effect on the environment would occur, and (B) there is no substantial evidence in light of the whole record before the lead agency that the project, as revised, may have a significant effect on the environment.

(d) If there is substantial evidence in light of the whole record before the lead agency that the project may have a significant effect on the environment, an environmental impact report shall be prepared.

(e) Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment, is not substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

SEC. 6. Section 21081 of the Public Resources Code is amended to read:

21081. Pursuant to the policy stated in Sections 21002 and 21002.1, no public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant effects * * * on the environment that would occur if the project is approved or carried out unless the public agency makes one * * * or more * * * of the following findings:

(a) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant * * * effects * * * on the environment.

(b) Those changes or alterations are within the responsibility and jurisdiction of another public agency and * * * have been, or can and should be, adopted by that other agency * * *.

(c) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or * * * alternatives identified in the environmental impact report.

SEC. 7. Section 21082.2 of the Public Resources Code is amended to read:

21082.2. (a) The lead agency shall determine whether a project may have a significant effect on the environment based on substantial evidence in light of the whole record.

(b) The existence of public controversy over the environmental effects of a project shall not require preparation of an environmental impact report if there is no substantial evidence in light of the whole record before the lead agency that the project may have a significant effect on the environment.

(c) Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to,

or are not caused by, physical impacts on the environment, is not substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

(d) If there is substantial evidence, in light of the whole record before the lead agency, that a project may have a significant effect on the environment, an environmental impact report shall be prepared.

(e) Statements in an environmental impact report and comments with respect to an environmental impact report shall not be deemed determinative of whether the project may have a significant effect on the environment.

SEC. 8. Article 4 (commencing with Section 21159) is added to Chapter 4.5 of Division 13 of the Public Resources Code, to read:

Article 4. Expedited Environmental Review for Environmentally Mandated Projects

21159. (a) An agency listed in Section 21159.4 shall perform, at the time of the adoption of a rule or regulation requiring the installation of pollution control equipment, or a performance standard or treatment requirement, an environmental analysis of the reasonably foreseeable methods of compliance. In the preparation of this analysis, the agency may utilize numerical ranges or averages where specific data is not available; however, the agency shall not be required to engage in speculation or conjecture. The environmental analysis shall, at minimum, include, all of the following:

(1) An analysis of the reasonably foreseeable environmental impacts of the methods of compliance.

(2) An analysis of reasonably foreseeable feasible mitigation measures.

(3) An analysis of reasonably foreseeable alternative means of compliance with the rule or regulation.

(b) The preparation of an environmental impact report at the time of adopting a rule or regulation pursuant to this division shall be deemed to satisfy the requirements of this section.

(c) The environmental analysis shall take into account a reasonable range of environmental, economic, and technical factors, population and geographic areas, and specific sites.

(d) Nothing in this section shall require the agency to conduct a project level analysis.

(e) For purposes of this article, the term "performance standard" includes process or raw material changes or product reformulation.

(f) Nothing in this section is intended, or may be used, to delay the adoption of any rule or regulation for which an analysis is required to be performed pursuant to this section.

21159.4. This article shall apply to the following agencies: the State Air Resources Board, any district as defined in Section 39025 of the Health and Safety Code, the State Water Resources Control Board, a California regional water quality control board, the Department of Toxic Substances Control, and the California Integrated Waste Management Board.

SEC. 9. Section 21168.9 of the Public Resources Code is amended to read:

21168.9. (a) If a court finds, as a result of a trial, hearing, or remand from an appellate court, that any determination, finding, or decision of a public agency has been made without compliance with this division, the court shall enter an order that includes one or more of the following:

(1) A mandate that the determination, finding, or decision be voided by the public agency, in whole or in part.

(2) * * * If the court finds that a specific project activity or activities will prejudice the consideration or implementation of particular mitigation measures or alternatives to the project, a mandate that the public agency and any real parties in interest suspend any or all specific project activity or activities, pursuant to the determination, finding, or decision, that could result in * * * an adverse change or alteration to the physical environment, until the public agency has taken any actions that may be necessary to bring the determination, finding, or decision into compliance with this division.

(3) A mandate that the public agency take specific action as may be necessary to bring the determination, finding, or decision into compliance with this division.

(b) Any order pursuant to subdivision (a) shall include only those mandates which are necessary to achieve compliance with this division and only those specific project activities in noncompliance with this division. The order shall be made by the issuance of a peremptory writ of mandate specifying what action by the public agency is necessary to comply with this division. However, the order shall be limited to that portion of a determination, finding, or decision or the specific project activity or activities found to be in noncompliance only if a court finds that (1) the portion or specific project activity or activities are severable, (2) severance will not prejudice complete and full compliance with this division, and (3) the court has not found the remainder of the project to be in noncompliance with this division. The trial court shall retain jurisdiction over the public agency's proceedings by way of a return to the peremptory writ until the court has determined that the public agency has complied with this division.

(c) Nothing in this section authorizes a court to direct any public agency to exercise its discretion in any particular way. Except as expressly provided in this section, nothing in this section is intended to limit the equitable powers of the court.

* * *

SEC. 10. Section 21177 of the Public Resources Code is amended to read:

21177. (a) No action or proceeding may be brought pursuant to Section 21167 unless the alleged grounds for noncompliance with this division were presented to the public agency orally or in writing by any person during the public comment period provided by this division or prior to the close of the public hearing on the project before the issuance of the notice of determination.

(b) No person shall maintain an action or proceeding unless that person objected to the approval of the project orally or in writing during the public comment period provided by this division or prior to the close of the public hearing on the project before the issuance of the notice of determination.

(c) This section does not preclude any organization formed after the approval of a project from maintaining an action pursuant to Section 21167 if a member of that organization has complied with subdivision (b).

(d) This section does not apply to the Attorney General.

(e) This section does not apply * * * to any alleged grounds for noncompliance with this division for which there was no public hearing or other opportunity for members of the public to raise those objections orally or in writing prior to the approval of the project, or if the public agency failed to give the notice required by law.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 12. This act shall become operative only if Assembly Bill 1888 is enacted and takes effect.

POSTSECONDARY EDUCATION—TUITION—FEES

CHAPTER 1132

A.B. No. 39

AN ACT to amend Sections 66170, 66171, 66175, 76330, and 76355 of the Education Code, relating to postsecondary education, and declaring the urgency thereof, to take effect immediately.

(b) When a lead agency prepares a master environmental impact report, the docume shall include all of the following:

(1) A detailed statement as required by Section 21100.

(2) A description of anticipated subsequent projects that would be within the scope of a master environmental impact report, that contains sufficient information with regard to a kind, size, intensity, and location of the subsequent projects, including, but not limited to, a of the following:

(A) The specific type of project anticipated to be undertaken.

(B) The maximum and minimum intensity of any anticipated subsequent project, such a the number of residences in a residential development, and, with regard to a public work facility, its anticipated capacity and service area.

(C) The anticipated location and alternative locations for any development projects.

(D) A capital outlay or capital improvement program, or other scheduling or implementing device that governs the submission and approval of subsequent projects.

(3) A description of potential impacts of anticipated subsequent projects for which there is not sufficient information reasonably available to support a full assessment of potential impacts in the master environmental impact report. This description shall not be construed as a limitation on the impacts which may be considered in a focused environmental impact report.

(c) Lead agencies may develop and implement a fee program in accordance with applicable provisions of law to generate the revenue necessary to prepare a master environmental impact report.

SEC. 3. Section 2 of this bill incorporates amendments to Section 21157 of the Public Resources Code proposed by this bill and AB 314. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1995, (2) each bill amends Section 21157 of the Public Resources Code, and (3) this bill is enacted after AB 314, in which case Section 21157 of the Public Resources Code, as amended by AB 314, shall remain operative only until the operative date of this bill, at which time Section 2 of this bill shall become operative, and Section 1 of this bill shall not become operative.

ENVIRONMENT—IMPACT REPORTS FOR PROPOSED PROJECTS—SIGNIFICANCE OF POTENTIAL EFFECTS

CHAPTER 1230

S.B. No. 749

AN ACT to amend Sections 21002.1, 21005, 21064.5, 21065, 21080, 21080.1, 21081.6, 21100, 21100.1, and 21167.6 of, and to add Section 21080.14 to, the Public Resources Code, relating to environmental quality, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1994.]

[Filed with Secretary of State September 30, 1994.]

LEGISLATIVE COUNSEL'S DIGEST

SB 749, Thompson. Environmental quality.

(1) Existing law, the California Environmental Quality Act, requires the lead public agency, as defined, after the conduct of an initial study, to prepare a negative declaration or an environmental impact report for a proposed project, as specified.

The act requires that the environmental impact report set forth, among other things, the potentially significant effects on the environment, as defined, of the project and a brief written statement indicating the reasons for determining that various potential effects are not significant and consequently have not been discussed in detail in the report.

This bill would specify that a lead agency, in an environmental impact report, is required to focus the discussion on those potential effects on the environment which the lead agency has determined are, or may be, significant and may limit the discussion on other effects to a brief explanation as to why those effects are not potentially significant. The bill would declare policy in that regard and make related changes.

The bill would revise the definition of "project" for purposes of the act to specify that it is an activity which may cause a direct physical change, or a reasonably foreseeable indirect change, in the environment, and would express legislative intent in that regard.

The bill would exempt from the act, with a specified exception, any development project which consists of the construction, conversion, or use of residential housing consisting of not more than 45 units in an urbanized area, as defined, that is affordable to lower income households or low- and moderate-income households, as prescribed, that meets specified requirements. By imposing new duties on local agencies regarding determining the applicability of, and giving notice of, that exemption, the bill would impose a state-mandated local program.

(2) The act requires an environmental impact report to set forth the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.

This bill would delete that requirement and would conform related provisions. These provisions of the bill would prevail over specified provisions of AB 314 if both bills are chaptered, regardless of which bill is chaptered last.

(3) The act requires a lead agency to adopt a negative declaration if it determines that there is no substantial evidence in light of the record before the lead agency that the proposed project would have a significant effect on the environment, or, after an initial study identifying potentially significant effects on the environment that may result from the project, that the project, as revised and mitigated, would not have a significant effect on the environment.

This bill would authorize the lead agency to conclude that certain mitigation measures that have been identified in the initial study are infeasible or otherwise undesirable, and would, in those circumstances, authorize the lead agency, prior to approving the project, to delete those mitigation measures and substitute for them other mitigation measures that are equivalent or more effective in mitigating significant effects on the environment.

(4) The act prescribes procedures relating to the preparation and certification of the record of proceedings in an action or proceeding alleging noncompliance with the act.

This bill would require the record of proceedings to include specified items.

(5) The act requires the Office of Planning and Research, at least every 2 years, to review the guidelines adopted to implement the act. The act authorizes the use of a focused environmental impact report under prescribed circumstances.

This bill would require the office, in its next scheduled review of the guidelines, to review and provide further development of the concept of using a focused environmental impact report, and to provide recommendations for revising the definition of "project" in the guidelines to conform to changes in that definition made by the bill.

(6) The bill would also authorize the office to include in its annual survey questions relating to the impact of the exemption for development projects that are affordable to lower income households or to low- and moderate-income households on lead agencies that are considering the approval of those development projects.

(7) The bill would make various clarifying and technical changes.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that for certain costs no reimbursement is required by this act for a specified reason.

Moreover, the bill would provide that no reimbursement shall be made from the State Mandates Claims Fund for other costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for those other costs.

(9) This bill also makes additional changes proposed by AB 314, to be operative only if AB 314 and this bill are both chaptered and become effective on or before January 1, 1995, and this bill is chaptered last.

(10) The bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 21002.1 of the Public Resources Code is amended to read:

21002.1. In order to achieve the objectives set forth in Section 21002, the Legislature hereby finds and declares that the following policy shall apply to the use of environmental impact reports prepared pursuant to this division:

(a) The purpose of an environmental impact report is to identify the significant effects * * * on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided.

(b) Each public agency shall mitigate or avoid the significant effects on the environment of projects * * * that it carries out or approves whenever it is feasible to do so.

(c) * * * If economic, social, or other conditions make it infeasible to mitigate one or more significant effects * * * on the environment of a project, the project may nonetheless be * * * carried out or approved at the discretion of a public agency * * * if the project is otherwise permissible under applicable laws and regulations.

(d) In applying the policies of subdivisions (b) and (c) to individual projects, the responsibility of * * * the lead agency shall differ from that of a * * * responsible agency. * * * The lead agency shall * * * be responsible for considering the effects, both individual and collective, of all activities involved in a project. A * * * responsible agency shall * * * be responsible for considering only the effects of those activities involved in a project * * * which it is required by law to carry out or approve. This subdivision applies only to decisions by a public agency to carry out or approve a project and does not otherwise affect the scope of the comments that the public agency may wish to make pursuant to Section 21104 or 21153.

(e) To provide more meaningful public disclosure, reduce the time and cost required to prepare an environmental impact report, and focus on potentially significant effects on the environment of a proposed project, lead agencies shall, in accordance with Section 21100, focus the discussion in the environmental impact report on those potential effects on the environment of a proposed project which the lead agency has determined are or may be significant. Lead agencies may limit discussion on other effects to a brief explanation as to why those effects are not potentially significant.

SEC. 2. Section 21005 of the Public Resources Code is amended to read:

21005. (a) The Legislature finds and declares that it is the policy of the state that noncompliance with the information disclosure provisions of this division which precludes relevant information from being presented to the public agency, or noncompliance with substantive requirements of this division, may constitute a prejudicial abuse of discretion within the meaning of Sections 21168 and 21168.5, regardless of whether a different outcome would have resulted if the public agency had complied with those provisions.

* * * (b) It is the intent of the Legislature * * * that, in undertaking judicial review pursuant to Sections 21168 and 21168.5, courts shall continue to follow the established principle that there is no presumption that error is prejudicial.

(c) It is further the intent of the Legislature that any court, which finds, or, in the process of reviewing a previous court finding, finds, that a public agency has taken an action without compliance with this division, shall specifically address each of the alleged grounds for noncompliance.

SEC. 3. Section 21064.5 of the Public Resources Code is amended to read:

21064.5. "Mitigated negative declaration" means a negative declaration prepared for a project when the initial study has identified potentially significant effects on the environment, but (1) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration * * * and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (2) there is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment.

SEC. 4. Section 21065 of the Public Resources Code is amended to read:

21065. "Project" means an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:

(a) * * * An activity directly undertaken by any public agency.

(b) * * * An activity undertaken by a person which * * * is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies.

(c) * * * An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies.

SEC. 5. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is exempt from this division.

(b) This division shall not apply to any of the following activities:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report, negative declaration, or other document, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located if the environmental impact report, negative declaration, or document includes the environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of (A) meeting operating expenses, including employee wage rates and fringe benefits, (B) purchasing or leasing supplies, equipment, or materials, (C) meeting financial reserve needs and requirements, (D) obtaining funds for capital projects necessary to maintain service within existing service areas, or (E) obtaining funds necessary to maintain those intracity

transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) All classes of projects designated pursuant to Section 21084.

(10) A project for the institution or increase of passenger or commuter services on rail or highway rights-of-way already in use, including modernization of existing stations and parking facilities.

(11) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.

(12) Facility extensions not to exceed four miles in length which are required for the transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

(13) A project for the development of a regional transportation improvement program or the state transportation improvement program.

(14) Any project or portion thereof located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in this state are subject to this division.

(15) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section 21080.5. Any site-specific effect of the project which was not analyzed as a significant effect on the environment in the plan or other written documentation required by Section 21080.5 is subject to this division.

(c) If a lead agency determines that a proposed project, not otherwise exempt from this division, would not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect. The negative declaration shall be prepared for the proposed project in either of the following circumstances:

(1) There is no substantial evidence in light of the whole record before the lead agency that the project may have a significant effect on the environment.

(2) An initial study identifies potentially significant effects on the environment, but (A) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration * * * and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (B) there is no substantial evidence in light of the whole record before the lead agency that the project, as revised, may have a significant effect on the environment.

(d) If there is substantial evidence in light of the whole record before the lead agency that the project may have a significant effect on the environment, an environmental impact report shall be prepared.

(e) Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly inaccurate or erroneous, or evidence of social or economic impacts which do not contribute to, or are not caused by, physical impacts on the environment, is not substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

(f) As a result of the public review process for a mitigated negative declaration, including administrative decisions and public hearings, the lead agency may conclude that certain mitigation measures identified pursuant to paragraph (2) of subdivision (c) are infeasible or otherwise undesirable. In those circumstances, the lead agency, prior to approving the project, may delete those mitigation measures and substitute for them other mitigation measures that the lead agency finds, after holding a public hearing on the matter, are equivalent or more effective in mitigating significant effects on the environment to a less than significant level and that do not cause any potentially significant effect on the environment. If those new mitigation measures are made conditions of project approval or are otherwise made part of the project approval, the deletion of the former measures and the substitution of

the new mitigation measures shall not constitute an action or circumstance requiring recirculation of the mitigated negative declaration.

(g) Nothing in this section shall preclude a project applicant or any other person from challenging, in an administrative or judicial proceeding, the legality of a condition of project approval imposed by the lead agency. If, however, any condition of project approval set aside by either an administrative body or court was necessary to avoid or lessen the likelihood of the occurrence of a significant effect on the environment, the lead agency's approval of the negative declaration and project shall be invalid and a new environmental review process shall be conducted before the project can be reapproved, unless the lead agency substitutes a new condition that the lead agency finds, after holding a public hearing on the matter, is equivalent to, or more effective in, lessening or avoiding significant effects on the environment and that does not cause any potentially significant effect on the environment.

SEC. 6. Section 21080.1 of the Public Resources Code is amended to read:

21080.1. (a) The lead agency shall * * * be responsible for determining whether an environmental impact report, a negative declaration, or a mitigated negative declaration shall be required for any project which is subject to this division. That determination shall be final and conclusive on all persons, including responsible agencies, unless challenged * * * as provided in Section 21167.

(b) In the case of a project described in subdivision (c) of Section 21065, the lead agency shall, upon the request of a potential applicant, provide for consultation prior to the filing of the application regarding the range of actions, potential alternatives, mitigation measures, and any potential and significant effects on the environment of the project.

SEC. 7. Section 21080.14 is added to the Public Resources Code, to read:

21080.14. (a) Except as provided in subdivision (c), this division does not apply to any development project which consists of the construction, conversion, or use of residential housing consisting of not more than 45 units in an urbanized area that is affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code, if the developer of the development project provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for lower income households for a period of at least 15 years, or that is affordable to low- and moderate-income households, as defined in paragraph (2) of subdivision (h) of Section 65589.5 of the Government Code, if the developer of the development project provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for low- and moderate-income households at monthly housing costs as determined pursuant to paragraph (2) of subdivision (h) of Section 65589.5 of the Government Code, and the development project meets all of the following requirements:

(1) The development project is consistent with the jurisdiction's general plan as it existed on the date the application was deemed complete.

(2) The development project is consistent with the zoning designation, as specified in the zoning ordinance as it existed on the date the application was deemed complete, unless the zoning is inconsistent with the general plan because the local agency has not rezoned the property to bring it into conformity with the general plan.

(3) The project site has been previously developed for urban uses, or the immediately contiguous properties surrounding the project site are, or previously have been, developed for urban uses.

(4) The project site is not more than two acres in area.

(5) The project site can be adequately served by utilities.

(6) The project site has no value as a wildlife habitat.

(7) The project site is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.

(8) The project site is subject to an assessment prepared by a California registered environmental assessor to determine the presence of hazardous contaminants on the site and the potential for exposure of site occupants to significant health hazards from nearby properties and activities. If hazardous contaminants on the site are found, the contaminants must be removed or any significant effects of those contaminants must be mitigated to a level

of insignificance. If the potential for exposure to significant health hazards from surrounding properties or activities is found to exist, the effects of the potential exposure must be mitigated to a level of insignificance.

(9) The project will not involve the demolition of, or any substantial adverse change in, any district, landmark, object, building, structure, site, area, or place that is listed, or determined to be eligible for listing, in the California Register of Historical Resources.

(b) As used in subdivision (a), "urbanized area" means an area that has a population density of at least 1,000 persons per square mile.

(c) Notwithstanding subdivision (a), this division does apply to a development project described in subdivision (a) if there is a reasonable possibility that the development project would have a significant effect on the environment due to unusual circumstances or due to related or cumulative impacts of reasonably foreseeable projects in the vicinity of the development project.

SEC. 8. Section 21081.6 of the Public Resources Code is amended to read:

21081.6. (a) When making the findings required by subdivision (a) of Section 21081 or when adopting a mitigated negative declaration pursuant to paragraph (2) of subdivision (c) of Section 21080, the following requirements shall apply:

(1) The public agency shall adopt a reporting or monitoring program for the changes made to the project * * *, or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation. For those changes which have been required or incorporated into the project at the request of * * * a responsible agency or a public agency having jurisdiction by law over natural resources affected by the project, that agency shall, if so requested by the lead agency or a responsible agency, prepare and submit a proposed reporting or monitoring program.

(2) The lead agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based.

(b) If there is a project for which mitigation is adopted, a public agency shall comply with subdivision (a) by, among other things, adopting mitigation measures as conditions of project approval. Those conditions of project approval may be set forth in referenced documents which address required mitigation measures or, in the case of the adoption of a plan, policy, regulation, or other public project, by incorporating the mitigation measures into the plan, policy, regulation, or project design.

(c) Prior to the close of the public review period for a draft environmental impact report or mitigated negative declaration, a responsible agency, or a public agency having jurisdiction over natural resources affected by the project, shall either submit to the lead agency complete and detailed performance objectives for mitigation measures which would address the significant effects on the environment identified by the responsible agency or agency having jurisdiction over natural resources affected by the project, or refer the lead agency to appropriate, readily available guidelines or reference documents. Any mitigation measures submitted to a lead agency by a responsible agency or an agency having jurisdiction over natural resources affected by the project shall be limited to measures which mitigate impacts to resources which are subject to the statutory authority of, and definitions applicable to, that agency. Compliance or noncompliance by a responsible agency or agency having jurisdiction over natural resources affected by a project with that requirement shall not limit the authority of the responsible agency or agency having jurisdiction over natural resources affected by a project, or the authority of the lead agency, to approve, condition, or deny projects as provided by this division or any other provision of law.

* * *

SEC. 8.5. Section 21081.6 of the Public Resources Code is amended to read:

21081.6. (a) When making the findings required by paragraph (1) of subdivision (a) of Section 21081 or when adopting a mitigated negative declaration pursuant to paragraph (2) of subdivision (c) of Section 21080, the following requirements shall apply:

(1) The public agency shall adopt a reporting or monitoring program for the changes made to the project * * * or conditions of project approval, adopted in order to mitigate or avoid

significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation. For those changes which have been required or incorporated into the project at the request of * * * a responsible agency or a public agency having jurisdiction by law over natural resources affected by the project, that agency shall, if so requested by the lead agency or a responsible agency, prepare and submit a proposed reporting or monitoring program.

(2) The lead agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based.

(b) * * * A public agency shall provide that measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures. Conditions of project approval may be set forth in referenced documents which address required mitigation measures or, in the case of the adoption of a plan, policy, regulation, or other public project, by incorporating the mitigation measures into the plan, policy, regulation, or project design.

(c) Prior to the close of the public review period for a draft environmental impact report or mitigated negative declaration, a responsible agency, or a public agency having jurisdiction over natural resources affected by the project, shall either submit to the lead agency complete and detailed performance objectives for mitigation measures which would address the significant effects on the environment identified by the responsible agency or agency having jurisdiction over natural resources affected by the project, or refer the lead agency to appropriate, readily available guidelines or reference documents. Any mitigation measures submitted to a lead agency by a responsible agency or an agency having jurisdiction over natural resources affected by the project shall be limited to measures which mitigate impacts to resources which are subject to the statutory authority of, and definitions applicable to, that agency. Compliance or noncompliance by a responsible agency or agency having jurisdiction over natural resources affected by a project with that requirement shall not limit the authority of the responsible agency or agency having jurisdiction over natural resources affected by a project, or the authority of the lead agency, to approve, condition, or deny projects as provided by this division or any other provision of law.

* * *

SEC. 9. Section 21100 of the Public Resources Code is amended to read:

21100. (a) All lead agencies * * * shall prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on any project which they propose to carry out or approve that may have a significant effect on the environment. Whenever feasible, a standard format shall be used for environmental impact reports.

(b) The environmental impact report shall include a detailed statement setting forth all of the following:

(1) All significant effects on the environment of the proposed project.

(2) In a separate section:

(A) Any significant effect on the environment that cannot be avoided if the project is implemented.

(B) Any significant effect on the environment that would be irreversible if the project is implemented.

* * *

(3) Mitigation measures proposed to minimize * * * significant effects on the environment, including, but not limited to, measures to reduce the wasteful, inefficient, and unnecessary consumption of energy.

(4) Alternatives to the proposed project.

* * *

(5) The growth-inducing impact of the proposed project.

(c) The report shall also contain a statement briefly indicating the reasons for determining that various effects on the environment of a project are not significant and consequently have not been discussed in detail in the environmental impact report.

(d) For purposes of this section, any significant effect on the environment shall be limited to substantial, or potentially substantial, adverse changes in physical conditions which exist within the area as defined in Section 21060.5.

(e) Previously approved land use documents, including, but not limited to, general plans, specific plans, and local coastal plans, may be used in cumulative impact analysis. * * *

SEC. 10. Section 21100.1 of the Public Resources Code is amended to read:

21100.1. The information described in * * * subparagraph (B) of paragraph (2) of subdivision (b) of Section 21100 shall be required only in environmental impact reports prepared in connection with the following:

(a) The adoption, amendment, or enactment of a plan, policy, or ordinance of a public agency.

(b) The adoption by a local agency formation commission of a resolution making determinations.

(c) A project which will be subject to the requirement for preparing an environmental impact statement pursuant to the requirements of the National Environmental Policy Act of 1969.

SEC. 11. Section 21167.6 of the Public Resources Code is amended to read:

21167.6. Notwithstanding any other provision of law, in all actions or proceedings brought pursuant to Section 21167, except those involving the Public Utilities Commission, all of the following shall apply:

(a) At the time that the action or proceeding is filed, the plaintiff or petitioner shall file a request that the respondent public agency prepare the record of proceedings relating to the subject of the action or proceeding. The request, together with the complaint or petition, shall be served upon the public agency not later than 10 business days * * * from the date that the action * * * or proceeding was filed.

(b)(1) The public agency shall prepare and certify the record of proceedings not later than 60 days * * * from the date that the request specified in subdivision (a) was served upon the public agency. Upon certification, the public agency shall lodge a copy of the record of proceedings with the court and shall serve on the parties notice that the record of proceedings has been certified and lodged with the court. The parties shall pay any costs or fees imposed for the preparation of the record of proceedings in conformance with any law or rule of court.

(2) The plaintiff or petitioner may elect to prepare the record of proceedings or the parties may agree to an alternative method of preparation of the record of proceedings, subject to certification of its accuracy by the public agency, within the time limit specified in this subdivision.

(c) The time limit established by subdivision (b) may be extended only upon the stipulation of all parties who have been properly served in the action or proceeding or upon order of the court. Extensions shall be liberally granted by the court when the size of the record of proceedings renders infeasible compliance with that time limit. There is no limit on the number of extensions which may be granted by the court, but no single extension shall exceed 60 days unless the court determines that a longer extension is in the public interest.

(d) If the public agency fails to prepare and certify the record within the time limit established in subdivision (b), or any continuances of that time limit, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions.

(e) The record of proceedings shall include, but is not limited to, all of the following items:

(1) All project application materials.

(2) All staff reports and related documents prepared by the respondent public agency with respect to its compliance with the substantive and procedural requirements of this division and with respect to the action on the project.

(3) All staff reports and related documents prepared by the respondent public agency and written testimony or documents submitted by any person relevant to any findings or statement of overriding considerations adopted by the respondent agency pursuant to this division.

(4) Any transcript or minutes of the proceedings at which the decisionmaking body of the respondent public agency heard testimony on, or considered any environmental document on, the project, and any transcript or minutes of proceedings before any advisory body to the respondent public agency which were presented to the decisionmaking body prior to action on the environmental documents or on the project.

(5) All notices issued by the respondent public agency to comply with this division or with any other law governing the processing and approval of the project.

(6) All written comments received in response to, or in connection with, environmental documents prepared for the project, including responses to the notice of preparation.

(7) All written evidence or correspondence submitted to, or transferred from, the respondent public agency with respect to compliance with this division or with respect to the project.

(8) Any proposed decisions or findings submitted to the decisionmaking body of the respondent public agency by its staff, or the project proponent, project opponents, or other persons.

(9) The documentation of the final public agency decision, including the final environmental impact report, mitigated negative declaration, or negative declaration, and all documents, in addition to those referenced in paragraph (3), cited or relied on in the findings or in a statement of overriding considerations adopted pursuant to this division.

(10) Any other written materials relevant to the respondent public agency's compliance with this division or to its decision on the merits of the project, including the initial study, any drafts of any environmental document, or portions thereof, which have been released for public review, and copies of studies or other documents relied upon in any environmental document prepared for the project and either made available to the public during the public review period or included in the respondent public agency's files on the project, and all internal agency communications, including staff notes and memoranda related to the project or to compliance with this division.

(11) The full written record before any inferior administrative decisionmaking body whose decision was appealed to a superior administrative decisionmaking body prior to the filing of litigation.

(f) In preparing the record of proceedings, the party preparing the record shall strive to do so at reasonable cost in light of the scope of the record.

(g) The clerk of the superior court shall prepare and certify the clerk's transcript on appeal not later than 60 days * * * from the date that the notice designating the papers or records to be included in the clerk's transcript was filed with the superior court, if the party or parties pay any costs or fees for the preparation of the clerk's transcript imposed in conformance with any law or rules of court. Nothing in this subdivision precludes an election to proceed * * * by appendix, as provided in Rule 5.1 of the California Rules of Court.

(h) Extensions of the period for the filing of any brief on appeal may be allowed only by stipulation of the parties or by order of the court for good cause shown. Extensions for the filing of a brief on appeal shall be limited to one 30-day extension for the preparation of an opening brief, and one 30-day extension for the preparation of a responding brief, except that the court may grant a longer extension or additional extensions if it determines that there is a substantial likelihood of settlement that would avoid the necessity of completing the appeal.

(i) At the completion of the filing of briefs on appeal, the appellant shall notify the court of the completion of the filing of briefs, whereupon the clerk of the reviewing court shall set the appeal for hearing on the first available calendar date.

SEC. 12. (a) In the next scheduled review of the guidelines pursuant to Section 21087 of the Public Resources Code, the Office of Planning and Research shall (1) review the impact of Article 3 (commencing with Section 21158) of Chapter 4.5 of Division 13 of the Public Resources Code and provide further development of the concept of using a focused environmental impact report, and (2) provide recommendations for revising the definition of "project" in the guidelines to conform to Section 21065 of the Public Resources Code, as amended by Section 4 of this act.

(b) The Legislature hereby declares that the amendment of Section 21065 of the Public Resources Code by Section 4 of this act is intended to clarify the definition of "project" as

currently set forth in subdivision (a) of Section 15378 of Title 14 of the California Code of Regulations, as adopted by the Secretary of the Resources Agency. The primary purpose of the change is to codify the holdings of Kaufman & Broad-South Bay, Inc. v. Morgan Hill Unified School District (1992), 9 Cal.App. 4th 464, and City of Livermore v. Local Agency Formation Com. (1986), 184 Cal.App. 3d 531.

SEC. 13. (a) The Office of Planning and Research may include in its annual survey questions relating to the impact of the exemption to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for specified types of residential housing that is provided pursuant to Section 21080.14 of the Public Resources Code, as added by Section 7 of this act, on lead agencies that are considering the approval of housing development projects that are intended for lower income households or that are affordable to low- and moderate-income households.

(b) It is the intent of the Legislature that the survey questions shall include an analysis of the ability of the lead agency to address potential significant effects on the environment that may result from the proposed development project, including the conversion of agricultural lands to urban uses, to impose conditions on the construction of the proposed development project, and to shorten the amount of time within which the proposed development project may be considered and acted upon.

SEC. 14. If this bill and AB 314 are both chaptered, the provisions of this bill that amend Sections 21100, 21100.1, and 21167.6 of the Public Resources Code shall prevail over the provisions of AB 314 that amend those sections of the Public Resources Code regardless of which bill is chaptered last.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution to the extent that the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

Moreover, no reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for other costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law for those other costs.

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

SEC. 16. The changes to subdivision (e) of Section 21100 of the Public Resources Code made by this bill shall not become operative until January 1, 1995.

SEC. 17. Section 8.5 of this bill incorporates amendments to Section 21080.6 of the Public Resources Code proposed by this bill and AB 314. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1995, (2) each bill amends Section 21080.6 of the Public Resources Code, and (3) this bill is enacted after AB 314, in which case Section 21080.6 of the Public Resources Code, as amended by AB 314, shall remain operative only until the operative date of this bill, at which time Section 8.5 of this bill shall become operative, and Section 8 of this bill shall not become operative.

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

In order to ensure, as soon as possible, the efficient review of projects subject to the California Environmental Quality Act, thereby protecting the environment and improving the economy of the state, it is necessary that this act take effect immediately.

COUNTY OF LIBRARY

(g) As a last resort, and only if no recognition is made pursuant to the procedure specified in subdivisions (e) and (f) within 120 days after a base closure decision has become final or within 120 days after the date on which this section becomes operative, whichever date is later, the Defense Conversion Council, created pursuant to Article 3.6 (commencing with Section 15346) of Chapter 1 of Part 6.7 of Division 3 of Title 2, shall hold public hearings and recognize a single local base reuse entity for each closing base for which agreement is reached among the local jurisdictions with responsibility for complying with Chapter 3 (commencing with Section 65100) and Chapter 4 (commencing with Section 65800) on the base, or recommend legislation or action by the local agency formation commission if necessary to implement a proposed recognition.

(h) In recognizing a single local reuse entity pursuant to this section, preference shall be given to existing entities and entities with responsibility for complying with Chapter 3 (commencing with Section 65100) and Chapter 4 (commencing with Section 65800).

(i) Any recognition of a single local reuse entity made pursuant to subdivision (e), (f), or (g) shall be submitted by the Director of the Office of Planning and Research to the Governor, the Legislature, and the United States Department of Defense.

ENVIRONMENT—IMPACT REPORTS—CONGESTION MANAGEMENT PROGRAMS

CHAPTER 547

A.B. No. 298

AN ACT to amend Section 21080 of the Public Resources Code, relating to environmental quality.

[Approved by Governor September 15, 1996.]

[Filed with Secretary of State September 16, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 298, Rainey. Environmental impact reports: congestion management programs: exemption.

(1) Existing law, the California Environmental Quality Act, requires a public lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project which it proposes to carry out or approve that may have a significant effect on the environment, as defined, unless the project is exempt from the act. Existing law also requires certain counties to develop, adopt, and annually update a congestion management program.

This bill would exempt a project for the development of a congestion management program from the act and make clarifying changes in related provisions.

The bill would impose a state-mandated local program by imposing new duties on local agencies with regard to determining the applicability of, and filing and posting notice of, the exemption.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 21080 of the Public Resources Code is amended to read:

21080. (a) Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning

variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is exempt from this division.

(b) This division does not apply to any of the following activities:

(1) Ministerial projects proposed to be carried out or approved by public agencies.

(2) Emergency repairs to public service facilities necessary to maintain service.

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(4) Specific actions necessary to prevent or mitigate an emergency.

(5) Projects which a public agency rejects or disapproves.

(6) Actions undertaken by a public agency relating to any thermal powerplant site or facility, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a thermal powerplant, if the powerplant site and related facility will be the subject of an environmental impact report, negative declaration, or other document, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the State Energy Resources Conservation and Development Commission, by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located if the environmental impact report, negative declaration, or document includes the environmental impact, if any, of the action described in this paragraph.

(7) Activities or approvals necessary to the bidding for, hosting or staging of, and funding or carrying out of, an Olympic games under the authority of the International Olympic Committee, except for the construction of facilities necessary for the Olympic games.

(8) The establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of (A) meeting operating expenses, including employee wage rates and fringe benefits, (B) purchasing or leasing supplies, equipment, or materials, (C) meeting financial reserve needs and requirements, (D) obtaining funds for capital projects necessary to maintain service within existing service areas, or (E) obtaining funds necessary to maintain those intracity transfers as are authorized by city charter. The public agency shall incorporate written findings in the record of any proceeding in which an exemption under this paragraph is claimed setting forth with specificity the basis for the claim of exemption.

(9) All classes of projects designated pursuant to Section 21084.

(10) A project for the institution or increase of passenger or commuter services on rail or highway rights-of-way already in use, including modernization of existing stations and parking facilities.

(11) A project for the institution or increase of passenger or commuter service on high-occupancy vehicle lanes already in use, including the modernization of existing stations and parking facilities.

(12) Facility extensions not to exceed four miles in length which are required for the transfer of passengers from or to exclusive public mass transit guideway or busway public transit services.

(13) A project for the development of a regional transportation improvement program, the state transportation improvement program, or a congestion management program prepared pursuant to Section 65089 of the Government Code.

(14) Any project or portion thereof located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) or similar state laws of that state. Any emissions or discharges that would have a significant effect on the environment in this state are subject to this division.

(15) Projects undertaken by a local agency to implement a rule or regulation imposed by a state agency, board, or commission under a certified regulatory program pursuant to Section

21080.5. Any site-specific effect of the project which was not analyzed as a significant effect on the environment in the plan or other written documentation required by Section 21080.5 is subject to this division.

(c) If a lead agency determines that a proposed project, not otherwise exempt from this division, would not have a significant effect on the environment, the lead agency shall adopt a negative declaration to that effect. The negative declaration shall be prepared for the proposed project in either of the following circumstances:

(1) There is no substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment.

(2) An initial study identifies potentially significant effects on the environment, but (A) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (B) there is no substantial evidence, in light of the whole record before the lead agency, that the project, as revised, may have a significant effect on the environment.

(d) If there is substantial evidence, in light of the whole record before the lead agency, that the project may have a significant effect on the environment, an environmental impact report shall be prepared.

(e)(1) For the purposes of this section and this division, substantial evidence includes fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact.

* * *(2) Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment * * *.

(f) As a result of the public review process for a mitigated negative declaration, including administrative decisions and public hearings, the lead agency may conclude that certain mitigation measures identified pursuant to paragraph (2) of subdivision (c) are infeasible or otherwise undesirable. In those circumstances, the lead agency, prior to approving the project, may delete those mitigation measures and substitute for them other mitigation measures that the lead agency finds, after holding a public hearing on the matter, are equivalent or more effective in mitigating significant effects on the environment to a less than significant level and that do not cause any potentially significant effect on the environment. If those new mitigation measures are made conditions of project approval or are otherwise made part of the project approval, the deletion of the former measures and the substitution of the new mitigation measures shall not constitute an action or circumstance requiring recirculation of the mitigated negative declaration.

(g) Nothing in this section shall preclude a project applicant or any other person from challenging, in an administrative or judicial proceeding, the legality of a condition of project approval imposed by the lead agency. If, however, any condition of project approval set aside by either an administrative body or court was necessary to avoid or lessen the likelihood of the occurrence of a significant effect on the environment, the lead agency's approval of the negative declaration and project shall be invalid and a new environmental review process shall be conducted before the project can be reapproved, unless the lead agency substitutes a new condition that the lead agency finds, after holding a public hearing on the matter, is equivalent to, or more effective in, lessening or avoiding significant effects on the environment and that does not cause any potentially significant effect on the environment.

SEC. 2. 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.

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

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COUNTY OF LIBRARY

8. CLAIM CERTIFICATION

*Read, sign, and date this section and insert at the end of the test claim submission.**

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

Lizanne Reynolds
Print or Type Name of Authorized Local Agency or School District Official

Deputy County Counsel
Print or Type Title

Lizanne Reynolds
Signature of Authorized Local Agency or School District Official

May 28, 2009
Date

** If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*