STATE of CALIFORNIA
COMMISSION ON STATE MANDATES

For CSM Use Only	
Filing Date:	Commission on State Mandates Filed Date June 30, 2026
TC #:	25-TC-05

TEST CLAIM FORM AND TEST CLAIM AMENDMENT FORM (Pursuant to Government Code section 17500 et seq. and Title 2, California Code of Regulations, section 1181.1 et seq.)

Section 1

Proposed Test Claim Title:
AB 130: Housing

Section 2

Local Government (Local Agency/School District) Name:
County of Sacramento

Name and Title of Claimant's Authorized Official pursuant to CCR, tit.2, § 1183.1(a)(1-5):
Chad Rinde, Director of Finance

Street Address, City, State, and Zip:
700 H Street, Suite 3650, Sacramento, CA 95814

Telephone Number: 916-874-7450
Email Address: rindec@saccounty.gov

Section 3 – Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be sent to this representative. Any change in representation must be authorized by the claimant in writing, and e-filed with the Commission on State Mandates. (CCR, tit.2, § 1183.1(b)(1-5).)

Name and Title of Claimant Representative:
Chad Rinde, Director of Finance

Organization: County of Sacramento

Street Address, City, State, Zip:
700 H Street, Suite 3650, Sacramento, CA 95814

Telephone Number: 916-874-7450
Email Address: rindec@saccounty.gov

Section 4 – Identify all code sections (include statutes, chapters, and bill numbers; e.g., Penal Code section 2045, Statutes 2004, Chapter 54 [AB 290]), regulatory sections (include register number and effective date; e.g., California Code of Regulations, title 5, section 60100 (Register 1998, No. 44, effective 10/29/98), and other executive orders (include effective date) that impose the alleged mandate pursuant to Government Code section 17553 and check for amendments to the section or regulations adopted to implement it:

Assembly Bill 130: Housing

Health and Safety Code Sections 17974.1 and 17974.5

Statutes of 2025, Chapter 22, Sections 33 & 36: Housing, effective July 1, 2025

☑ Test Claim is Timely Filed on [Insert Filing Date] [select either A or B]: 6 / 30 / 2026

☑ A: Which is not later than 12 months (365 days) following [insert effective date] 07 / 01 / 2025, the effective date of the statute(s) or executive order(s) pled; or

☐ B: Which is within 12 months (365 days) of [insert the date costs were *first* incurred to implement the alleged mandate] ___/___/_____, which is the date of first incurring costs as a result of the statute(s) or executive order(s) pled. *This filing includes evidence which would be admissible over an objection in a civil proceeding to support the assertion of fact regarding the date that costs were first incurred*.

(Gov. Code § 17551(c); Cal. Code Regs., tit. 2, §§ 1183.1(c) and 1187.5.)

Section 5 – Written Narrative:

☑ Includes a statement that actual or estimated costs exceed one thousand dollars ($1,000). (Gov. Code § 17564.)

☑ Includes all of the following elements for each statute or executive order alleged **pursuant to Government Code section 17553(b)(1)**:

☑ Identifies all sections of statutes or executive orders and the effective date and register number of regulations alleged to contain a mandate, including a detailed description of the *new* activities and costs that arise from the alleged mandate and the existing activities and costs that are *modified* by the alleged mandate;

☑ Identifies *actual* increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate;

☑ Identifies *actual or estimated* annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed;

☑ Contains a statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed;

Following FY: 2026 - 2027 Total Costs: $2,841,325

☑ Identifies all dedicated funding sources for this program;

State: None

Federal: None

Local agency's general purpose funds: No dedicated funding source. General funds to cover costs.

Other nonlocal agency funds: None

Fee authority to offset costs: None

☑ Identifies prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate: None

☑ Identifies any legislatively determined mandates that are on, or that may be related to, the same statute or executive order: None

Section 6 – The Written Narrative Shall be Supported with Declarations Under Penalty of Perjury Pursuant to Government Code Section 17553(b)(2) and California Code of Regulations, title 2, section 1187.5, as follows:

☑ Declarations of actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate.

☑ Declarations identifying all local, state, or federal funds, and fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs.

☑ Declarations describing new activities performed to implement specified provisions of the new statute or executive order alleged to impose a reimbursable state-mandated program (specific references shall be made to chapters, articles, sections, or page numbers alleged to impose a reimbursable state-mandated program).

☐ If applicable, declarations describing the period of reimbursement and payments received for full reimbursement of costs for a legislatively determined mandate pursuant to Government Code section 17573, and the authority to file a test claim pursuant to paragraph (1) of subdivision (c) of Government Code section 17574.

☑ The declarations are signed under penalty of perjury, based on the declarant's personal knowledge, information, or belief, by persons who are authorized and competent to do so.

Section 7 – The Written Narrative Shall be Supported with Copies of the Following Documentation Pursuant to Government Code section 17553(b)(3) and California Code of Regulations, title 2, § 1187.5:

☑ The test claim statute that includes the bill number, and/or executive order identified by its effective date and register number (if a regulation), alleged to impose or impact a mandate. Pages 19 to 176.

☑ Relevant portions of state constitutional provisions, federal statutes, and executive orders that may impact the alleged mandate. Pages 283 to 291.

☑ Administrative decisions and court decisions cited in the narrative. (Published court decisions arising from a state mandate determination by the Board of Control or the Commission are exempt from this requirement.) Pages 177 to 282.

☑ Evidence to support any written representation of fact. *Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.* (*Cal. Code Regs., tit. 2, § 1187.5*.) Pages 2 to 17.

Section 8 – TEST CLAIM CERTIFICATION Pursuant to Government Code section 17553

☑ The test claim form is signed and dated at the end of the document, under penalty of perjury by the eligible claimant, with the declaration that the test claim is true and complete to the best of the declarant's personal knowledge, information, or belief.

Read, sign, and date this section. Test claims that are not signed by authorized claimant officials pursuant to California Code of Regulations, title 2, section 1183.1(a)(1-5) will be returned as incomplete. In addition, please note that this form also serves to designate a claimant representative for the matter (if desired) and for that reason may only be signed by an authorized local government official as defined in section 1183.1(a)(1-5) of the Commission's regulations, and not by the representative.

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 is true and complete to the best of my own personal knowledge, information, or belief. All representations of fact are supported by documentary or testimonial evidence and are submitted in accordance with the Commission's regulations. (Cal. Code Regs., tit.2, §§ 1183.1 and 1187.5.)

Chad Rinde	Director of Finance
Name of Authorized Local Government Official pursuant to Cal. Code Regs., tit.2, § 1183.1(a)(1-5)	**Print or Type Title**

Chad Rinde
Chad Rinde (Jun 30, 2026 09:02:11 PDT)

Signature of Authorized Local Government Official pursuant to Cal. Code Regs., tit.2, § 1183.1(a)(1-5)

TC Form 032026

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COUNTY OF SACRAMENTO TEST CLAIM

ASSEMBLY BILL 130: HOUSING

Statutes of 2025, Chapter 22, Sections 33 & 36: Housing
Assembly Bill No. 130 (2025-26 Regular Session)
Amending Sections 17974.1 and 17974.5 of the Health & Safety Code

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SECTION 5: WRITTEN NARRATIVE

COUNTY OF SACRAMENTO TEST CLAIM

ASSEMBLY BILL 130: HOUSING

Statutes of 2025, Chapter 22, Sections 33 & 36 Housing.
Assembly Bill No. 130 (2025-26 Regular Session)
Amending Sections 17974.1 and17974.5 of the Health and Safety Code

SECTION 5: WRITTEN NARRATIVE

COUNTY OF SACRAMENTO TEST CLAIM
ASSEMBLY BILL 130: HOUSING
Statutes of 2025, Chapter 22, Sections 33 & 36: Housing
Assembly Bill No. 130 (2025-26 Regular Session)
Amending Sections 17974.1 and 17974.5 of the Health and Safety Code

I. STATEMENT OF THE TEST CLAIM

The County of Sacramento (County or Claimant) submits this Test Claim seeking reimbursement of the costs of implementing the requirements imposed on it by certain sections of California Assembly Bill (AB) 130 (2025-26 Reg. Sess.), which amend a §§ 17974.1 and 17974.5 of the Health and Safety Code (H&S).[1] Specifically, this Test Claim addresses the costs to implement the requirements of AB 130 § 33 and § 36 as contained in new H&S § 17974.1(b) and (c) and H&S § 17974.5(a)(1).

AB 130 was approved June 30, 2025, and became effective on July 1, 2025. AB 130 requires cities and counties to perform an annual inspection of every homeless shelter in their jurisdiction[2]. AB 130 also requires cities and counties to report in an annual report the number of complaints received pursuant to Health and Safety Code section 17920.3, including whether no complaints were received.[3]

A. DESCRIPTION OF THE NEW ACTIVITIES

Effective July 1, 2025, Health and Safety Code § 17974.1 establishes new mandated activities for the County's Department of Community Development (Community Development) which are performed by the County's Code Enforcement Division. This statute applies to all cities and counties within the State of California and, at a minimum, affects the 58 counties and all incorporated cities and towns.

Pursuant to new H&S § 17974.1(b) created by AB 130, cities and counties are now required to perform an annual inspection of every homeless shelter or any portion thereof intended for human occupancy within their jurisdiction.

To comply with the above section requirement, County Code Enforcement staff performed the following tasks[4]:

- Conducted a review of Health & Safety Code § 17920.3, which outlines the habitability standards applicable to all homeless shelters. After reviewing the Code requirements, developed inspection procedures and checklists.

[1] AB 130 (2025-26 Reg. Sess.); Stats. 2025, Ch. 22; H&S §§ 17974.1 and 17974.5.

[2] AB 130, § 33

[3] AB 130, § 36

[4] Declaration of Mike Sanchez

- Obtained information from the County's Department of Homeless Services and Housing regarding home shelter operators and locations within the County to identify inspections that must occur.
- Performed on-site inspections of all homeless shelters within the County's jurisdiction. These inspections included direct observation of shelter conditions and verification that facilities met required habitability standards.

For shelters within the County's jurisdiction that initial inspection results indicate conditions requiring correction, perform subsequent re-inspections to ensure that those items are corrected timely. This is only performed on an as needed basis when inspections note conditions requiring correction.

Pursuant to H&S § 17974.5(a)(1) created by AB 130, cities and counties must report the number of complaints received by the city or county, including whether no complaints were received, in the annual report submitted by April 1st of each year.

To comply with the above new requirement, County staff in the Department of Homeless Services and Housing performed the following tasks[5]:

- Maintain an official inbox to receive complaints and coordinate inspection activities, and assign designated staff to follow-up, assign, and coordinate the resolution of the complaints.
- Develop and maintain internal workflows, spreadsheets, logs, and communication channels.
- Develop tracking mechanisms for the following tasks:
    - Inspection scheduling and notification of tenants
    - Inspection completion
    - Report status
    - Complaint routing and follow-up
    - Coordination with shelter operators

These coordination activities are essential in that due to the annual nature of the inspections, it is a requirement to coordinate with the site operator but also to provide notification to tenants who reside in the shelter to meet state housing law obligations. In addition, there is the need to obtain completed inspection reports and to log them accordingly and coordinate with follow-up to ensure any noted conditions are resolved.
The County would not have undertaken these aforementioned processes but for the mandate of AB 130[6].

[5] Declaration of Angel Uhercik

6 Declarations of Mike Sanchez and Angel Uhercik

B. DESCRIPTION OF THE EXISTING ACTIVITIES AND COSTS MODIFIED BY THE MANDATE

The County was not required to undertake the mandated activities prior to AB 130[7]. Prior to the passage of AB130, the County was only obligated to perform inspections when a complaint was received from an occupant within a homeless shelter, or an agent of the occupant, pursuant to AB 362. Additionally, the reporting requirements were reactionary and consisted of reporting when complaints are received. AB130 amended Health and Safety Code sections 17974.1 and 17974.5 to require annual inspections for each shelter, while preserving the complaint driven process which may trigger additional inspections in addition to the newly required annual scheduled inspection. Also, annual reporting requirements were added, regardless of whether any complaints were actually received.

C. ACTUAL INCREASED COSTS INCURRED BY THE CLAIMANT DURING THE FISCAL YEAR FOR WHICH THE TEST CLAIM WAS FILED TO IMPLEMENT THE ALLEGED MANDATE

Sacramento County Community Development first incurred costs in FY 2025-26 in relation to implementing the mandates in AB 130 on July 1, 2025. The costs consisted of staff time (i.e. labor hours multiplied by labor rate) involved in performing annual homeless shelter inspections, documenting observations during the inspection and completing an inspection report[8]. In Fiscal Year (FY) 2025-26, Community Development incurred costs in the amount of $1,695.20[9] for performing homeless shelter inspections and documenting the inspection results.. The costs were calculated by identifying staff hours spent working on an inspection, multiplied by the number of inspections completed, multiplied by the employees' fully loaded pay rate which includes actual pay rate, applicable taxes, pension costs, health insurance, and other applicable benefits. As identified above, employee activities consist of performing the annual homeless shelter inspections and documenting the results of the inspection, including the preparation of an inspection report. The County performed a limited number of inspections during 2025-26 as it works to ramp up to the full volume of required inspections during 2026-27.

Sacramento County Department of Homeless Services and Housing (DHSH) also incurred costs in FY 2025-26 in relation to the annual reporting requirements of AB 130. In FY 2025-26, DHSH incurred costs of $15,982.25[10] in this regard. The costs consisted of staff time spent on developing and maintaining internal workflows, spreadsheets, logs and communication channels for elements to be incorporated in the annual report. Activities also consisted of tracking inspection schedules, inspection status, report status, complaint routing/follow-up, which is part of information needed to prepare the annual report required by AB 130.

[7] Declaration of Mike Sanchez and Angel Uhercik

[8] Declaration of Mike Sanchez

[9] Declaration of Mike Sanchez

[10] Declaration of Angel Uhercik

The total costs incurred by the County for 2025-26 for complying with AB 130's homeless shelter inspection activities and annual reporting activities were thus $17,677.45[11]

D. ACTUAL OR ESTIMATED ANNUAL COSTS THAT WILL BE INCURRED BY THE CLAIMANT TO IMPLEMENT THE ALLEGED MANDATE DURING THE FISCAL YEAR IMMEDIATELY FOLLOWING THE FISCAL YEAR FOR WHICH THE TEST CLAIM WAS FILED.

County expects to incur additional increased annual costs to continue implementing the mandated activities. Community Development estimates incurring $96,872 in costs related to implementing AB 130 for FY 2026-27. The increase in costs is primarily due to the number of homeless shelters requiring inspections in FY 2026-27.[12] DHSH estimates incurring costs of $16,781 related to AB 130's reporting requirements[13]. The increase in costs is primarily due to an increase in salaries and benefits necessary to fulfill the new mandated activities. Total FY 2026-27 costs for the County are estimated to be $113,653.

E. STATEWIDE ESTIMATE OF INCREASED COSTS THAT ALL LOCAL AGENCIES WILL INCUR TO IMPLEMENT THE MANDATE

County estimates increased statewide costs of approximately $2,841,325 for all counties and cities to implement AB 130 in FY 2026-27.[14] See below for calculation of the estimated costs:

Statewide AB 130 Implementation Costs	
Sacramento County	$113,653
Multiplied by: Factor based off the County of Sacramento representing approximately 4% of the State's population	25
Cost Estimate (Rounded) – AB 130	$2,841,325

F. IDENTIFICATION OF ALL DEDICATED FUNDING SOURCES FOR THIS PROGRAM

The County is not aware of, nor did it receive, any State, federal, or other non-local agency funds for this program. All the increased costs were paid and will be paid from the Claimant's General Fund appropriations.[15]

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[11] Combining costs from Declarations made by Mike Sanchez and Angel Uhercik

12 Declaration of Mike Sanchez.

[13] Declaration of Angel Uhercik

[14] Declaration of Mike Sanchez and Angel Uhercik based on extrapolating Sacramento County's costs to other jurisdictions and method as described in the declaration.

[15] Declaration of Mike Sanchez and Angel Uhercik

G. IDENTIFICATION OF PRIOR MANDATED DETERMINATIONS MADE BY THE BOARD OF CONTROL OR COMMISSION ON STATE MANDATES

The County is not aware of any prior determination made by the Board of Control or the Commission on State Mandates related to this matter.

H. IDENTIFICATION OF LEGISLATIVELY-DETERMINED MANDATES THAT ARE ON THE SAME STATUTE OR EXECUTIVE ORDER

The Claimant is not aware of any legislatively-determined mandates related to AB 130, Chapter 22, Statutes of 2025, regarding the mandates added to H&S § 17974.1 and 17974.5.

II. MANDATE MEETS BOTH SUPREME COURT TESTS

In *County of Los Angeles v. State of California*, (1987) 43 Cal.3d 46, the California Supreme Court was called upon to interpret the phrase "new program or higher level of service", language that was approved by the voters when they passed Proposition 4 in 1979, which added Article XIII B to the California Constitution. In reaching its decision, the Court held that:

> ". . . the term 'higher level of service' . . . must be read in conjunction with the predecessor phrase 'new program' to give it meaning. Thus read, it is apparent that the subvention requirement for increased or higher level of service is directed to state mandated increases in the services provided by local agencies in existing 'programs.' But the term 'program' itself is not defined in Article XIII B. What programs then did the electorate have in mind when section 6 was adopted? We conclude that the drafters and the electorate had in mind the commonly understood meanings of the term - programs that carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local government and do not apply generally to all residents and entities in the state."[16]

A program can either carry out the governmental function of providing services to the public or be a law that implements State policy that imposes unique requirements on a local government that do not apply generally to all residents and entities in the entire State. Only one part of this definition has to apply in order for the mandate to qualify as a program [17]. In this instance, AB 130's mandated activities meet the prong of imposing unique requirements on local government that do not apply to the entire State.

III. MANDATE CARRIES OUT STATE POLICY

[16] *County of Los Angeles v. State of California (1987)* 43 Cal. 3d 46, 56

[17] *Carmel Valley Fire Protection District v. State of California (1987)* 190 Cal.App.3d 521, 537

AB 130 carries out the State policy of ensuring cities and counties are performing annual inspections of every homeless shelter within their jurisdiction. This bill also requires cities and counties to submit an annual report on the results of their inspections, regardless of whether any violations were identified. Carrying out the mandate imposes a higher level of service on public agencies to provide the required activities described in section A.

IV. STATE MANDATE LAW

California Constitution Article XIII B § 6 requires the State to provide a subvention of funds to local government agencies any time the Legislature or a State agency requires the local government agency to implement a new program or provide a higher level of service under an existing program. Section 6 states in relevant part:

> Whenever the Legislature or any State agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse such local governments for the cost of such program or increased level of service . . .

The purpose of § 6 "is to preclude the state from shifting financial responsibility for carrying our governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."[18] The section was designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues.[19] In order to implement § 6, the Legislature enacted a comprehensive administrative scheme to define and pay mandate claims.[20] Under this scheme, the Legislature established the parameters regarding what constitutes a State-mandated cost, defining "costs mandated by the state" to include:

> …any increased costs which a local agency is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of § 6 of Article XIII B of the California Constitution.[21]

V. STATE FUNDING DISCLAIMERS ARE NOT APPLICABLE

There are seven disclaimers specified in GC § 17556, which could serve to bar recovery of "costs mandated by the State", as defined in GC § 17556. None of the seven disclaimers apply to this Test Claim:

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[18] *County of San Diego v. State of California (1997)* 15 Cal. 4th 68, 81; *County of Fresno v. State of California (1991)* 53 Cal. 3d 482, 487

[19] *County of Fresno v. State of California (1991)* 53 Cal. 3d 482, 487*; Redevelopment Agency v. Commission on State Mandates (1997)* 55 Cal.App.4th 976, 985

[20] Government Code § 17500, et seq.; *Kinlaw v. State of California (1991)* 54 Cal.3d 326, 331, 333

[21] Government Code § 17514

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 statute, 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 costs of the State mandate in an amount sufficient to fund the cost of the State mandate.

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

7. The statute created a new crime or infraction, eliminated a crime or infraction, or changed penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.[22]

None of the disclaimers or other statutory or constitutional provisions that would relieve the State from its constitutional obligation to provide reimbursement apply to this Test Claim. The County reviewed whether any fee authority exists that could be applied to annual homeless inspections required by AB130. It was determined that the County can charge inspection fees only when violations are found during the inspection under Sacramento County Code Chapter 16.20 (Substandard Housing). This aligns with State Housing Law contained in Health and Safety § 17970.5(e) which presumes a fee is only imposed where the inspection reveals a material violation of specific health and safety standards or declares the property substandard.

Further, Homeless Shelters are not considered private rental property owners. Thus, while Health and Safety Code § 17970.5(f) authorizes local agencies to charge an annual fee for rental property owners to support a rental property inspection program, homeless shelters operators cannot be charged this fee because they do not meet the definition of rental housing. Thus, as specified throughout the County's claim, the costs of the AB130 items claimed are supported by the County's general fund and no fee revenue is available to offset the mandated costs.

[22] Government Code § 17556

The enactment of AB 130 imposes new State-mandated activities and costs on the County, and none of the exceptions in Government Code § 17556 relieve the State from reimbursing it for the costs associated with implementing the required activities. AB 130 therefore represents a State mandate for which the County is entitled to reimbursement pursuant to Article XIII B § 6 of the State Constitution.

VII. CONCLUSION

AB 130, Chapter 22, Statutes of 2025, imposes continuing State-mandated activities and costs on the County which are not exempted from the subvention requirements of Article XIII B § 6 of the State Constitution.

There are no existing funding sources, and the Claimant lacks authority to develop and impose fees, to fund any of these new State-mandated activities. The County respectfully requests that the Commission on State Mandates find that the mandated activities set forth in the Test Claim are State mandates that require subvention under California Constitution Article XIII B § 6.

SECTION 6: DECLARATIONS

COUNTY OF SACRAMENTO TEST CLAIM

ASSEMBLY BILL AB 130: HOUSING

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DECLARATION OF MIKE SANCHEZ

I, Mike Sanchez, declare under penalty of perjury under the laws of the State of California that the following is true and correct based on my personal knowledge, information, and belief:

1. I am employed by the County of Sacramento (County) Department of Community Development (Community Development), work within the Code Enforcement Division and hold the title of the Chief of Code Enforcement. Part of the responsibility of Code Enforcement is investigation of violations of state and local housing laws within the unincorporated Sacramento County.

2. Assembly Bill (AB) 130, which added Health and Safety Code (H&S) §§ 17974.1 and 17974.5, was approved on June 30, 2025. AB 130 requires cities and counties to conduct annual inspections of every homeless shelter within their jurisdiction, pursuant to H&S § 17974.1(b). This mandate now obligates the County to perform yearly inspections of homeless shelters, including tiny home cabin sites and safe stay shelters, which the County has not previously been required to inspect. These inspections encompass a significantly greater number of units than historically reviewed and may be conducted either announced or unannounced.

   To implement H&S § 17974.1(b), County staff were required to review and apply H&S § 17920.3, which defines various habitability standards. Under this section, multiple conditions are identified as constituting substandard living environments. Examples of the conditions requiring inspection include:
   a. Inadequate sanitation
   b. Structural hazards
   c. Any nuisance conditions
   d. Unsafe or deficient wiring
   e. Inadequate plumbing
   f. Faulty or insufficient weather protection

   While inspection officers possess experience conducting traditional rental housing inspections, the evaluation of tiny homes, safe stay shelters, and other forms of homeless shelters required additional training, as these structures differ substantially from conventional dwelling units.

3. Prior to the enactment of AB 130, there was no statutory requirement to conduct annual inspections of homeless shelters. Inspections were performed at the discretion of local authorities or only in response to specific complaints. With the passage of AB 130, all homeless shelters including safe stay shelters, individual cabin sites, and tiny home communities must now undergo annual inspections, regardless of whether any complaints have been filed. This represents an increased level of service as the annual inspections are in addition to any complaints filed. This mandates a new workload of inspections that previously did not exist prior to AB 130.

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These requirements are explicitly outlined in Health and Safety Code §17974.1(b), which mandates that every homeless shelter within a county's jurisdiction be inspected annually.

Identified below is a table identifying specific activities and tasks performed by the County as they relate to the specific requirements/code sections of AB 130. It also lists the level of staff that performed the work along with the amount of hours and loaded hourly rate[23] related to the costs incurred:

Task	Resource	Loaded Labor Rate	FY 2025-26 Hours	FY 2025/26 Cost
Perform inspection of a single unit/homeless shelter, including preparation of paperwork, documentation, and communication. (H&S 17974.1(b)).	Code Enforcement Officer Lv. 2	$97.07	13	$1,261.91
Review results of inspection by reviewing inspector's paperwork and documentation. (H&S § 17974.1(b)).	Supervising Code Enforcement Officer	$133.34	3.25	$433.36
			Total Cost	**$1,695.20**

4. Community Development's Division of Code Enforcement first incurred costs related to implementing the AB 130 mandate on July 1, 2025. These costs included staff time spent conducting an inspection at a homeless shelter, documenting observations, and preparing a summary of inspection findings. The County performed an inspection on 7/1/2025, which was the effective date of AB 130. The expenditures reflect labor hours and associated labor costs. In total, Community Development incurred $1,695.20 in costs to implement AB 130, as detailed above.

5. Community Development estimates that implementing the requirements of AB 130 will result in costs of $96,872 for FY 2026–27. These projected costs reflect anticipated increases in staff labor rates as well as growth in the number of homeless shelters requiring inspection and annual training related to inspection requirements.

   The County estimates that approximately 680 homeless shelters within its jurisdiction will require annual inspections. Consistent with FY 2025–26, the County expects the majority of costs will be attributable to staff time needed to conduct inspections and prepare the associated inspection reports for each site. The County inspected an initial number of sites during FY2025-26 as it learned the new requirements and will ramp up to the full required population during

[23] The County's loaded hourly rate includes benefits applicable to the respective position including health, pension and other benefits paid.

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FY2026-27. Costs will also include annual refresher training for inspectors to ensure compliance with AB 130.

See table below for summary of costs for FY 2026-27.

Task	Resource	Loaded Labor Rate	FY 2026-27 Hours	FY 2026/27 Cost
Perform inspection of a single unit/homeless shelter, including preparation of paperwork, documentation, and communication. (H&S 17974.1(b)).	Code Enforcement Officer Lv. 2	$101.93	680	$69,312.40
Review results of inspection by reviewing inspector's paperwork and documentation. (H&S § 17974.1(b)).	Supervising Code Enforcement Officer	$140.01	170	$23,801.45
Annual training/refresher training for inspectors to ensure inspections are complying with the requirements of H&S 17974.1(b).	Code Enforcement Officer Lv. 2	$101.93	30	$3,057.90
Annual training/refresher training for inspectors to ensure inspections are complying with the requirements of H&S 17974.1(b).	Senior Code Enforcement Officer	$116.69	6	$700.14
			Total Cost	**$96,871.89**

6. There are no fees, funding sources or reimbursements Community Development or the County receives for these costs.

   The County evaluated the authority to establish any fees or funding sources for these inspections. It was determined that according to the Health and Safety Code § 17970.5(e), a fee could only be imposed where the inspection reveals a material violation of specific health and safety standards or the County declares the property substandard. Thus, there is no fee authority for conducting the inspection itself. Currently, the County hasn't established a penalty related to violations noted during inspections.

   The County also evaluated Health and Safety Code § 17970.5(f) which authorizes an annual fee for rental property owners to support a rental property inspection program. However, it was determined that homeless sheltering does not meet the definition of rental housing and therefore doesn't allow an annual charge to support

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the program. Thus, the costs of implementing AB 130 were funded by the County of Sacramento's general fund and will need to be funded by the general fund in the future.

7. The Code Enforcement division of Community Development estimates the increased statewide cost of the mandate at approximately $2,841,325 for FY 2026-27.

   To estimate the cost statewide, we combined Code Enforcements estimated cost of $96,872 for FY 2026-27 with the County's Department of Homeless Services and Housing's (DHSH) estimated costs of $16,781 for FY 2026-27 for a total County cost of $113,653 and multiplied by a factor of 25 to estimate the statewide cost. A factor of 25 was determined by determining the County's population as a percentage of the State's population. Currently, the County of Sacramento represents 4% of the State's population (1,628,349/39,592,978) [24].

8. Community Development is not aware of any prior determinations by the Board of Control or the Commission on State Mandates related to this matter. The County is not aware of any legislatively-determined mandates related to AB 130.

I have personal knowledge of the foregoing facts and information presented in this Test Claim declaration and, if so required, I could and would testify to the statements made herein.

Executed this __26__ day of __June__ 2026 in Sacramento, California.

Signed by:
2FD35C7E9CE54FC...

Mike Sanchez
Division Chief
Department of Community Development
County of Sacramento

24 Population figures were obtained from https://dof.ca.gov/forecasting/demographics/estimates-e1/.

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DECLARATION OF ANGEL UHERCIK

I, Angel Uhercik, declare under penalty of perjury under the laws of the State of California that the following is true and correct based on my personal knowledge, information, and belief:

1. I am employed by the County of Sacramento (County) and currently hold the title Assistant Director of the County's Department of Homeless Services and Housing (DHSH). Part of my Assistant Director responsibilities is overseeing homeless services programs for the county.

2. Assembly Bill (AB) 130, which added Health and Safety Code (H&S) § 17974.5(a)(1), was approved on June 30, 2025. H&S Code § 17974.5(a)(1) requires cities and counties to report the number of complaints received, including whether no complaints were received in an annual report submitted to the Department of Housing and Community Development and the Business, Consumer Services, and Housing Agency by April 1st of each year.

   To implement H&S § 17974.5, County staff performed the following activities:

   - Maintain an official inbox to receive and follow-up on complaints.
   - Develop and maintain internal workflows, spreadsheets, logs, and communication channels.
   - Tracking mechanisms for the following tasks:
     - Inspection scheduling and notification of tenants
     - Inspection completion
     - Complaint routing and follow-up
     - Coordination with shelter operators
     - Cross-jurisdictional enforcement (City of Sacramento, Citrus Heights, Rancho Cordova, etc.)
     - Communication and coordination between County Departments, cross-jurisdictional entities, and shelter operators.
     - Reporting activities for all annual reporting compliance, report status, and state legislation requirements.

   Prior to the enactment of AB 130, there was no statutory requirement to prepare an annual report. Reporting was *only required if complaints were received*. If no substandard complaints were reported, the County simply confirmed "zero complaints" and submitted nothing further. The county's previous reporting efforts were minimal due to the low volume of complaints and minimal reporting elements. With the passage of AB 130, mandatory reporting is required, regardless of whether any complaints were received; and annual inspections are required regardless of complaints received.

   Identified below is a table identifying specific activities and tasks performed by the County as they relate to the specific requirements/code sections of AB 130. It also

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lists the level of staff that performed the work along with the amount of hours and loaded hourly rate[25]related to the costs incurred:

Task	Resource	Loaded Labor Rate	FY 2025-26 Hours	FY 2025/26 Cost
Communicating with homeless shelter operators, County Code Enforcement and local jurisdictions to ensure homeless inspections are completed, inspection reports are completed and submitted and consolidating results in the annual report. (H&S 17974.5)	Human Services Program Manager	$169.21	20	$3,384.20
Communicating with homeless shelter operators, County Code Enforcement and local jurisdictions to ensure homeless inspections are completed, inspection reports are completed and submitted and consolidating results in the annual report. (H&S 17974.5)	Human Services Program Planner (Large Shelters)	$148.00	30	$4,440.00
Communicating with homeless shelter operators, County Code Enforcement and local jurisdictions to ensure homeless inspections are completed, inspection reports are completed and submitted and consolidating results in the annual report. (H&S 17974.5)	Human Services Program Planner (Scattered Site Shelters)	$148.00	30	$4,440.00
Tracking inspection reports, file preparation and inbox monitoring for homeless shelter complaints to be consolidated in the annual report (H&S 17974.5)	Administrative Services Officer II	$107.37	25	$2,684.25
Tracking inspection reports, file preparation and inbox monitoring for homeless shelter complaints to be consolidated in the annual report (H&S 17974.5)	Senior Office Assistant	$68.92	15	$1,033.80
			Total Cost	**$15,982.25**

Please note that the duties of the Human Services Program Planner are split across three staff due to focuses on each shelter type (i.e. Large Shelters and Scattered Site Shelters).

[25] The County's loaded hourly rate includes benefits applicable to the respective position including health, pension and other benefits paid.

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3. DHSH estimates that implementing the reporting requirements of AB 130 will result in costs of $16,781 for FY 2026–27. These projected costs reflect anticipated increases in staff labor rates.

4. There are no fees, funding sources or reimbursements DHSH or the County receives for these costs.

5. DHSH is not aware of any prior determinations by the Board of Control or the Commission on State Mandates related to this matter. The County is not aware of any legislatively-determined mandates related to AB 130.

I have personal knowledge of the foregoing facts and information presented in this Test Claim declaration and, if so required, I could and would testify to the statements made herein.

Executed this __26__ day of __June___ 2026 in Sacramento, California.

Signed by:
Angel Uhercik
D9B216A1AA32447...

Angel Uhercik
Assistant Director
Department of Homeless Services and Housing
County of Sacramento

SECTION 7: SUPPORTING DOCUMENTS

COUNTY OF SACRAMENTO TEST CLAIM

ASSEMBLY BILL AB 130: HOUSING

STATE AND SENATE BILL

COMMITTEES AND RULES

CASELAW AND CODES

Assembly Bill No. 130

CHAPTER 22

An act to amend Sections 714.3, 5850, and 5855 of, and to add Section 2924.13 to, the Civil Code, to amend Sections 12531, 54221, 65400, 65584.01, 65584.04, 65589.5, 65905.5, 65913.10, 65913.16, 65928, 65941.1, 65952, 65953, 65956, 66323, and 66499.41 of, to amend and repeal Sections 65940, 65943, and 65950 of, to add Section 8590.15.5 to, and to repeal Section 66301 of, the Government Code, to amend Sections 17958, 17958.5, 17958.7, 17973, 17974.1, 17974.3, 17974.5, 18916, 18929.1, 18930, 18938.5, 18941.5, 18942, 37001, 50222, 50223, 50253, 50515.10, 50560, 50561, 50562, 53560, and 53562 of, and to add Sections 17974.1.5, 50058.8, 50406.4, 50410, and 53568 to, the Health and Safety Code, to amend Sections 21180, 21183, and 30603 of, and to add Sections 21080.43, 21080.44, 21080.66, 30114.5, and 30405 to, the Public Resources Code, to amend Section 17053.5 of the Revenue and Taxation Code, and to amend Section 5849.2 of the Welfare and Institutions Code, relating to housing, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 30, 2025. Filed with Secretary of State June 30, 2025.]

LEGISLATIVE COUNSEL'S DIGEST

AB 130, Committee on Budget. Housing.

(1) Existing law, the Planning and Zoning Law, authorizes a local agency to provide for the creation of accessory dwelling units (ADUs) in single-family and multifamily residential zones by ordinance, and sets forth standards the ordinance is required to impose with respect to certain matters, including, among others, maximum unit size, parking, and height standards. Existing law authorizes a local agency to provide by ordinance for the creation of junior accessory dwelling units (JADUs), as defined, in single-family residential zones and requires the ordinance to include, among other things, standards for the creation of a JADU, required deed restrictions, and occupancy requirements.

Existing law makes void and unenforceable any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in real property that either effectively prohibits or unreasonably restricts the construction or use of an ADU or JADU on a lot zoned for single-family residential use that meets the above-described minimum standards established for those units. However, existing law permits reasonable restrictions that do not unreasonably increase the cost to construct, effectively prohibit the

construction of, or extinguish the ability to otherwise construct, an ADU or JADU consistent with those aforementioned minimum standards provisions.

This bill would prohibit fees and other financial requirements from being included in the above-described reasonable restrictions.

Existing law provides for the creation of ADUs in areas zoned for single-family or multifamily dwelling residential use, by ministerial approval if a local agency has not adopted an ordinance, in accordance with specified standards and conditions. Under existing law, a local agency is also required to ministerially approve an application for a building permit within a residential or mixed-use zone to create any of specified variations of ADUs. Existing law prohibits a local agency from imposing any objective development or design standard that upon any accessory dwelling unit that meets one of those specified variations of ADUs, except as specified.

Existing law authorizes a local agency to establish minimum and maximum unit size requirements for both attached and detached ADUs, subject to certain limitations. Notwithstanding that authorization and the ministerial approval requirement, as described above, existing law requires a local agency that adopted an ordinance by July 1, 2018, providing for the approval of ADUs in multifamily dwelling structures to ministerially consider a permit application to construct an ADU, as specified, and authorizes that local agency to impose objective standards including, but not limited to, design, development, and historic standards on said ADUs, except for requirements on minimum lot size.

This bill would remove the requirement that a local agency ministerially consider a permit application to construct one of the above-specified variations of ADUs, and would remove the authorization for a local agency to impose objective standards on those ADUs, as specified above. By further prohibiting local governments from imposing certain standards on ADUs, the bill would impose a state-mandated local program.

(2) Existing law prescribes various requirements to be satisfied before the exercise of a power of sale under a mortgage or deed of trust. Existing law authorizes a borrower to bring an action for injunctive relief to enjoin material violations of certain of these requirements, and requires that the injunction remain in place and any trustee's sale be enjoined until the court determines that the violations have been corrected, as specified.

This bill would make certain conduct an unlawful practice in connection with a subordinate mortgage, including, among others, that the mortgage servicer did not provide the borrower with any communication regarding the loan secured by the mortgage for at least 3 years. The bill would prohibit a mortgage servicer from conducting or threatening to conduct a nonjudicial foreclosure until the mortgage servicer (A) simultaneously with the recording of a notice of default, records or causes to be recorded a certification, as specified, under penalty of perjury that either the mortgage servicer did not engage in an unlawful practice or the mortgage servicer lists all instances when it committed an unlawful practice and (B) simultaneously with the service of a recorded notice of default, the mortgage servicer sends the recorded certification and a notice to the borrower, as specified. By

expanding the scope of a crime, this bill would impose a state-mandated local program.

(3) Existing law, the Davis-Stirling Common Interest Development Act, governs the formation and operation of common interest developments. Existing law requires that a common interest development be managed by an association.

Existing law, if an association adopts or has adopted a policy imposing any monetary penalty on any association member for a violation of the governing documents, requires the board to adopt and distribute to each member a schedule of the monetary penalties that may be assessed for those violations, as provided, and prohibits an association from imposing a monetary penalty on a member for a violation of the governing documents in excess of that schedule. Existing law requires the board to notify a member 10 days before a meeting to consider or impose discipline on the member, as specified. Existing law requires the board to provide a member with written notification of a decision to impose discipline on the member within 15 days.

This bill would prohibit monetary fees from exceeding the lesser of that specified schedule or $100 per violation, except as specified. The bill would require the board to give a member the opportunity to cure a violation prior to the meeting to consider or impose discipline, as specified. If the board and the member are in agreement after the meeting to consider or impose discipline, the bill would require the board to draft a written resolution. The bill would provide that the written resolution, signed by the association and member of a dispute pursuant to the procedure not in conflict with the law or governing documents, binds the association and is judicially enforceable. The bill would reduce the time to provide written notification of a decision to impose discipline from 15 days to 14 days.

(4) Existing law, until July 1, 2042, establishes the Seismic Retrofitting Program for Soft Story Multifamily Housing for the purposes of providing financial assistance to owners of soft story multifamily housing for seismic retrofitting to protect individuals living in multifamily housing that have been determined to be at risk of collapse in earthquakes, as specified. Existing law establishes the Seismic Retrofitting Program for Soft Story Multifamily Housing Fund, and its subsidiary account, the Seismic Retrofitting Account, within the State Treasury. Existing law requires the California Residential Mitigation Program, also known as the CRMP, to develop and administer the program, as specified.

This bill would require, upon appropriation by the Legislature, the CRMP to fund the seismic retrofitting of affordable multifamily housing, as specified. The bill would require the CRMP to prioritize affordable multifamily housing serving lower income households, as defined.

(5) Existing law creates the National Mortgage Special Deposit Fund in the State Treasury, which is continuously appropriated and subject to allocation by the Department of Finance, for the receipt of moneys from the National Mortgage Settlement. Existing law allocates $300,000,000 from the fund to be administered by the California Housing Finance Agency

for the purpose of providing housing counseling services certified by the federal Department of Housing and Urban Development to homeowners, former homeowners, or renters and providing mortgage assistance to qualified California households, as specified.

This bill would expand the purpose of the above-described allocation to include providing legal services for home ownership preservation, as specified. By providing new purposes for which an appropriation may be used, this bill would make an appropriation.

(6) Existing law prescribes requirements for the disposal of surplus land by a local agency. Existing law provides that an agency is not required to follow the requirements for disposal of surplus land for "exempt surplus land," except as provided. Existing law defines "exempt surplus land" to mean, among other things, real property that a school district is required to appoint a district advisory committee prior to sale, lease, or rental of any excess real property, as specified, and real property that a school district may exchange for real property of another person or private business firm, as specified.

This bill would remove the above-described school district real property from the definition of "exempt surplus land," thereby requiring that the disposal of that property be done in accordance with the above-described requirements for surplus land disposal.

(7) Existing law, the Affordable Housing on Faith and Higher Education Lands Act of 2023, specifies that a housing development project shall be a use by right, as defined, upon the request of an applicant who submits an application for streamlined approval if, among other criteria, the development is located on land owned on or before January 1, 2024, by an independent institution of higher education or a religious institution, as specified. Existing law prohibits the development from being adjoined to any site where more than ⅓ of the square footage of the site is dedicated to light industrial use, and defines "light industrial use" for these purposes as a use that is not subject to permitting by a district, as defined.

This bill would instead define "light industrial use" as an industrial use that is not subject to permitting by a district.

Existing law authorizes a development project that is eligible for approval as a use by right pursuant to the act to include ancillary uses on the ground floor of the development. For single-family residential zones, the ancillary uses are limited to childcare centers and facilities operated by community-based organizations, and in all other zones, for commercial uses that are permitted without a conditional use permit or planned unit development permit.

This bill would specify that the childcare facilities are without limitation on the number of children and that the permitted commercial uses for all zones other than single-family residential zones also include childcare centers and facilities operated by community-based organizations.

Existing law specifies that a development project eligible for approval as a use by right pursuant to the act includes any religious institutional use or any use that was previously existing and legally permitted if, among other

things, the total parking requirement for nonresidential space on the site does not exceed the lesser of the amount existing or of the amount required by a conditional use permit.

This bill would delete that parking requirement and would instead require the proposed development to provide up to one space per unit, unless a state law or local ordinance provides for a lower standard of parking.

Existing law, for a housing development project that qualifies as a use by right pursuant to the act, allows a certain density based on zoning and other factors, as applicable, including a height of one story above the maximum height otherwise applicable to the parcel.

This bill would instead specify the development is entitled to a height of one story or 11 feet above the maximum height otherwise applicable to the parcel.

The Planning and Zoning Law requires each county and city to adopt a comprehensive, long-term general plan for its physical development, and the development of certain lands outside its boundaries, that includes, among other mandatory elements, a housing element. After a legislative body has adopted all or part of a general plan, existing law requires, among other things, that a planning agency provide by April 1 of each year an annual report to specified entities that includes prescribed information, including the number of units of housing demolished and new units of housing that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category, by area median income category, that each unit of housing satisfies, as specified.

This bill would require the annual report to also include specified information with respect to housing development projects under the Affordable Housing on Faith and Higher Education Lands Act of 2023.

(8) Existing law, the Planning and Zoning Law, requires each county and each city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and specified land outside its boundaries, that contains certain mandatory elements, including a housing element. That law requires each local government to review its housing element and to revise the housing element in accordance with a specified schedule. For the 4th and subsequent revisions of the housing element, existing law requires the Department of Housing and Community Development to determine the existing and projected need for housing for each region, and requires the appropriate council of governments, or the department for cities and counties without a council of governments, to adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county, as provided. Existing law requires the department to meet and consult with the council of governments regarding the assumptions and methodology used to determine a region's housing needs at least 26 months prior to the scheduled revision. Existing law requires the council of governments to provide certain data assumptions from the council's projections, if available, including, among other things, the percentage of households that are overcrowded, the

overcrowding rate for a comparable housing market, the percentage of households that are cost burdened, and the rate of housing cost burden for a healthy housing market.

This bill would revise these data assumptions requirements to, instead, require the council of governments to provide data on the percentage of households that are overcrowded within the region, the percentage of households that are overcrowded throughout the nation, the percentage of households that are cost burdened within the region, and the percentage of households that are cost burdened throughout the nation.

Existing law requires each council of governments, or delegate subregion, as applicable, to develop, in consultation with the department, a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable, at least 2 years before a scheduled revision. This methodology is also referred to as the allocation methodology. Existing law requires the council of governments, or delegate subregion, as applicable, to publish a draft allocation methodology on its internet website and submit the draft allocation methodology to the department. Existing law requires the department to determine whether the methodology furthers the specified objectives within 60 days. If the department determines that the methodology is not consistent with the objectives, existing law requires the council of governments, or delegate subregion, as applicable, to either (A) revise the methodology to further the objectives and adopt a final regional, or subregional, housing need allocation methodology or (B) adopt the regional, or subregional, housing need allocation methodology without revisions and include within its resolution of adoption findings, supported by substantial evidence, as to why the council of governments, or delegate subregion, believes that the methodology furthers the objectives, despite the findings of the department.

This bill, if the department determines that the draft allocation methodology is not consistent with the objectives, would instead require the council of governments, or delegate subregion, to revise the methodology, in consultation with the department, to further the objectives within 45 days, receive department acceptance that the revised methodology furthers the objectives, and adopt a final regional, or subregional, housing need allocation methodology. The bill would remove the ability for a council of governments or delegate subregion to adopt the regional or subregional housing need allocation methodology without revision, as described above.

(9) Existing law, except as provided, generally requires that a public hearing be held on an application for a variance from the requirements of a zoning ordinance, an application for a conditional use permit or equivalent development permit, a proposed revocation or modification of a variance or use permit or equivalent development permit, or an appeal from the action taken on any of those applications. Existing law, until January 1, 2034, prohibits a city or county from conducting more than 5 hearings, as defined, held pursuant to these provisions, or any other law, ordinance, or regulation requiring a public hearing, if a proposed housing development project

complies with the applicable objective general plan and zoning standards in effect at the time an application is deemed complete, as defined. Existing law, until January 1, 2034, requires the city or county to consider and either approve or disapprove the housing development project at any of the 5 hearings consistent with the applicable timelines under the Permit Streamlining Act.

This bill would remove the January 1, 2034, repeal date with respect to the requirements that a city or county conduct no more than 5 hearings on a housing development project, and either approve or disapprove that housing development at any of those hearings, as described above, thereby extending these provisions indefinitely.

(10) Existing law, until January 1, 2030, for purposes of any state or local law, ordinance, or regulation that requires a city or county to determine whether the site of a proposed housing development project is a historic site, requires the city or county to make that determination, which remains valid for the pendency of the housing development, at the time the application is deemed complete, except as provided.

This bill would remove the January 1, 2030, repeal date for these provisions, thereby extending them indefinitely.

(11) Existing law, the Housing Accountability Act, among other things, prohibits a local agency from disapproving a housing development project that complies with applicable objective general plan, zoning, and subdivision standards and criteria, or from imposing a condition that it be developed at a lower density, unless the local agency bases its decision on written findings supported by the preponderance of the evidence on the record that specified conditions exist, as provided. That act also prohibits a local agency from disapproving, or from conditioning approval in a manner that renders infeasible, a housing development project for very low, low-, or moderate-income households or an emergency shelter unless the local agency makes written findings, based on the preponderance of the evidence, that one of 6 specified conditions exists.

The act authorizes the applicant, a person who would be eligible to apply for residency in the housing development project or emergency shelter, or a housing organization to bring an action to enforce its provisions and authorizes a court to issue an order or judgment directing the local agency to approve the housing development project or emergency shelter under certain circumstances. Those circumstances include, among others and until January 1, 2030, that the local agency required or attempted to require a housing development project to comply with an ordinance, policy, or standard not adopted and in effect when a preliminary application was submitted, as specified.

This bill would remove the January 1, 2030, inoperative date for this provision of the act, thereby extending this provision of the Housing Accountability Act indefinitely.

The act, except as specified, requires that a housing development project be subject only to the ordinances, policies, and standards, as defined, adopted and in effect when a preliminary application, including specified information,

required by specified law as described below, was submitted. The act makes this requirement inoperative on January 1, 2034.

This bill would remove the January 1, 2034, inoperative date for this requirement under the act, thereby extending this provision of the Housing Accountability Act indefinitely.

Among other terms, the act defines the term "deemed complete" for its purposes to mean, until January 1, 2030, that the applicant has submitted a preliminary application or a complete application, as specified, and requires that the local agency bear the burden of proof in establishing that the application is not complete. The act also defines the term "determined to be complete" for its purposes to mean, until January 1, 2030, that the applicant has submitted a complete application, as specified. The act also defines the term "objective" to mean, until January 1, 2030, involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.

This bill would remove the January 1, 2030, inoperative date for each of these definitions, thereby extending their application under the Housing Accountability Act indefinitely.

(12) Existing law, the Permit Streamlining Act, requires public agencies to compile one or more lists that specify in detail the information that will be required from any applicant for a development project. The act requires a public agency to determine in writing whether the application is complete and to immediately transmit the determination to the applicant for the development project, not later than 30 calendar days after the public agency received the application for the development project. The act defines "development project" for purposes of its provisions to mean any project undertaken for the purpose of development, including a project involving the issuance of a permit for construction or reconstruction but not a permit to operate, and excludes from this definition any ministerial projects proposed to be carried out or approved by public agencies.

This bill, notwithstanding the exclusion for ministerial projects, would include in the definition of "development project" under the Permit Streamlining Act a housing development project that requires an entitlement from a local agency, regardless of whether the process for permitting that entitlement is discretionary or ministerial. The bill would also exclude from this definition a postentitlement phase permit, as defined by specified law.

The act requires a city or county to deem an applicant for a housing development project to have submitted a preliminary application upon providing specified information about the proposed project to the city or county from which approval for the project is being sought. Existing law also authorizes a development proponent that submits a preliminary application for a housing development project to request a preliminary fee and exaction estimate, as defined, and requires a city, county, or city and county to provide the estimate within 30 business days of the submission

of the preliminary application. Existing law repeals these provisions as of January 1, 2030.

This bill would remove the January 1, 2030, repeal date for these provisions, thereby extending the provisions indefinitely.

No later than 30 calendar days after receiving an application for a development project, the act requires a local agency to determine in writing whether the application is complete and immediately transmit that determination to the applicant. The act, until January 1, 2030, requires a public agency, upon its determination that an application for a development project is incomplete, to provide the applicant with an exhaustive list of items that were not complete, as specified. The act, until January 1, 2030, requires each city and each county to make copies of any list compiled, as described above, with respect to information required from an applicant for a housing development project, as defined, available in writing to those persons to whom the agency is required to make information available, as provided, and publicly available on the internet website of the city or county.

This bill would remove the January 1, 2030, repeal date with respect to provision of an exhaustive list of requirements not complete, and availability of lists compiled with respect to housing development projects, thereby extending these provisions indefinitely.

The act requires public agencies to approve or disapprove of a development project within certain timeframes, as specified. The act, until January 1, 2030, generally requires that a public agency that is the lead agency for certain development projects approve or disapprove the project within 90 days from the date of certification by the lead agency of an environmental impact report prepared for the project, but reduces this time period to 60 days from the certification of an environmental impact report if the project meets certain additional conditions relating to affordability. The act, until January 1, 2030, defines the term “development project” for this purpose to mean a housing development project, as that term is defined for purposes of the Housing Accountability Act, except as specified. Beginning January 1, 2030, the act extends the above-described timelines from 90 days to 120 days, and from 60 days to 90 days, respectively, and defines the term “development project” to mean a use consisting of residential units only or certain mixed-use developments.

This bill would remove the January 1, 2030, repeal date for the 90-day and 60-day timelines described above and for the definition of “housing development project,” thereby extending these provisions indefinitely, and would make a conforming change by repealing the above-described provisions that take effect on January 1, 2030.

This bill would also require that a public agency that is the lead agency for a development project approve or disapprove a project within 60 days, as specified, from the date of receipt of a complete application, if the project is subject to ministerial review by the public agency. The bill would, for a development project exempt from the California Environmental Quality Act (CEQA) pursuant to the below-described CEQA exemption for housing development projects, require that a public agency that is the lead agency

for the development projects approve or disapprove the project within 30 days from the conclusion of specified environmental assessments.

Existing law requires a public agency, other than the California Coastal Commission, that is a responsible agency for a housing development, as defined, that has been approved by the lead agency to approve or disapprove the development within specified time periods.

This bill would require the California Coastal Commission to comply with those time periods applicable to a responsible agency.

The act authorizes an applicant for a permit for a development project, if any provision of law requires a lead agency or responsible agency to provide public notice of the development project or to hold a public hearing on the development project and the agency has not done so at least 60 days before the expiration of specified time limits, to file an action to compel the agency to provide the public notice or hold the hearing, as specified. In the event that a lead agency or a responsible agency fails to act to approve or to disapprove a development project within the time limits required by the act, existing law deems the failure to act as an approval of the permit application for the development project, only if the public notice required by law has occurred, as specified.

This bill would remove the requirement that the public notice required by law has occurred, in order for the failure to act to be deemed as an approval of the permit application for the development project.

The act provides that the time limits specified in the act are maximum time limits for approving or disapproving development projects. The act requires, if possible, public agencies to approve or disapprove development projects in shorter periods of time.

This bill would require that the time limits specified in the act only apply to the extent that the time limits are equal to or shorter than the applicable time limits for public agency review established in any other law.

(13) Existing law, known as the Housing Crisis Act of 2019, prohibits an affected county or an affected city, as defined and determined by the Department of Housing and Community Development, as specified, from enacting certain development policies, standards, or conditions with respect to land where housing is an allowable use, including policies, standards, or conditions that impose a moratorium or similar restriction or limitation on housing development or that limit the number of land use approvals or permits necessary for the approval and construction of housing that will be issued or allocated. The act also prohibits an affected city or an affected county from approving a housing development project that will require the demolition of one or more residential dwelling units, unless the project will create at least as many residential dwelling units as will be demolished, or from approving a development project that will require the demolition of occupied or vacant protected units or that is located on a site where protected units were demolished in the previous 5 years, unless specified conditions are met. The act repeals these provisions as of January 1, 2034.

This bill would remove the above-described January 1, 2034, repeal date, thereby extending application of the Housing Crisis Act of 2019 indefinitely.

(14) Existing law, the Subdivision Map Act, vests the authority to regulate and control the design and improvement of subdivisions in the legislative body of a local agency and sets forth procedures governing the local agency's processing, approval, conditional approval or disapproval, and filing of tentative, final, and parcel maps, and the modification thereof. The act generally requires a subdivider to file a tentative map or vesting tentative map with the local agency, as specified, and the local agency, in turn, to approve, conditionally approve, or disapprove the map within a specified time period. A violation of any provision of this act is a crime.

Existing law, known as the Starter Home Revitalization Act of 2021, among other things, requires a local agency to ministerially consider, without discretionary review or a hearing, a parcel map or a tentative and final map for a housing development project that meets certain requirements, including that the housing development project on the lot proposed to be subdivided will contain 10 or fewer residential units, except as provided.

This bill would authorize the proposed subdivision to designate a remainder parcel, as described, that retains existing land uses or structures, does not contain any new residential units, and is not exclusively dedicated to serving the housing development project. Under the bill, the remainder parcel would not count against the 10-parcel maximum, as described above. The bill would also exclude the area of any designated remainder parcel from specified residential density calculations under the Starter Home Revitalization Act of 2021. By expanding the duties for a local agency to ministerially consider a housing development project, this bill would impose a state-mandated local program. The bill would make nonsubstantive and related conforming changes to the Starter Home Revitalization Act of 2021.

Existing law authorizes a local agency to condition the approval and recordation of a subdivision map upon the completion of a residential structure in compliance with all applicable provisions of the California Building Standards Code that contains at least one dwelling unit on each resulting parcel that does not already contain an existing legally permitted residential structure or is reserved for internal circulation, open space, or common area.

This bill would, instead, generally prohibit a person from selling, leasing, or financing any parcel or parcels of real property resulting from a subdivision under this section, as specified, separately from any other such parcel or parcels, unless each parcel that is sold, leased, or financed meets one of 4 specified alternative criteria, including that the parcel contains a residential structure completed in compliance with all applicable provisions of the California Building Standards Code that includes at least one dwelling unit. Under the bill, a violation of this prohibition would constitute the sale of real property that has been divided in violation of the Subdivision Map Act, subject to the penalties and remedies set forth in specified provisions of the Subdivision Map Act. However, the bill would authorize a local agency, by ordinance or map condition, to authorize the sale, lease, or finance of any parcel or parcels of real property resulting from a subdivision, as specified, without compliance with the above-described prohibition on the

sale, lease, or finance of a parcel or parcels of real property. Because a violation of these prohibitions would be a crime, the bill would impose a state-mandated local program.

(15) Existing law establishes the Department of Housing and Community Development (department) in the Business, Consumer Services, and Housing Agency. Existing law, the California Building Standards Law, establishes the California Building Standards Commission (commission) within the Department of General Services. Existing law requires the commission to approve and adopt building standards and to codify those standards in the California Building Standards Code (code). Existing law, the State Housing Law, establishes statewide construction and occupancy standards for buildings used for human habitation.

Existing law requires, among other things, the building standards adopted and submitted by the department for approval by the commission, as specified, to be adopted by reference, with certain exceptions. Existing law authorizes any city or county to make changes in those building standards that are published in the code, including to green building standards. Existing law requires the governing body of a city or county, before making modifications or changes to those green building standards, to make an express finding that those modifications or changes are reasonably necessary because of local climatic, geological, or topographical conditions.

This bill would, from October 1, 2025, to June 1, 2031, inclusive, prohibit a city or county from making changes that are applicable to residential units to the above-described building standards unless a certain condition is met, including that the commission deems those changes or modifications necessary as emergency standards to protect health and safety.

This bill would, from October 1, 2025, to June 1, 2031, inclusive, require the commission to reject a modification or change to any building standard, as described above, affecting a residential unit and filed by the governing body of a city or county unless a certain condition is met (excluded conditions), including that the commission deems those changes or modifications necessary as emergency standards to protect health and safety. The bill would also make related findings and declarations. The bill would authorize the commission to rely on a statement by the local agency that specified excluded conditions are met. The bill would also authorize the city or county to request the commission to review one of the excluded conditions relating to changes or modifications related to administrative practices.

The California Building Standards Law defines various terms to govern the construction of its provisions, including “model code,” which means any building code drafted by private organizations or otherwise, and is required to include, but not be limited to, the latest edition of various codes.

This bill would modify the definition of “model code” to add the latest edition of the International Wildland-Urban Interface Code of the International Code Council.

Existing law requires the commission to receive proposed building standards from state agencies for consideration in an 18-month code adoption

cycle and to develop regulations, as specified, setting forth the procedures for the 18-month adoption cycle.

This bill, from October 1, 2025, to June 1, 2031, inclusive, would provide that the above-described requirement does not apply to any building standards affecting residential units and would prohibit the commission from considering, approving, or adopting any proposed building standards affecting residential units, unless a certain condition is met, including that the commission deems those changes necessary as emergency standards to protect health and safety.

The California Building Standards Law provides for the adoption of building standards by state agencies by requiring all state agencies that adopt or propose adoption of any building standard to submit the building standard to the commission for approval and adoption.

This bill, from October 1, 2025, to June 1, 2031, inclusive, would prohibit the commission or any other adopting agency from considering, approving, or adopting any proposed building standards affecting residential units, unless a certain condition is met, including that the commission deems those changes necessary as emergency standards to protect health and safety.

Existing law requires only those building standards approved by the commission, and that are effective at the local level at the time an application for a building permit is submitted, to apply to the plans and specifications for, and to the construction performed under, that building permit. Existing law requires a local ordinance adding or modifying building standards for residential occupancies, which are published in the California Building Standards Code, to apply only to an application for a building permit submitted after the effective date of the ordinance and to the plans and specifications for, and the construction performed under, that permit, subject to certain exceptions.

This bill would, notwithstanding those provisions, require the state and local building standards in effect at the time an application for a building permit is submitted, for a residential dwelling based on a model home design approved under those standards, to apply to all future residential dwellings based on that approved model home design in the same jurisdiction, unless a certain condition applies. By requiring local entities to apply certain building standards, this bill would impose a state-mandated local program.

Existing law provides that neither the State Building Standards Law, nor the application of certain building standards, limits the authority of a city, county, or city and county to establish more restrictive building standards, including, but not limited to, green building standards, reasonably necessary because of local climatic, geological, or topographical conditions, and pursuant to making certain findings.

This bill would, notwithstanding those provisions, from October 1, 2025, to June 1, 2031, inclusive, prohibit a city or county from establishing more restrictive building standards that are applicable to residential units, unless a certain condition is met, including that the commission deems those changes or modifications necessary as emergency standards to protect health and safety.

Existing law requires the commission to publish, or cause to be published, editions of the code in its entirety once in every 3 years, and supplements as necessary in the intervening period. Existing law also requires an emergency building standards supplement to be published whenever the commission determines it is necessary.

This bill would limit the changes adopted during the intervening period to changes deemed necessary for editorial or clarity reasons, certain technical updates to existing code requirements, emergency building standards, amendments by the State Fire Marshal to specified building standards, certain necessary building standards and related state amendments, certain changes or modifications to administrative practices, and building standards necessary to incorporate minimum federal accessibility requirements, as specified.

(16) Existing law provides authority for an enforcement agency to enter and inspect any buildings or premises whenever necessary to secure compliance with or prevent a violation of the building standards published in the California Building Standards Code and other rules and regulations that the enforcement agency has the power to enforce. Existing law requires an inspection, by January 1, 2026, and by January 1 every 6 years thereafter, of exterior elevated elements and associated waterproofing elements, as defined, including decks and balconies, for buildings with 3 or more multifamily dwelling units, as specified.

This bill would provide that, notwithstanding the above-described inspection timeline, a building owner who confirms the presence of asbestos containing material (ACM) during an inspection, as specified, has up to 9 months to complete the necessary ACM abatement, as provided. The bill would require the building owner to, upon completion of ACM abatement, complete the inspection within no more than 4 months. The bill would require the building owner to retain records confirming the presence of ACM and its abatement for 3 years after completion of the inspection. By imposing additional duties on local officials, this bill would impose a state-mandated local program.

(17) The State Housing Law, among other things, requires the Department of Housing and Community Development to adopt, amend, or repeal rules and regulations for the protection of the health, safety, and general welfare of the occupant and the public relating to specified residential structures, as provided, which apply throughout the state. Existing law requires the housing or building department of every city or county, or the health department if there is no building department, to enforce within its jurisdiction the provisions of the State Housing Law, building standards, and the other rules and regulations adopted by the department pertaining to the maintenance, sanitation, ventilation, use, or occupancy of apartment houses, hotels, or dwellings. Existing law authorizes an officer, employee, or agent of an enforcement agency to enter and inspect any building or premises whenever necessary to secure compliance with, or prevent a violation of, specified law, including the State Housing Law. A violation

of the State Housing Law, or of the building standards or rules and regulations adopted pursuant to that law, is a misdemeanor.

Existing law requires a city or county that receives a complaint from an occupant of a homeless shelter, as defined, or an agent of an occupant, alleging that a homeless shelter is substandard to, among other things, inspect the homeless shelter or portion thereof intended for human occupancy that may be substandard, as specified. Existing law requires a city or county that determines a homeless shelter is substandard to issue a notice to correct the violation to the owner or operator of the homeless shelter, as specified. Existing law makes the owner or operator of a homeless shelter responsible for correcting any violation cited pursuant to these provisions.

This bill would require a city or county to additionally perform an annual inspection of every homeless shelter located in its jurisdiction, as prescribed. The bill would authorize the above-described inspection or annual inspection to be announced or unannounced. The bill would require homeless shelters to prominently display notice of an occupant's rights, the process for reporting a complaint alleging a homeless shelter is substandard, and prescribed information, including specified contact information. The bill would require the homeless shelter to provide the same notice in writing to new occupants upon intake.

Existing law authorizes a city or county to impose additional civil penalties on an owner or operator that fails to correct a violation within the required time period. Existing law prohibits a city or county from awarding or distributing any state funding, as defined, to the owner or operator of a homeless shelter for purposes of operating the homeless shelter if, among other things, the owner or operator fails to correct a violation within the required time period. Existing law also authorizes legal action to enforce the requirements of these provisions, as specified.

This bill would entitle a plaintiff who prevails in an above-described legal action to recover reasonable attorney's fees and costs. The bill would additionally authorize the Department of Housing and Community Development to bring a civil action to enforce these provisions.

Existing law requires each city and county to annually submit a report that provides specified information relating to inspections of homeless shelters, including a list of owners or operators of homeless shelters who received 3 or more violations within any 6-month period. If there are no outstanding violations or violations corrected during the applicable period, existing law exempts a city or county from submitting that report. Existing law authorizes the Department of Housing and Community Development or the Business, Consumer Services, and Housing Agency to deem an owner or operator of a shelter ineligible for state funding, as defined, for shelter operations based on the information provided in the report.

This bill would, instead, require a city or county to submit a report each year, regardless of whether the city or county received any complaints, and to include in its annual report the number of complaints received by the city or county that year, including if the city or county did not receive any complaints. The bill would require the department to withhold state funding

from a city or county that fails to comply with its reporting requirements or fails to take action to correct a violation by a homeless shelter.

By adding to the duties of local officials with respect to enforcement of the State Housing Law, the violation of which is a crime, this bill would impose a state-mandated local program.

(18) The California Constitution prohibits the development, construction, or acquisition in any manner of a low-rent housing project by any state public body, as defined, until a majority of the qualified electors of the city, town, or county in which it is proposed to develop, construct, or acquire the same, voting upon that issue, approve the project by voting in favor at an election. The California Constitution, for purposes of this prohibition, defines "low-rent housing project" to mean any development composed of urban or rural dwellings, apartments, or other living accommodations for persons of low income, financed in whole or in part by the federal government or a state public body, or to which the federal government or a state public body extends assistance by supplying all or part of the labor, by guaranteeing the payment of liens, or otherwise. Existing law establishes exclusions from this definition of "low-rent housing project," including, among others, a development that consists of the acquisition, rehabilitation, reconstruction, alterations work, new construction, or any combination thereof of lodging facilities or dwelling units using moneys appropriated and disbursed pursuant to the Zenovich-Moscone-Chacon Housing and Home Finance Act and the Affordable Housing and Sustainable Communities Program.

Existing law, the Behavioral Health Infrastructure Bond Act of 2024 (bond act), which establishes the Behavioral Health Infrastructure Fund, requires specified proceeds of interim debt and bonds that are issued and sold pursuant to the bond act to be deposited in the fund, and continuously appropriates the fund for purposes of the bond act. Existing law requires the moneys in the fund to be used for certain purposes, including making loans or grants administered by the Department of Housing and Community Development to state, regional, and local public entities and development sponsors to acquire capital assets for the conversion, rehabilitation, or new construction of permanent supportive housing for persons who are homeless, chronically homeless, or are at risk of homelessness, and are living with a behavioral health challenge, are veterans, or are part of a veteran's household. Existing law allocates moneys in the fund for those purposes.

This bill would expand the above-described exclusion to include a development that consists of the acquisition, rehabilitation, reconstruction, alterations work, new construction, or any combination thereof of lodging facilities or dwelling units using moneys appropriated and disbursed pursuant to the bond act, thereby excluding the developments that receive moneys from the specified fund and program from the scope of the above-described constitutional provision.

(19) Existing law establishes the Interagency Council on Homelessness and requires the goals of the council to include, among other things, identifying mainstream resources, benefits, and services that can be accessed to prevent and end homelessness in California. Existing law requires the

council to administer certain grant programs to assist local governments in addressing homelessness.

Existing law establishes the Homeless Housing, Assistance, and Prevention program (HHAP) for the purpose of providing jurisdictions with grant funds to support regional coordination and expand or develop local capacity to address their immediate homelessness challenges, as specified. Existing law provides for the allocation of funding under the program among continuums of care, cities, counties, and tribes in 6 rounds, which are administered by the council. Existing law requires a program applicant to provide specified information through data collection, reporting, performance monitoring, and accountability framework.

Existing law mandates that responsibility for administering specified grant programs transferred from the council to the Department of Housing and Community Development, including the HHAP program.

This bill would specify that the reporting requirements described above apply to all rounds of the HHAP program and make conforming changes to reflect the transfer of responsibility for the reporting framework from the council to the department.

(20) Existing law establishes the Encampment Resolution Funding program, administered by the Interagency Council on Homelessness, to increase collaboration between the council, local jurisdictions, and continuums of care for specified purposes. Existing law requires the council to administer the funding round 1 moneys of the programs in accordance with specified timelines, and requires recipients of funding round 1 moneys to expend all program funds no later than June 30, 2024, as specified.

Existing law requires recipients of additional funding round moneys for projects from prior funding rounds that the council determined satisfied applicable program requirements but were not funded in the prior round to expend at least 50% of their allocation within 2 fiscal years of the appropriation from the Legislature, to obligate 100% of their allocation within 2 fiscal years of the appropriation, and to expend all program funds within 3 fiscal years of the appropriation, as specified.

Existing law requires recipients of additional funding round moneys awarded on a rolling basis pursuant to specified provisions to expend at least 50% of their allocation within 2 fiscal years of the appropriation from the Legislature, to obligate 100% of their allocation within 2 fiscal years of the appropriation, and to expend all program funds within 4 fiscal years of the appropriation.

This bill would revise the above-described timelines to instead be within the above-specified fiscal years of the date of the award.

(21) Existing law, the Zenovich-Moscone-Chacon Housing and Home Finance Act, among other things, establishes the Department of Housing and Community Development and requires it to administer various programs intended to promote the development of housing and to provide housing assistance and home loans. Existing law sets forth various general powers of the department in implementing these programs, including authorizing the department to enter into long-term contracts or agreements of up to 30

years for the purpose of servicing loans or grants or enforcing regulatory agreements or other security documents.

Existing law, unless an extension of a department loan, the reinstatement of a qualifying unpaid matured loan, the subordination of a department loan to new debt, or an investment of tax credit equity would result in a rent increase for tenants of a development, authorizes the department to approve an extension, reinstatement, subordination, or investment pursuant to specified rental housing finance programs, as specified, or if the department determines that a project has, or will have after rehabilitation or repairs, a potential remaining useful life equal to or greater than the term of the restructured loan. Existing law authorizes the adjustment of rents for assisted units to the minimum extent necessary to support new debt to pay for rehabilitation, as specified, and provides formulas to calculate the maximum allowable rent increase for different programs. Existing law authorizes the department to charge a monitoring fee to cover the aggregate monitoring costs in years the loan is extended and a transaction fee to cover its costs for processing restructuring transactions, and requires developer fee limitations to be consistent with specified laws and regulations, including regulations by the California Tax Credit Allocation Committee.

This bill would revise and recast these provisions, including additionally authorizing the department to approve the payoff of a department loan in whole or part before the end of its term and the extraction of equity from a development for purposes approved by the department. The bill would specify eligible uses of loan and equity sources, if the department determines that a project has, or will have after rehabilitation or repairs, a potential remaining useful life equal to or greater than the term of the department's regulatory agreement for purposes of approving an extension, reinstatement, subordination, payoff, extraction, or investment, as described above. The bill would prohibit the extension, reinstatement, subordination, payoff, extraction, or investment, as described above, if it would result in a rent increase for tenants of a development over and above the annual adjustment to the tenants' rents under the department's regulatory agreement.

This bill would recast certain provisions related to regulatory agreements, including authorizing the department to add another regulatory agreement and authorizing the department to waive specified requirements in the regulatory agreement if the loan is paid off, including requiring occupancy and financial reports. The bill would specify that rents for assisted units may not be adjusted to support new debt for the extraction of equity. The bill would revise certain provisions related to calculating a permitted rent increase, as provided. The bill would authorize the department to charge additional fees as necessary to cover its costs for processing restructuring transactions, and would provide that the monitoring fees continue until the end of the term of the department's regulatory agreement, as specified. The bill would limit developer fees to the amount allowed by the California Tax Credit Allocation Committee or to 25% of actual rehabilitation costs, as applicable.

This bill would require the department, subject to certain conditions, to allow property owners subject to a regulatory agreement with the department to take out additional debt on the development in order to finance, with the department's approval, the rehabilitation of the property or investment in new affordable housing.

Existing law, known as the No Place Like Home Program, requires the department to award up to $2,000,000,000 among counties to finance capital costs, including, but not limited to, acquisition, design, construction, rehabilitation, or preservation, and to capitalize operating reserves, of permanent supportive housing for the target population, as specified.

This bill would define "capitalized operating reserves" for purposes of the Zenovich-Moscone-Chacon Housing and Home Finance Act and the No Place Like Home Program.

(22) Existing law requires the Department of Housing and Community Development to administer various programs intended to promote the development or rehabilitation of housing, including the Joe Serna, Jr. Farmworker Housing Grant Program, the Multifamily Housing Program, the Transit-Oriented Development Implementation Program, the Veterans Housing and Homeless Prevention Act of 2014, the No Place Like Home Program, the Deferred-Payment Rehabilitation Loan Program, the Family Housing Demonstration Program, and the Affordable Housing and Sustainable Communities Program. Existing law authorizes the department to set aside, designate, use, or expend a portion of the funds in those programs for specified purposes, including to cure or avert a default on certain loans or obligations, or to bid at a foreclosure sale where the default or foreclosure sale would jeopardize the department's security in certain rental housing developments.

This bill would establish the Affordable Housing Default Reserve Account. The bill would provide that all moneys in the account are continuously appropriated to the department for the purpose of curing or averting a default on the terms of any loan or other obligation by the recipient of financial assistance, or bidding at any foreclosure sale where the default or foreclosure sale would jeopardize the department's security in the rental housing development assisted by the department. The bill also would authorize the department to use the funds in the account to repair or maintain specified rental housing developments. The bill would authorize the Department of Finance to transfer amounts in specified funds or programs to the Affordable Housing Default Reserve Account for expenditure by the department. During any fiscal year, if the department spends a total of more than 25% of the balance that was in the account at the start of that fiscal year, the bill would require, within 30 days of surpassing that amount, the department to provide written notice to the Joint Legislative Budget Committee, as specified.

(23) Existing law establishes the Regional Early Action Planning Grants Program of 2021 (program) for the purpose of providing regions with funding, including grants, for transformative planning and implementation activities, as defined. Existing law requires the Department of Housing and

Community Development (department) to develop and administer the program, in collaboration with the Office of Land Use and Climate Innovation, the Strategic Growth Council, and the State Air Resources Board, and to distribute funds, upon appropriation, in accordance with specified requirements.

Existing law requires a recipient of funds under the program to obligate those funds no later than September 30, 2024, and expend those funds no later than June 30, 2026. Existing law requires each eligible entity that receives an allocation of funds pursuant to certain of the program's provisions to submit a final report on the use of those funds to the department, as specified, no later than December 31, 2026.

This bill would instead require a recipient of funds under the program to expend those funds no later than December 31, 2026, and would require the above-described final report to be submitted no later than June 30, 2027. The bill would also require the final invoice submission deadline to reimburse those funds to be June 30, 2027.

If certain of those entities that received an allocation have unexpended funds after June 30, 2026, existing law authorizes the department to make those funds available to other of those entities for reimbursement of expenditures incurred before June 30, 2026, as specified, before December 31, 2026, as specified.

This bill would instead, if certain of those entities that received an allocation have unexpended funds after December 31, 2026, authorize the department to make those funds available to other of those entities for reimbursement of expenditures incurred before December 31, 2026, as specified, before December 31, 2027, as specified.

(24) Under existing law, the Transit-Oriented Development Implementation Program is administered by the Department of Housing and Community Development to provide local assistance to developers for the purpose of developing higher density uses within close proximity to transit stations, as provided.

This bill would instead authorize the program to provide local assistance for the purpose of supporting the development of higher density vehicle miles traveled-efficient affordable housing or related infrastructure. The bill would additionally authorize the program to provide local assistance to cities, counties, cities and counties, transit agencies, and eligible tribal applicants, as defined.

Existing law establishes the Transit-Oriented Development Implementation Fund and, to the extent funds are available, requires the department to make loans for the development and construction of housing development projects within close proximity to a transit station that meet specified criteria.

This bill would instead authorize the department, to the extent funds are available, to make repayable or forgivable loans for the development and construction of vehicle miles traveled-efficient affordable housing and to make grants for infrastructure necessary for the development of higher

density vehicle miles traveled-efficient affordable housing or related infrastructure projects, as specified.

This bill would require the Office of Land Use and Climate Innovation, subject to appropriation, and, with the agreement of the Regents of the University of California, contract with the University of California to conduct an evaluation of the mitigation measures used by projects participating in the Transit-Oriented Development Implementation Program to reduce vehicle miles traveled, as specified. The bill would require the office to complete the evaluation and submit a report to the Legislature on or before July 1, 2031.

(25) CEQA requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA defines a responsible agency as a public agency, other than the lead agency, which has responsibility for carrying out or approving a project. CEQA exempts from its requirements various projects, including, but not limited to, housing projects that meet certain requirements.

This bill would authorize, if a lead agency determines that a project will have a significant transportation impact, the lead agency to mitigate the transportation impact to a less than significant level by helping to fund or otherwise facilitating housing or related infrastructure projects, including by contributing an amount, to be determined pursuant to guidance issued by the office, into the Transit-Oriented Development Implementation Fund for purposes of the Transit-Oriented Development Implementation Program. The bill would authorize deposit of those contributions into the fund beginning on or before July 1, 2026, as determined by the department, and would make those moneys available to the department, upon appropriation by the Legislature, for the purpose of awarding funding for affordable housing or related infrastructure projects under the program in accordance with specified priorities. The bill would require, on or before July 1, 2026, and at least once every 3 years thereafter, the office, in consultation with other state agencies, to issue guidance related to the implementation of these provisions, as provided. The bill would require the office, in consultation with the department, the Transportation Agency, and regions, to evaluate the use of vehicle miles traveled mitigation resources allocated pursuant to the above-described program, as specified, beginning the year following the first distributions of funding. The bill would make related findings and declarations.

Existing law requires workers employed on public works to be paid not less than the general prevailing rate of per diem wages for work of a similar

character in the locality that the public work is performed, as prescribed, unless an exception applies.

This bill would exempt from the requirements of CEQA any aspect of a housing development project, as defined, including any permits, approvals, or public improvements required for the housing development project, as may be required by CEQA, if the housing development project meets certain conditions relating to, for example, size, density, location, and use, including specific requirements for any housing on the project site located within 500 feet of a freeway. This bill would require a local government to, within specified timeframes, provide formal notification to each California Native American tribe that is traditionally and culturally affiliated with the project site as an invitation to consult on the proposed project, as specified. The bill would require a local government, as a condition of approval for the development, to require the development proponent to complete a specified environmental assessment regarding hazardous substance releases. If a recognized environmental condition is found, the bill would require the development proponent to complete a preliminary endangerment assessment and specified mitigation based on that assessment.

This bill would also require specified housing development projects that are subject to this CEQA exemption to be paid prevailing wage rates, as specified, regardless of whether the housing development project is a public work. The bill would require specified projects, including specified projects of 50 units or greater in the City and County of San Francisco, to comply with specified labor standards, extend the liability to a development proponent, as defined, for any debt owed to a wage claimant or third party on the wage claimant's behalf under specified law, and authorize a joint labor-management cooperation committee to bring an action to enforce the specified requirements, as specified.

Because a lead agency would be required to determine whether a housing development project qualifies for the above-described exemption and because a local government would be required to provide formal notification to California Native American tribes, the bill would impose a state-mandated local program.

(26) The Jobs and Economic Improvement Through Environmental Leadership Act of 2021 authorizes the Governor, until January 1, 2032, to certify environmental leadership development projects that meet specified conditions for certain streamlining benefits related to CEQA. The act requires a lead agency to prepare the record of proceedings for an environmental leadership development project, as provided, and to provide a specified notice within 10 days of the Governor certifying the project. Among other categories of projects, the act authorizes the Governor to certify a housing development project that, among other things, will result in a minimum investment of $15,000,000, but less than $100,000,000, in California upon completion of construction.

This bill would authorize the governor to designate for this streamlining one of these housing development projects that will result in an investment

of $15,000,000 or more in California upon completion, without an upper limit on the resulting investment.

The act requires, as one of the conditions for certification of a housing development project, that it not result in any net additional emission of greenhouse gases, including greenhouse gas emissions from employee transportation. The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions and to update the scoping plan at least once every 5 years.

The bill would authorize, as an alternative to the no net additional greenhouse gas condition for certification of a housing development project as an environmental leadership development project, a demonstration that the project is consistent with the most recent scoping plan adopted by the state board.

By expanding the duties imposed on lead agencies, this bill would impose a state-mandated local program.

(27) Existing law, the California Coastal Act of 1976, establishes the California Coastal Commission and prescribes the powers and responsibilities of the commission with regard to the regulation of development along the California coast.

The act prescribes procedures for the approval and certification of a local coastal program by the commission, and provides for the delegation of development review authority to a local government, as defined, with a certified local coastal program. Under the act, an action taken by a local government after certification of its local coastal program on a coastal development permit application may be appealed to the commission only on specified grounds and only for certain types of developments, including certain developments located in a sensitive coastal resource area and any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map, as specified.

This bill would exempt a residential development project, as defined, from the above provisions relating to the appeal of developments located in a sensitive coastal resource area and developments approved by a coastal county. The bill would also require the commission, no later than July 1, 2027, and annually thereafter, to submit a report to the Legislature that includes specified information relating to residential development projects for the preceding calendar year, as specified.

(28) Existing law, the Personal Income Tax Law, authorizes various credits against the taxes imposed by that law, including a credit for qualified renters in the amount of $120 for spouses filing joint returns, heads of household, and surviving spouses if adjusted gross income is $50,000, as adjusted, or less, and in the amount of $60 for other individuals if adjusted gross income is $25,000, as adjusted, or less. Existing law requires any bill authorizing a new tax credit to contain, among other things, specific goals,

purposes, and objectives that the tax credit will achieve, detailed performance indicators, and data collection requirements.

Existing law establishes the continuously appropriated Tax Relief and Refund Account in the General Fund and provides that payments required to be made to taxpayers or other persons from the Personal Income Tax Fund are to be paid from that account, including any amount allowable as an earned income tax credit in excess of any tax liabilities.

This bill, for taxable years beginning on or after January 1, 2026, and only when specified annually in a bill relating to the Budget Act, would increase the credit amount for a qualified renter to $250 and $500, as provided. In the event the increased credit amount is not specified in a bill relating to the Budget Act, the existing credit amounts of $120 and $60, as described above, respectively, would be the credit amounts for that taxable year. The bill would provide findings and declarations relating to the goals, purposes, and objectives of this credit.

(29) This bill would make its provisions severable.

(30) This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

(31) This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco with respect to the above-described CEQA exemption and minimum wage requirements.

(32) 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 specified reasons.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(33) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. Section 714.3 of the Civil Code is amended to read:

714.3. (a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in real property that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Article 2 (commencing with Section 66314) of Chapter 13 or Article 3 (commencing with Section 66333) of

Chapter 13 of Division 1 of Title 7 of the Government Code is void and unenforceable.

(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, "reasonable restrictions" means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 of Division 1 of Title 7 of the Government Code. "Reasonable restrictions" shall not include any fees or other financial requirements.

SEC. 2. Section 2924.13 is added to the Civil Code, to read:

2924.13. (a) As used in this section:

(1) "Borrower" has the same meaning as defined in Section 2929.5.

(2) "Mortgage servicer" includes the current mortgage servicer and any prior mortgage servicers.

(3) "Subordinate mortgage" means a security instrument in residential real property, including a deed of trust and any security instrument that functions in the form of a mortgage, that was, at the time it was recorded, subordinate to another security interest encumbering the same residential real property.

(b) The following conduct constitutes an unlawful practice in connection with a subordinate mortgage:

(1) The mortgage servicer did not provide the borrower with any written communication regarding the loan secured by the mortgage for at least three years.

(2) The mortgage servicer failed to provide a transfer of loan servicing notice to the borrower when required to provide that notice by law, including, but not limited to, the federal Real Estate Settlement Procedures Act, as amended (12 U.S.C. Sec. 2601 et seq.), and investor or guarantor requirements.

(3) The mortgage servicer failed to provide a transfer of loan ownership notice to the borrower when required to provide that notice by law, including, but not limited to, the federal Truth in Lending Act, as amended (15 U.S.C. 1601, et seq.), and investor or guarantor requirements.

(4) The mortgage servicer conducted or threatened to conduct a foreclosure sale after providing a form to the borrower indicating that the debt had been written off or discharged, including, but not limited to, an Internal Revenue Service Form 1099.

(5) The mortgage servicer conducted or threatened to conduct a foreclosure sale after the applicable statute of limitations expired.

(6) The mortgage servicer failed to provide a periodic account statement to the borrower when required to provide that statement by law, including, but not limited to, the federal Truth in Lending Act, as amended (15 U.S.C. 1601, et seq.), and investor or guarantor requirements.

(c) A mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent shall not conduct or threaten to conduct a nonjudicial foreclosure until the mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent does both of the following:

(1) Simultaneously with the recording of a notice of default, records or causes to be recorded, in the office of the county recorder of the county that the encumbered property is located, a certification under penalty of perjury that either:

(A) The mortgage servicer did not engage in an unlawful practice as described in subdivision (b).

(B) The mortgage servicer lists all instances when it committed an unlawful practice as described in subdivision (b).

(2) Simultaneously with the service of a recorded notice of default, sends both of the following documents to the borrower by United States certified mail with return receipt requested to the last known mailing address of the borrower:

(A) A notice providing that if the borrower believes the mortgage servicer engaged in an unlawful practice described in subdivision (b) or misrepresented its compliance history, the borrower may petition the court for relief before the foreclosure sale.

(B) A copy of the certification recorded pursuant to paragraph (1).

(d) Upon a borrower's petition to the court for relief before the foreclosure sale, the court shall enjoin a proposed foreclosure sale pursuant to a power of sale in a subordinate mortgage until a final determination on the petition has been made.

(e) It shall be an affirmative defense in a judicial foreclosure proceeding if the court finds the mortgage servicer engaged in any of the unlawful practices specified in subdivision (b).

(f) The court may provide equitable remedies that the court deems appropriate, depending on the extent and severity of the mortgage servicer's violations. The equitable remedies may include, but are not limited to, striking all or a portion of the arrears claim, barring foreclosure, or permitting foreclosure subject to future compliance and corrected arrearage claim.

(g) A borrower may also petition the court to set a nonjudicial foreclosure sale aside when a certification required by subdivision (c) was never recorded or when a certification recorded pursuant to subdivision (c) indicates that the mortgage servicer engaged in an unlawful practice described in subdivision (b) or misrepresented its compliance history.

(h) Any failure to comply with the provisions of this section shall not affect the validity of a trustee's sale or a sale in favor of a bona fide purchaser.

SEC. 3. Section 5850 of the Civil Code is amended to read:

5850. (a) If an association adopts or has adopted a policy imposing any monetary penalty, including any fee, on any association member for a violation of the governing documents, including any monetary penalty relating to the activities of a guest or tenant of the member, the board shall adopt and distribute to each member, in the annual policy statement prepared

pursuant to Section 5310, a schedule of the monetary penalties that may be assessed for those violations, which shall be in accordance with authorization for member discipline contained in the governing documents. Monetary penalties shall be reasonable.

(b) Any new or revised monetary penalty that is adopted after complying with subdivision (a) may be included in a supplement that is delivered to the members individually, pursuant to Section 4040.

(c) A monetary penalty for a violation of the governing documents shall not exceed the lesser of the following:

(1) The monetary penalty stated in the schedule of monetary penalties or supplement that is in effect at the time of the violation.

(2) One hundred dollars ($100) per violation.

(d) (1) Notwithstanding subdivision (c), the board may impose a penalty stated in the schedule of monetary penalties or supplement that is in effect at the time of the violation that is greater than one hundred dollars ($100) per violation, if the violation may result in an adverse health or safety impact on the common area or another association member's property.

(2) Before imposing a penalty on a violation pursuant to this subdivision, the board shall make a written finding specifying the adverse health or safety impact in a board meeting open to the members.

(e) A late charge or interest shall not be charged to a member for a monetary penalty.

(f) An association shall provide a copy of the most recently distributed schedule of monetary penalties, along with any applicable supplements to that schedule, to any member upon request.

SEC. 4. Section 5855 of the Civil Code is amended to read:

5855. (a) When the board is to meet to consider or impose discipline upon a member, or to impose a monetary charge as a means of reimbursing the association for costs incurred by the association in the repair of damage to the common area and facilities caused by a member or the member's guest or tenant, the board shall notify the member in writing, by either personal delivery or individual delivery pursuant to Section 4040, at least 10 days prior to the meeting.

(b) The notification shall contain, at a minimum, the date, time, and place of the meeting, the nature of the alleged violation for which a member may be disciplined or the nature of the damage to the common area and facilities for which a monetary charge may be imposed, and a statement that the member has a right to attend and may address the board at the meeting. The board shall meet in executive session if requested by the member.

(c) A member shall have the opportunity to cure the violation prior to the meeting. The board shall not impose discipline in either of the following circumstances:

(1) The member cures the violation prior to the meeting.

(2) If curing the violation would take longer than the time between the notice provided pursuant to subdivision (a) and the meeting, the member provides financial commitment to cure the violation.

(d) If the board and the member are not in agreement after the meeting, a member shall have the opportunity to request internal dispute resolution pursuant to Section 5910.

(e) If the board and the member are in agreement after the meeting, the board shall draft a written resolution. The written resolution, signed by the board and the member of the dispute pursuant to procedures not in conflict with the law or governing documents, binds the association and is judicially enforceable.

(f) If the board imposes discipline on a member or imposes a monetary charge on the member for damage to the common area and facilities, the board shall provide the member with a written notification of the decision, by either personal delivery or individual delivery pursuant to Section 4040, within 14 days following the action.

(g) A disciplinary action or the imposition of a monetary charge for damage to the common area shall not be effective against a member unless the board fulfills the requirements of this section.

SEC. 5. Section 8590.15.5 is added to the Government Code, to read:

8590.15.5. Upon appropriation by the Legislature, pursuant to this article, CRMP shall fund the seismic retrofitting of affordable multifamily housing.

(a) Funding provided under this section shall be limited to affordable multifamily housing and consistent with this article.

(b) CRMP shall prioritize affordable multifamily housing serving lower income households.

(c) For purposes of this section, the following definitions apply:

(1) "Lower income households" has the same meaning as the term is defined in Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the units in the development, including total units and density bonus units, may be for moderate-income households.

(2) "Moderate-income households" has the same meaning as the term is defined in Section 50053 of the Health and Safety Code.

SEC. 6. Section 12531 of the Government Code is amended to read:

12531. (a) The Legislature finds and declares that California, represented by the California Attorney General, entered a national multistate settlement with the country's five largest loan servicers. This agreement, the National Mortgage Settlement stemmed from successful resolution of federal court action (Consent Judgment, United States v. Bank of America (No. 1:12-cv-00361, Banzr. D.C. Apr. 4, 2012)). The National Mortgage Settlement is broad ranging, with California's share of this settlement estimated to be up to eighteen billion dollars ($18,000,000,000). Of this amount, approximately four hundred ten million dollars ($410,000,000) will come directly to the state in costs, fees, and penalty payments.

(b) There is hereby created in the State Treasury the National Mortgage Special Deposit Fund. Notwithstanding Section 13340, all moneys in the fund are hereby continuously appropriated, and shall be allocated by the Department of Finance.

(c) Direct payments made to the State of California as civil penalties pursuant to the National Mortgage Settlement shall be deposited in the Unfair Competition Law Fund as required by the settlement.

(d) Direct payments made to the State of California pursuant to the National Mortgage Settlement, except for those payments made pursuant to subdivision (c), shall be deposited in the National Mortgage Special Deposit Fund.

(e) (1) The funds in the National Mortgage Special Deposit Fund shall be allocated as follows:

(A) Three hundred million dollars ($300,000,000) to be administered by the California Housing Finance Agency for all of the following purposes:

(i) Providing housing counseling services that are certified by the federal Department of Housing and Urban Development to homeowners, former homeowners, or renters.

(ii) Providing legal services for home ownership preservation, including, but not limited to, foreclosure prevention.

(iii) (I) Providing mortgage assistance to qualified California households.

(II) Mortgage assistance to borrowers who own residential properties with four or fewer units who face foreclosure are eligible under this clause.

(B) Thirty-one million dollars ($31,000,000) to the Judicial Council for distribution through the State Bar to qualified legal services projects and support centers to provide eviction defense or other tenant defense assistance in landlord-tenant disputes, including preeviction and eviction legal services, counseling, advice and consultation, mediation, training, renter education, and representation, and legal services to improve habitability, increase affordable housing, ensure receipt of eligible income or benefits to improve housing stability, and prevent homelessness. These funds shall be allocated as follows:

(i) Seventy-five percent shall be distributed to qualified legal services projects and support centers that currently provide eviction defense or other tenant defense assistance in landlord-tenant disputes as set forth in this subparagraph.

(I) To receive funds, a program shall be eligible for 2020 Interest on Lawyer Trust Fund Account (IOLTA) funding. Each eligible program shall receive a percentage equal to that legal services project's 2020 IOLTA allocation divided by the total 2020 IOLTA allocation for all legal services projects eligible for the funding.

(II) To ensure meaningful funding, a minimum amount of fifty thousand dollars ($50,000) shall be allocated to an eligible program unless the program requests a lesser amount, in which case any funds that would have otherwise been allocated to the program shall be distributed proportionally to the other qualified legal services projects.

(III) These funds shall be distributed as soon as practicable and shall not supplant existing resources.

(ii) Twenty-five percent shall be allocated through a competitive grant process developed by the Legal Services Trust Fund Commission of the

State Bar to award grants to qualified legal service projects and support centers.

(I) The grant process shall ensure that a qualified legal service project or support center to receive funding demonstrate that funds received will be not used to supplant existing resources and will be used to provide services to tenants not otherwise served by that qualified legal service project or support center.

(II) The commission shall determine grant awards, and preference shall be given to qualified legal aid agencies that serve rural or underserved communities that serve clients regardless of immigration or citizenship status.

(III) Any funds not allocated pursuant to this competitive grant process shall be distributed pursuant to clause (i).

(2) No more than 5 percent of the allocations in subparagraphs (A) and (B) of paragraph (1) shall be spent for the administration of those services.

(f) Notwithstanding any other law, the Controller may use the funds in the National Mortgage Special Deposit Fund for cashflow loans to the General Fund as provided in Sections 16310 and 16381.

SEC. 7. Section 54221 of the Government Code is amended to read:

54221. As used in this article, the following definitions shall apply:

(a) (1) "Local agency" means every city, whether organized under general law or by charter, county, city and county, district, including school, sewer, water, utility, and local and regional park districts of any kind or class, joint powers authority, successor agency to a former redevelopment agency, housing authority, or other political subdivision of this state and any instrumentality thereof that is empowered to acquire and hold real property.

(2) The Legislature finds and declares that the term "district" as used in this article includes all districts within the state, including, but not limited to, all special districts, sewer, water, utility, and local and regional park districts, and any other political subdivision of this state that is a district, and therefore the changes in paragraph (1) made by the act adding this paragraph that specify that the provisions of this article apply to all districts, including school, sewer, water, utility, and local and regional park districts of any kind or class, are declaratory of, and not a change in, existing law.

(b) (1) "Surplus land" means land owned in fee simple by any local agency for which the local agency's governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency's use. Land shall be declared either "surplus land" or "exempt surplus land," as supported by written findings, before a local agency may take any action to dispose of it consistent with an agency's policies or procedures. A local agency, on an annual basis, may declare multiple parcels as "surplus land" or "exempt surplus land."

(2) "Surplus land" includes land held in the Community Redevelopment Property Trust Fund pursuant to Section 34191.4 of the Health and Safety Code and land that has been designated in the long-range property management plan approved by the Department of Finance pursuant to Section 34191.5 of the Health and Safety Code, either for sale or for future

development, but does not include any specific disposal of land to an identified entity described in the plan.

(3) Nothing in this article prevents a local agency from obtaining fair market value for the disposition of surplus land consistent with Section 54226.

(4) Notwithstanding paragraph (1), a local agency is not required to make a declaration at a public meeting for land that is "exempt surplus land" pursuant to subparagraph (A), (B), (E), (K), (L), or (Q) of paragraph (1) of subdivision (f) if the local agency identifies the land in a notice that is published and available for public comment, including notice to the entities identified in subdivision (a) of Section 54222, at least 30 days before the exemption takes effect.

(c) (1) Except as provided in paragraph (2), "agency's use" shall include, but not be limited to, land that is being used, or is planned to be used pursuant to a written plan adopted by the local agency's governing board, for agency work or operations, including, but not limited to, utility sites, property owned by a port that is used to support logistics uses, watershed property, land being used for conservation purposes, land for demonstration, exhibition, or educational purposes related to greenhouse gas emissions, sites for broadband equipment or wireless facilities, and buffer sites near sensitive governmental uses, including, but not limited to, waste disposal sites, and wastewater treatment plants. "Agency's use" by a local agency that is a district shall also include land disposed for uses described in subparagraph (B) of paragraph (2).

(2) (A) "Agency's use" shall not include commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development. Property disposed of for the sole purpose of investment or generation of revenue shall not be considered necessary for the agency's use.

(B) In the case of a local agency that is a district, excepting those whose primary mission or purpose is to supply the public with a transportation system, "agency's use" may include commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development or be for the sole purpose of investment or generation of revenue if the agency's governing body takes action in a public meeting declaring that the use of the site will do one of the following:

(i) Directly further the express purpose of agency work or operations.

(ii) Be expressly authorized by a statute governing the local agency, provided the district complies with Section 54233.5 if applicable.

(d) (1) "Dispose" means either of the following:

(A) The sale of the surplus land.

(B) The entering of a lease for surplus land, which is for a term longer than 15 years, inclusive of any extension or renewal options included in the terms of the initial lease, entered into on or after January 1, 2024.

(2) "Dispose" shall not mean either of the following:

(A) The entering of a lease for surplus land, which is for a term of 15 years or less, inclusive of any extension or renewal options included in the terms of the initial lease.

(B) The entering of a lease for surplus land on which no development or demolition will occur, regardless of the term of the lease.

(e) "Open-space purposes" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(f) (1) Except as provided in paragraph (2), "exempt surplus land" means any of the following:

(A) Surplus land that is transferred pursuant to Section 25539.4 or 37364.

(B) Surplus land that is less than one-half acre in area and is not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes.

(C) Surplus land that a local agency is exchanging for another property necessary for the agency's use. "Property" may include easements necessary for the agency's use.

(D) Surplus land that a local agency is transferring to another local, state, or federal agency, or to a third-party intermediary for future dedication for the receiving agency's use, or to a federally recognized California Indian tribe. If the surplus land is transferred to a third-party intermediary, the receiving agency's use must be contained in a legally binding agreement at the time of transfer to the third-party intermediary.

(E) Surplus land that is a former street, right-of-way, or easement, and is conveyed to an owner of an adjacent property.

(F) (i) Surplus land that is to be developed for a housing development, which may have ancillary commercial ground floor uses, that restricts 100 percent of the residential units to persons and families of low or moderate income, with at least 75 percent of the residential units restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, for 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability, and in no event shall the maximum affordable sales price or rent level be higher than 20 percent below the median market rents or sales prices for the neighborhood in which the site is located.

(ii) The requirements of clause (i) shall be contained in a covenant or restriction recorded against the surplus land at the time of sale that shall run with the land and be enforceable against any owner who violates the covenant or restriction and each successor in interest who continues the violation.

(G) (i) Surplus land that is subject to a local agency's open, competitive solicitation or that is put to open, competitive bid by a local agency, provided that all entities identified in subdivision (a) of Section 54222 will be invited to participate in the process, for a housing or a mixed-use development that

is more than one acre and less than 10 acres in area, consisting of either a single parcel, or two or more adjacent or non-adjacent parcels combined, that includes not less than 300 residential units, and that restricts at least 25 percent of the residential units to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability.

(ii) The requirements of clause (i) shall be contained in a covenant or restriction recorded against the surplus land at the time of sale that shall run with the land and be enforceable against any owner who violates the covenant or restriction and each successor in interest who continues the violation.

(H) (i) Surplus land totaling 10 or more acres, consisting of either a single parcel, or two or more adjacent or non-adjacent parcels combined for disposition to one or more buyers pursuant to a plan or ordinance adopted by the legislative body of the local agency, or a state statute. That surplus land shall be subject to a local agency's open, competitive solicitation process or put out to open, competitive bid by a local agency, provided that all entities identified in subdivision (a) of Section 54222 will be invited to participate in the process for a housing or mixed-use development.

(ii) The aggregate development shall include the greater of the following:

(I) Not less than 300 residential units.

(II) A number of residential units equal to 10 times the number of acres of the surplus land or 10,000 residential units, whichever is less.

(iii) At least 25 percent of the residential units shall be restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent pursuant to Sections 50052.5 and 50053 of the Health and Safety Code, for a minimum of 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability.

(iv) If nonresidential development is included in the development pursuant to this subparagraph, at least 25 percent of the total planned units affordable to lower income households shall be made available for lease or sale and permitted for use and occupancy before or at the same time with every 25 percent of nonresidential development made available for lease or sale and permitted for use and occupancy.

(v) A violation of this subparagraph is subject to the penalties described in Section 54230.5. Those penalties are in addition to any remedy a court may order for violation of this subparagraph. A local agency shall only dispose of land pursuant to this subparagraph through a disposition and development agreement that includes an indemnification clause that provides

that if an action occurs after disposition violates this subparagraph, the person or entity that acquired the property shall be liable for the penalties.

(vi) The requirements of clauses (i) to (v), inclusive, shall be contained in a covenant or restriction recorded against the surplus land at the time of sale that shall run with the land and be enforceable against any owner who violates the covenant or restriction and each successor in interest who continues the violation.

(I) A mixed-use development, which may include more than one publicly owned parcel, that meets all of the following conditions:

(i) The development restricts at least 25 percent of the residential units to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability.

(ii) At least 50 percent of the square footage of the new construction associated with the development is designated for residential use.

(iii) The development is not located in an urbanized area, as defined in Section 21094.5 of the Public Resources Code.

(J) (i) Surplus land that is subject to a valid legal restriction that is not imposed by the local agency and that makes housing prohibited, unless there is a feasible method to satisfactorily mitigate or avoid the prohibition on the site. A declaration of exemption pursuant to this subparagraph shall be supported by documentary evidence establishing the valid legal restriction. For the purposes of this section, "documentary evidence" includes, but is not limited to, a contract, agreement, deed restriction, statute, regulation, or other writing that documents the valid legal restriction.

(ii) Valid legal restrictions include, but are not limited to, all of the following:

(I) Existing constraints under ownership rights or contractual rights or obligations that prevent the use of the property for housing, if the rights or obligations were agreed to prior to September 30, 2019.

(II) Conservation or other easements or encumbrances that prevent housing development.

(III) Existing leases, or other contractual obligations or restrictions, if the terms were agreed to prior to September 30, 2019.

(IV) Restrictions imposed by the source of funding that a local agency used to purchase a property, provided that both of the following requirements are met:

(ia) The restrictions limit the use of those funds to purposes other than housing.

(ib) The proposed disposal of surplus land meets a use consistent with that purpose.

(iii) Valid legal restrictions that would make housing prohibited do not include either of the following:

(I) An existing nonresidential land use designation on the surplus land.

(II) Covenants, restrictions, or other conditions on the property rendered void and unenforceable by any other law, including, but not limited to, Section 714.6 of the Civil Code.

(iv) Feasible methods to mitigate or avoid a valid legal restriction on the site do not include a requirement that the local agency acquire additional property rights or property interests belonging to third parties.

(K) Surplus land that was granted by the state in trust to a local agency or that was acquired by the local agency for trust purposes by purchase or exchange, and for which disposal of the land is authorized or required subject to conditions established by statute.

(L) Land that is subject to either of the following, unless compliance with this article is expressly required:

(i) Section 17515, 81192, 81397, 81399, 81420, or 81422 of the Education Code.

(ii) Part 14 (commencing with Section 53570) of Division 31 of the Health and Safety Code.

(M) Surplus land that is a former military base that was conveyed by the federal government to a local agency, and is subject to Article 8 (commencing with Section 33492.125) of Chapter 4.5 of Part 1 of Division 24 of the Health and Safety Code, provided that all of the following conditions are met:

(i) The former military base has an aggregate area greater than five acres, is expected to include a mix of residential and nonresidential uses, and is expected to include no fewer than 1,400 residential units upon completion of development or redevelopment of the former military base.

(ii) The affordability requirements for residential units shall be governed by a settlement agreement entered into prior to September 1, 2020. Furthermore, at least 25 percent of the initial 1,400 residential units developed shall be restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability.

(iii) Before disposition of the surplus land, the agency adopts written findings that the land is exempt surplus land pursuant to this subparagraph.

(iv) Before disposition of the surplus land, the recipient has negotiated a project labor agreement consistent with the local agency's project stabilization agreement resolution, as adopted on February 2, 2021, and any succeeding ordinance, resolution, or policy, regardless of the length of the agreement between the local agency and the recipient.

(v) The agency includes in the annual report required by paragraph (2) of subdivision (a) of Section 65400 the status of development of residential units on the former military base, including the total number of residential

units that have been permitted and what percentage of those residential units are restricted for persons and families of low or moderate income, or lower income households, as defined in Section 50079.5 of the Health and Safety Code.

A violation of this subparagraph is subject to the penalties described in Section 54230.5. Those penalties are in addition to any remedy a court may order for violation of this subparagraph or the settlement agreement.

(N) Real property that is used by a district for an agency's use expressly authorized in subdivision (c).

(O) Land that has been transferred before June 30, 2019, by the state to a local agency pursuant to Section 32667 of the Streets and Highways Code and has a minimum planned residential density of at least 100 dwelling units per acre, and includes 100 or more residential units that are restricted to persons and families of low or moderate income, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability. For purposes of this subparagraph, not more than 20 percent of the affordable units may be restricted to persons and families of moderate income and at least 80 percent of the affordable units must be restricted to lower income households as defined in Section 50079.5 of the Health and Safety Code.

(P) (i) Land that meets the following conditions:

(I) Land that is subject to a sectional planning area document that meets both of the following:

(ia) The sectional planning area was adopted prior to January 1, 2019.

(ib) The sectional planning area document is consistent with county and city general plans applicable to the land.

(II) The land identified in the adopted sectional planning area document was dedicated prior to January 1, 2019.

(III) On January 1, 2019, the parcels on the land met at least one of the following conditions:

(ia) The land was subject to an irrevocable offer of dedication of fee interest requiring the land to be used for a specified purpose.

(ib) The land was acquired through a land exchange subject to a land offer agreement that grants the land's original owner the right to repurchase the land acquired by the local agency pursuant to the agreement if the land will not be developed in a manner consistent with the agreement.

(ic) The land was subject to a grant deed specifying that the property shall be used for educational uses and limiting other types of uses allowed on the property.

(IV) At least 25 percent of the units are dedicated to lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable rent, as defined by Section 50053 of the Health and Safety Code, or an affordable housing cost, as defined by Section 50052.5 of the

Health and Safety Code, and subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability.

(V) The land is developed at an average density of at least 10 units per acre, calculated with respect to the entire sectional planning area.

(VI) No more than 25 percent of the nonresidential square footage identified in the sectional planning area document receives its first certificate of occupancy before at least 25 percent of the residential square footage identified in the sectional planning area document has received its first certificate of occupancy.

(VII) No more than 50 percent of the nonresidential square footage identified in the sectional planning area document receives its first certificate of occupancy before at least 50 percent of the residential square footage identified in the sectional planning area document has received its first certificate of occupancy.

(VIII) No more than 75 percent of the nonresidential square footage identified in the sectional planning area document shall receive its first certificate of occupancy before at least 75 percent of the residential square footage identified in the sectional planning area document has received its first certificate of occupancy.

(ii) The local agency includes in the annual report required by paragraph (2) of subdivision (a) of Section 65400 the status of development, including the total square footage of the residential and nonresidential development, the number of residential units that have been permitted, and what percentage of those residential units are restricted for persons and families of low or moderate income, or lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(iii) The Department of Housing and Community Development may request additional information from the agency regarding land disposed of pursuant to this subparagraph.

(iv) At least 30 days prior to disposing of land declared "exempt surplus land," a local agency shall provide the Department of Housing and Community Development a written notification of its declaration and findings in a form prescribed by the Department of Housing and Community Development. Within 30 days of receipt of the written notification and findings, the department shall notify the local agency if the department has determined that the local agency is in violation of this article. A local agency that fails to submit the written notification and findings shall be liable for a civil penalty pursuant to this subparagraph. A local agency shall not be liable for the civil penalty if the Department of Housing and Community Development does not notify the agency that the agency is in violation of this article within 30 days of receiving the written notification and findings. Once the department determines that the declarations and findings comply with subclauses (I) to (IV), inclusive, of clause (i), the local agency may proceed with disposal of land pursuant to this subparagraph. This clause is declaratory of, and not a change in, existing law.

(v) If the local agency disposes of land in violation of this subparagraph, the local agency shall be liable for a civil penalty calculated as follows:

(I) For a first violation, 30 percent of the greater of the final sale price or the fair market value of the land at the time of disposition.

(II) For a second or subsequent violation, 50 percent of the greater of the final sale price or the fair market value of the land at the time of disposition.

(III) For purposes of this subparagraph, fair market value shall be determined by an independent appraisal of the land.

(IV) An action to enforce this subparagraph may be brought by any of the following:

(ia) An entity identified in subdivisions (a) to (e), inclusive, of Section 54222.

(ib) A person who would have been eligible to apply for residency in affordable housing had the agency not violated this section.

(ic) A housing organization, as that term is defined in Section 65589.5.

(id) A beneficially interested person or entity.

(ie) The Department of Housing and Community Development.

(V) A penalty assessed pursuant to this subparagraph shall, except as otherwise provided, be deposited into a local housing trust fund. The local agency may elect to instead deposit the penalty moneys into the Building Homes and Jobs Trust Fund or the Housing Rehabilitation Loan Fund. Penalties shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the penalty moneys deposited into the local housing trust fund within five years of deposit for the sole purpose of financing newly constructed housing units that are affordable to extremely low, very low, or low-income households.

(VI) Five years after deposit of the penalty moneys into the local housing trust fund, if the funds have not been expended, the funds shall revert to the state and be deposited in the Building Homes and Jobs Trust Fund or the Housing Rehabilitation Loan Fund for the sole purpose of financing newly constructed housing units located in the same jurisdiction as the surplus land and that are affordable to extremely low, very low, or low-income households. Expenditure of any penalty moneys deposited into the Building Homes and Jobs Trust Fund or the Housing Rehabilitation Loan Fund pursuant to this subdivision shall be subject to appropriation by the Legislature.

(vi) For purposes of this subparagraph, the following definitions apply:

(I) “Sectional planning area” means an area composed of identifiable planning units, within which common services and facilities, a strong internal unity, and an integrated pattern of land use, circulation, and townscape planning are readily achievable.

(II) "Sectional planning area document" means a document or plan that sets forth, at minimum, a site utilization plan of the sectional planning area and development standards for each land use area and designation.

(vii) This subparagraph shall become inoperative on January 1, 2034.

(Q) Land that is owned by a California public-use airport on which residential uses are prohibited pursuant to Federal Aviation Administration Order 5190.6B, Airport Compliance Program, Chapter 20 -- Compatible Land Use and Airspace Protection.

(R) Land that is transferred to a community land trust, and all of the following conditions are met:

(i) The property is being or will be developed or rehabilitated as any of the following:

(I) An owner-occupied single-family dwelling.

(II) An owner-occupied unit in a multifamily dwelling.

(III) A member-occupied unit in a limited equity housing cooperative.

(IV) A rental housing development.

(ii) Improvements on the property are or will be available for use and ownership or for rent by qualified persons, as defined in paragraph (6) of subdivision (c) of Section 214.18 of the Revenue and Taxation Code.

(iii) (I) A deed restriction or other instrument, requiring a contract or contracts serving as an enforceable restriction on the sale or resale value of owner-occupied units or on the affordability of rental units is recorded on or before the lien date following the acquisition of the property by the community land trust.

(II) For the purpose of this clause, the following definitions apply:

(ia) "A contract or contracts serving as an enforceable restriction on the sale or resale value of owner-occupied units" means a contract described in paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(ib) "A contract or contracts serving as an enforceable restriction on the affordability of rental units" means an enforceable and verifiable agreement with a public agency, a recorded deed restriction, or other legal document described in subparagraph (A) of paragraph (2) of subdivision (g) of Section 214 of the Revenue and Taxation Code.

(iv) A copy of the deed restriction or other instrument shall be provided to the assessor.

(S) (i) For local agencies whose primary mission or purpose is to supply the public with a transportation system, surplus land that is developed for commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development or for the sole purpose of investment or generation of revenue, if the agency meets all of the following conditions:

(I) The agency has an adopted land use plan or policy that designates at least 50 percent of the gross acreage covered by the adopted land use plan or policy for residential purposes. The adopted land use plan or policy shall also require the development of at least 300 residential units, or at least 10 residential units per gross acre, averaged across all land covered by the land use plan or policy, whichever is greater.

(II) The agency has an adopted land use plan or policy that requires at least 25 percent of all residential units to be developed on the parcels covered by the adopted land use plan or policy made available to lower income households, as defined in Section 50079 of the Health and Safety Code, at an affordable sales price or rented at an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for 55 years for rental housing and 45 years for ownership housing, unless a local ordinance or the terms of a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability. These terms shall be included in the land use plan or policy and dictate that they will be contained in a covenant or restriction recorded against the surplus land at the time of disposition that shall run with the land and be enforceable against any owner or lessee who violates the covenant or restriction and each successor in interest who continues the violation.

(III) Land disposed of for residential purposes shall issue a competitive request for proposals subject to the local agency's open, competitive solicitation process or put out to open, competitive bid by the local agency, provided that all entities identified in subdivision (a) of Section 54222 are invited to participate.

(IV) Prior to entering into an agreement to dispose of a parcel for nonresidential development on land designated for the purposes authorized pursuant to this subparagraph in an agency's adopted land use plan or policy, the agency, since January 1, 2020, must have entered into an agreement to dispose of a minimum of 25 percent of the land designated for affordable housing pursuant to subclause (II).

(ii) The agency may exempt at one time all parcels covered by the adopted land use plan or policy pursuant to this subparagraph.

(2) Notwithstanding paragraph (1), a written notice of the availability of surplus land for open-space purposes shall be sent to the entities described in subdivision (b) of Section 54222 before disposing of the surplus land, provided the land does not meet the criteria in subparagraph (H) of paragraph (1), if the land is any of the following:

(A) Within a coastal zone.

(B) Adjacent to a historical unit of the State Parks System.

(C) Listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places.

(D) Within the Lake Tahoe region as defined in Section 66905.5.

(g) "Persons and families of low or moderate income" has the same meaning as provided in Section 50093 of the Health and Safety Code.

SEC. 8. Section 65400 of the Government Code is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) 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.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) (i) (I) The progress in meeting its share of regional housing needs determined pursuant to Section 65584, including the need for extremely low income households, as determined pursuant to Section 65583, 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.

(II) The annual report shall include the progress in meeting the city's or county's progress in meeting its share of regional housing need, as described in subclause (I), for the sixth and previous revisions of the housing element.

(ii) The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of standards, forms, and definitions adopted by the Department of Housing and Community Development. The department may review, adopt, amend, and repeal the standards, forms, or definitions to implement this article. Any standards, forms, or definitions adopted to implement this article shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. The report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

(iii) The report may include the number of units that have been completed pursuant to subdivision (c) of Section 65583.1. For purposes of this paragraph, committed assistance may be executed throughout the planning period, and the program under paragraph (1) of subdivision (c) of Section 65583.1 shall not be required. The report shall document how the units meet the standards set forth in that subdivision.

(iv) The planning agency shall include the number of units in a student housing development for lower income students for which the developer of the student housing development was granted a density bonus pursuant to subparagraph (F) of paragraph (1) of subdivision (b) of Section 65915.

(C) The number of housing development applications received in the prior year, including whether each housing development application is subject to a ministerial or discretionary approval process.

(D) The number of units included in all development applications in the prior year.

(E) (i) The number of units approved and disapproved in the prior year, which shall include all of the following subcategories:

(I) The number of units located within an opportunity area.

(II) For the seventh and each subsequent revision of the housing element, the number of units approved and disapproved for acutely low income households within each opportunity area.

(III) For the seventh and each subsequent revision of the housing element, the number of units approved and disapproved for extremely low income households within each opportunity area.

(IV) The number of units approved and disapproved for very low income households within each opportunity area.

(V) The number of units approved and disapproved for lower income households within each opportunity area.

(VI) The number of units approved and disapproved for moderate-income households within each opportunity area.

(VII) The number of units approved and disapproved for above moderate-income households within each opportunity area.

(ii) For purposes of this subparagraph, "opportunity area" means a highest, high, moderate, or low resource area pursuant to the most recent "CTCAC/HCD Opportunity Map" published by the California Tax Credit Allocation Committee and the Department of Housing and Community Development.

(F) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(G) A listing of sites rezoned to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory required by paragraph (1) of subdivision (c) of Section 65583 and Section 65584.09. The listing of sites shall also include any additional sites that may have been required to be identified by Section 65863.

(H) (i) The number of units of housing demolished and new units of housing, including both rental housing and for-sale housing and any units that the County of Napa or the City of Napa may report pursuant to an agreement entered into pursuant to Section 65584.08, that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category, by area median income category, that each unit of housing satisfies. That production report shall do the following:

(I) For each income category described in this subparagraph, distinguish between the number of rental housing units and the number of for-sale units that satisfy each income category.

(II) For each entitlement, building permit, or certificate of occupancy, include a unique site identifier that must include the assessor's parcel number, but may also include street address, or other identifiers.

(ii) For the County of Napa and the City of Napa, the production report may report units identified in the agreement entered into pursuant to Section 65584.08.

(I) The number of applications submitted pursuant to subdivision (a) of Section 65913.4, the location and the total number of developments approved

pursuant to subdivision (c) of Section 65913.4, the total number of building permits issued pursuant to subdivision (c) of Section 65913.4, the total number of units including both rental housing and for-sale housing by area median income category constructed using the process provided for in subdivision (c) of Section 65913.4.

(J) If the city or county has received funding pursuant to the Local Government Planning Support Grants Program (Chapter 3.1 (commencing with Section 50515) of Part 2 of Division 31 of the Health and Safety Code), the information required pursuant to subdivision (a) of Section 50515.04 of the Health and Safety Code.

(K) The progress of the city or county in adopting or amending its general plan or local open-space element in compliance with its obligations to consult with California Native American tribes, and to identify and protect, preserve, and mitigate impacts to places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code, pursuant to Chapter 905 of the Statutes of 2004.

(L) The following information with respect to density bonuses granted in accordance with Section 65915:

(i) The number of density bonus applications received by the city or county.

(ii) The number of density bonus applications approved by the city or county.

(iii) Data from all projects approved to receive a density bonus from the city or county, including, but not limited to, the percentage of density bonus received, the percentage of affordable units in the project, the number of other incentives or concessions granted to the project, and any waiver or reduction of parking standards for the project.

(M) The following information with respect to each application submitted pursuant to Chapter 4.1 (commencing with Section 65912.100):

(i) The location of the project.

(ii) The status of the project, including whether it has been entitled, whether a building permit has been issued, and whether or not it has been completed.

(iii) The number of units in the project.

(iv) The number of units in the project that are rental housing.

(v) The number of units in the project that are for-sale housing.

(vi) The household income category of the units, as determined pursuant to subdivision (f) of Section 65584.

(N) A list of all historic designations listed on the National Register of Historic Places, the California Register of Historic Resources, or a local register of historic places by the city or county in the past year, and the status of any housing development projects proposed for the new historic designations, including all of the following:

(i) Whether the housing development project has been entitled.

(ii) Whether a building permit has been issued for the housing development project.

(iii) The number of units in the housing development project.

(O) The following information with respect to housing development projects under Section 65913.16:

(i) The number of applications submitted under Section 65913.16.

(ii) The location and number of developments approved under Section 65913.16.

(iii) The total number of building permits issued pursuant to Section 65913.16.

(iv) The total number of units constructed under Section 65913.16 and the income category of those units.

(b) (1) (A) The department may request corrections to the housing element portion of an annual report submitted pursuant to paragraph (2) of subdivision (a) within 90 days of receipt. A planning agency shall make the requested corrections within 30 days after which the department may reject the report if the report is not in substantial compliance with the requirements of that paragraph.

(B) If the department rejects the housing element portion of an annual report as authorized by subparagraph (A), the department shall provide the reasons the report is inconsistent with paragraph (2) of subdivision (a) to the planning agency in writing.

(2) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

(c) The Department of Housing and Community Development shall post a report submitted pursuant to this section on its internet website within a reasonable time of receiving the report.

SEC. 9. Section 65584.01 of the Government Code is amended to read:

65584.01. For the fourth and subsequent revision of the housing element pursuant to Section 65588, the department, in consultation with each council of governments, where applicable, shall determine the existing and projected need for housing for each region in the following manner:

(a) The department's determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation

with each council of governments. If the total regional population forecast for the projection year, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 1.5 percent of the total regional population forecast for the projection year by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region. If the difference between the total population projected by the council of governments and the total population projected for the region by the Department of Finance is greater than 1.5 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If agreement is not reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance as may be modified by the department as a result of discussions with the council of governments.

(b) (1) At least 26 months prior to the scheduled revision pursuant to Section 65588 and prior to developing the existing and projected housing need for a region, the department shall meet and consult with the council of governments regarding the assumptions and methodology to be used by the department to determine the region's housing needs. The council of governments shall provide data assumptions from the council's projections, including, if available, the following data for the region:

(A) Anticipated household growth associated with projected population increases.

(B) Household size data and trends in household size.

(C) The percentage of households that are overcrowded within the region and the percentage of households that are overcrowded throughout the nation. For purposes of this subparagraph, the term "overcrowded" means more than one resident per room in each room in a dwelling.

(D) The rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures.

(E) The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs. For purposes of this subparagraph, the vacancy rate for a healthy rental housing market shall be considered no less than 5 percent.

(F) Other characteristics of the composition of the projected population.

(G) The relationship between jobs and housing, including any imbalance between jobs and housing.

(H) The percentage of households that are cost burdened within the region and the percentage of households that are cost burdened throughout the nation. For the purposes of this subparagraph, the term "cost burdened" means the share of very low, low-, moderate-, and above moderate-income households that are paying more than 30 percent of household income on housing costs.

(I) The loss of units during a state of emergency that was declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2), during the planning period immediately preceding the relevant revision pursuant to Section 65588 that have yet to be rebuilt or replaced at the time of the data request.

(J) The housing needs of individuals and families experiencing homelessness.

(i) The data utilized by the council of governments shall align with homelessness data best practices as determined by the department.

(ii) Sources of homelessness data may include the Homeless Data Integration System administered by the Interagency Council on Homelessness, the homeless point-in-time count, or other sources deemed appropriate by the department.

(2) The department may accept or reject the information provided by the council of governments or modify its own assumptions or methodology based on this information. After consultation with the council of governments, the department shall make determinations in writing on the assumptions for each of the factors listed in subparagraphs (A) to (I), inclusive, of paragraph (1) and the methodology it shall use and shall provide these determinations to the council of governments. The methodology submitted by the department may make adjustments based on the region's total projected households, which includes existing households as well as projected households.

(c) (1) After consultation with the council of governments, the department shall make a determination of the region's existing and projected housing need based upon the assumptions and methodology determined pursuant to subdivision (b). The region's existing and projected housing need shall reflect the achievement of a feasible balance between jobs and housing within the region using the regional employment projections in the applicable regional transportation plan. Within 30 days following notice of the determination from the department, the council of governments may file an objection to the department's determination of the region's existing and projected housing need with the department.

(2) The objection shall be based on and substantiate either of the following:

(A) The department failed to base its determination on the population projection for the region established pursuant to subdivision (a), and shall identify the population projection which the council of governments believes should instead be used for the determination and explain the basis for its rationale.

(B) The regional housing need determined by the department is not a reasonable application of the methodology and assumptions determined pursuant to subdivision (b). The objection shall include a proposed alternative determination of its regional housing need based upon the determinations made in subdivision (b), including analysis of why the proposed alternative

would be a more reasonable application of the methodology and assumptions determined pursuant to subdivision (b).

(3) If a council of governments files an objection pursuant to this subdivision and includes with the objection a proposed alternative determination of its regional housing need, it shall also include documentation of its basis for the alternative determination. Within 45 days of receiving an objection filed pursuant to this section, the department shall consider the objection and make a final written determination of the region's existing and projected housing need that includes an explanation of the information upon which the determination was made.

(4) In regions in which the department is required to distribute the regional housing need pursuant to Section 65584.06, no city or county may file an objection to the regional housing need determination.

(d) Statutory changes enacted after the date the department issued a final determination pursuant to this section shall not be a basis for a revision of the final determination.

SEC. 10. Section 65584.04 of the Government Code is amended to read:

65584.04. (a) At least two years before a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop, in consultation with the department, a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable pursuant to this section. The methodology shall further the objectives listed in subdivision (d) of Section 65584.

(b) (1) No more than six months before the development of a proposed methodology for distributing the existing and projected housing need, each council of governments shall survey each of its member jurisdictions to request, at a minimum, information regarding the factors listed in subdivision (e) that will allow the development of a methodology based upon the factors established in subdivision (e).

(2) With respect to the objective in paragraph (5) of subdivision (d) of Section 65584, the survey shall review and compile information that will allow the development of a methodology based upon the issues, strategies, and actions that are included, as available, in an Analysis of Impediments to Fair Housing Choice or an Assessment of Fair Housing completed by any city or county or the department that covers communities within the area served by the council of governments, and in housing elements adopted pursuant to this article by cities and counties within the area served by the council of governments.

(3) The council of governments shall seek to obtain the information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.

(4) The information provided by a local government pursuant to this section shall be used, to the extent possible, by the council of governments, or delegate subregion as applicable, as source information for the methodology developed pursuant to this section. The survey shall state that

none of the information received may be used as a basis for reducing the total housing need established for the region pursuant to Section 65584.01.

(5) If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit information related to the items listed in subdivision (e) before the public comment period provided for in subdivision (d).

(c) The council of governments shall electronically report the results of the survey of fair housing issues, strategies, and actions compiled pursuant to paragraph (2) of subdivision (b). The report shall describe common themes and effective strategies employed by cities and counties within the area served by the council of governments, including common themes and effective strategies around avoiding the displacement of lower income households. The council of governments shall also identify significant barriers to affirmatively furthering fair housing at the regional level and may recommend strategies or actions to overcome those barriers. A council of governments or metropolitan planning organization, as appropriate, may use this information for any other purpose, including publication within a regional transportation plan adopted pursuant to Section 65080 or to inform the land use assumptions that are applied in the development of a regional transportation plan.

(d) Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the community as well as members of protected classes under Section 12955 and households with special housing needs under paragraph (7) of subdivision (a) of Section 65583. The proposed methodology, along with any relevant underlying data and assumptions, an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, how each of the factors listed in subdivision (e) is incorporated into the methodology, and how the proposed methodology furthers the objectives listed in subdivision (d) of Section 65584, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written or electronic request for the proposed methodology and published on the council of governments', or delegate subregion's, internet website. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

(e) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall consider including the following factors in developing the methodology that allocates regional housing needs:

(1) Each member jurisdiction's existing and projected jobs and housing relationship. This shall include an estimate based on readily available data on the number of low-wage jobs within the jurisdiction and how many

housing units within the jurisdiction are affordable to low-wage workers as well as an estimate based on readily available data, of projected job growth and projected household growth by income level within each member jurisdiction during the planning period.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis, including land zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts conversion to nonagricultural uses.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of that jurisdiction that prohibits or restricts its conversion to nonagricultural uses.

(E) Emergency evacuation route capacity, wildfire risk, sea level rise, and other impacts caused by climate change.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

(4) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county and land within an unincorporated area zoned or designated for agricultural protection or preservation that is subject to a local ballot measure that was approved by the voters of the jurisdiction that prohibits or restricts conversion to nonagricultural uses.

(5) The loss of units contained in assisted housing developments, as defined in paragraph (9) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.

(6) The percentage of existing households at each of the income levels listed in subdivision (f) of Section 65584 that are paying more than 30 percent and more than 50 percent of their income in rent.

(7) The rate of overcrowding.

(8) The housing needs of farmworkers.

(9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.

(10) The housing needs of individuals and families experiencing homelessness. If a council of governments has surveyed each of its member jurisdictions pursuant to subdivision (b) on or before January 1, 2020, this paragraph shall apply only to the development of methodologies for the seventh and subsequent revisions of the housing element.

(11) The loss of units during a state of emergency that was declared by the Governor pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2), during the planning period immediately preceding the relevant revision pursuant to Section 65588 that have yet to be rebuilt or replaced at the time of the analysis.

(12) The region's greenhouse gas emissions targets provided by the State Air Resources Board pursuant to Section 65080.

(13) Any other factors adopted by the council of governments, that further the objectives listed in subdivision (d) of Section 65584, provided that the council of governments specifies which of the objectives each additional factor is necessary to further. The council of governments may include additional factors unrelated to furthering the objectives listed in subdivision (d) of Section 65584 so long as the additional factors do not undermine the objectives listed in subdivision (d) of Section 65584 and are applied equally across all household income levels as described in subdivision (f) of Section 65584 and the council of governments makes a finding that the factor is necessary to address significant health and safety conditions.

(f) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (e) was incorporated into the methodology and how the methodology furthers the objectives listed in subdivision (d) of Section 65584. The methodology may include numerical weighting. This information, and any other supporting materials used in determining the methodology, shall be posted on the council of governments', or delegate subregion's, internet website.

(g) The following criteria shall not be a justification for a determination or a reduction in a jurisdiction's share of the regional housing need:

(1) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county.

(2) Prior underproduction of housing in a city or county from the previous regional housing need allocation, as determined by each jurisdiction's annual production report submitted pursuant to subparagraph (H) of paragraph (2) of subdivision (a) of Section 65400.

(3) Stable population numbers in a city or county from the previous regional housing needs cycle.

(h) Following the conclusion of the public comment period described in subdivision (d) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of governments, or delegate subregion, as applicable, as a result of comments received during the public comment period, and as a result of consultation with the department, each council of governments, or delegate subregion, as applicable, shall publish a draft allocation methodology on its internet website and submit the draft allocation methodology, along with the information required pursuant to subdivision (e), to the department.

(i) Within 60 days, the department shall review the draft allocation methodology and report its written findings to the council of governments, or delegate subregion, as applicable. In its written findings the department shall determine whether the methodology furthers the objectives listed in subdivision (d) of Section 65584. If the department determines that the methodology is not consistent with subdivision (d) of Section 65584, the council of governments, or delegate subregion, as applicable, shall take both of the following actions:

(1) Revise the methodology, in consultation with the department, to further the objectives listed in subdivision (d) of Section 65584 within 45 days.

(2) Receive department acceptance that the revised methodology furthers the objectives listed in subdivision (d) of Section 65584 and adopt a final regional, or subregional, housing need allocation methodology.

(j) If the department's findings are not available within the time limits set by subdivision (i), the council of governments, or delegate subregion, may act without them.

(k) After taking action pursuant to subdivision (i), the council of governments, or delegate subregion, shall provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion, as applicable, and to the department, and shall publish the adopted allocation methodology, along with its resolution and any adopted written findings, on its internet website.

(*l*) The department may, within 45 days, review the adopted methodology and report its findings to the council of governments, or delegate subregion.

(m) (1) It is the intent of the Legislature that housing planning be coordinated and integrated with the regional transportation plan. To achieve this goal, the allocation plan shall allocate housing units within the region consistent with the development pattern included in the sustainable communities strategy.

(2) (A) The final allocation plan shall ensure that the total regional housing need, by income category, as determined under Section 65584, is

maintained, and that each jurisdiction in the region receive an allocation of units for low- and very low income households.

(B) For the seventh and subsequent revisions of the housing element, the allocation to each region required under subparagraph (A) shall also include an allocation of units for acutely low and extremely low income households.

(3) The resolution approving the final housing need allocation plan shall demonstrate that the plan is consistent with the sustainable communities strategy in the regional transportation plan and furthers the objectives listed in subdivision (d) of Section 65584.

(n) This section shall become operative on January 1, 2025.

SEC. 11. Section 65589.5 of the Government Code is amended to read:

65589.5. (a) (1) The Legislature finds and declares all of the following:

(A) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(B) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(C) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(D) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects.

(2) In enacting the amendments made to this section by the act adding this paragraph, the Legislature further finds and declares the following:

(A) California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives.

(B) While the causes of this crisis are multiple and complex, the absence of meaningful and effective policy reforms to significantly enhance the approval and supply of housing affordable to Californians of all income levels is a key factor.

(C) The crisis has grown so acute in California that supply, demand, and affordability fundamentals are characterized in the negative: underserved demands, constrained supply, and protracted unaffordability.

(D) According to reports and data, California has accumulated an unmet housing backlog of nearly 2,000,000 units and must provide for at least 180,000 new units annually to keep pace with growth through 2025.

(E) California's overall home ownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in home ownership rates as well as in the supply of housing per capita. Only one-half of California's households are able to afford the cost of housing in their local regions.

(F) Lack of supply and rising costs are compounding inequality and limiting advancement opportunities for many Californians.

(G) The majority of California renters, more than 3,000,000 households, pay more than 30 percent of their income toward rent and nearly one-third, more than 1,500,000 households, pay more than 50 percent of their income toward rent.

(H) When Californians have access to safe and affordable housing, they have more money for food and health care; they are less likely to become homeless and in need of government-subsidized services; their children do better in school; and businesses have an easier time recruiting and retaining employees.

(I) An additional consequence of the state's cumulative housing shortage is a significant increase in greenhouse gas emissions caused by the displacement and redirection of populations to states with greater housing opportunities, particularly working- and middle-class households. California's cumulative housing shortfall therefore has not only national but international environmental consequences.

(J) California's housing picture has reached a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing for all income levels, including this section.

(K) The Legislature's intent in enacting this section in 1982 and in expanding its provisions since then was to significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects and emergency shelters. That intent has not been fulfilled.

(L) It is the policy of the state that this section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.

(3) It is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety, as described in paragraph (2) of subdivision (d) and paragraph (1) of subdivision (j), arise infrequently.

(4) It is the intent of the Legislature that the amendments removing provisions from subparagraphs (D) and (E) of paragraph (6) of subdivision (h) and adding those provisions to Sections 65589.5.1 and 65589.5.2 by Assembly Bill 1413 (2023), insofar as they are substantially the same as existing law, shall be considered restatements and continuations of existing law, and not new enactments.

(b) It is the policy of the state that a local government not reject or make infeasible housing development projects, including emergency shelters, that

contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) For a housing development project for very low, low-, or moderate-income households, or an emergency shelter, a local agency shall not disapprove the housing development project or emergency shelter, or condition approval in a manner that renders the housing development project or emergency shelter infeasible, including through the use of design review standards, unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the housing development project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The housing development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. The following shall not constitute a specific, adverse impact upon the public health or safety:

(A) Inconsistency with the zoning ordinance or general plan land use designation.

(B) The eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.

(3) The denial of the housing development project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The housing development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) On the date an application for the housing development project or emergency shelter was deemed complete, the jurisdiction had adopted a revised housing element that was in substantial compliance with this article, and the housing development project or emergency shelter was inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan.

(A) This paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed on a site, including a candidate site for rezoning, that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element if the housing development project is consistent with the density specified in the housing element, even though the housing development project was inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation on the date the application was deemed complete.

(B) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(6) On the date an application for the housing development project or emergency shelter was deemed complete, the jurisdiction did not have an adopted revised housing element that was in substantial compliance with

this article and the housing development project is not a builder's remedy project.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the congestion management program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) (1) Except as provided in paragraphs (6) and (8) of this subdivision, and subdivision (o), nothing in this section shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development. Nothing in this section shall limit a project's eligibility for a density bonus, incentive, or concession, or waiver or reduction of development standards and parking ratios, pursuant to Section 65915.

(2) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter.

(4) For purposes of this section, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

(5) For purposes of this section, a change to the zoning ordinance or general plan land use designation subsequent to the date the application was

deemed complete shall not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.

(6) Notwithstanding paragraphs (1) to (5), inclusive, all of the following apply to a housing development project that is a builder's remedy project:

(A) A local agency may only require the project to comply with the objective, quantifiable, written development standards, conditions, and policies that would have applied to the project had it been proposed on a site with a general plan designation and zoning classification that allow the density and unit type proposed by the applicant. If the local agency has no general plan designation or zoning classification that would have allowed the density and unit type proposed by the applicant, the development proponent may identify any objective, quantifiable, written development standards, conditions, and policies associated with a different general plan designation or zoning classification within that jurisdiction, that facilitate the project's density and unit type, and those shall apply.

(B) (i) Except as authorized by paragraphs (1) to (4), inclusive, of subdivision (d), a local agency shall not apply any individual or combination of objective, quantifiable, written development standards, conditions, and policies to the project that do any of the following:

(I) Render the project infeasible.

(II) Preclude a project that meets the requirements allowed to be imposed by subparagraph (A), as modified by any density bonus, incentive, or concession, or waiver or reduction of development standards and parking ratios, pursuant to Section 65915, from being constructed as proposed by the applicant.

(ii) The local agency shall bear the burden of proof of complying with clause (i).

(C) (i) A project applicant that qualifies for a density bonus pursuant to Section 65915 shall receive two incentives or concessions in addition to those granted pursuant to paragraph (2) of subdivision (d) of Section 65915.

(ii) For a project seeking density bonuses, incentives, concessions, or any other benefits pursuant to Section 65915, and notwithstanding paragraph (6) of subdivision (o) of Section 65915, for purposes of this paragraph, maximum allowable residential density or base density means the density permitted for a builder's remedy project pursuant to subparagraph (C) of paragraph (11) of subdivision (h).

(iii) A local agency shall grant any density bonus pursuant to Section 65915 based on the number of units proposed and allowable pursuant to subparagraph (C) of paragraph (11) of subdivision (h).

(iv) A project that dedicates units to extremely low-income households pursuant to subclause (I) of clause (i) of subparagraph (C) of paragraph (3) of subdivision (h) shall be eligible for the same density bonus, incentives or concessions, and waivers or reductions of development standards as provided to a housing development project that dedicates three percentage points more units to very low income households pursuant to paragraph (2) of subdivision (f) of Section 65915.

(v) All units dedicated to extremely low-income, very low income, low-income, and moderate-income households pursuant to paragraph (11) of subdivision (h) shall be counted as affordable units in determining whether the applicant qualifies for a density bonus pursuant to Section 65915.

(D) (i) The project shall not be required to apply for, or receive approval of, a general plan amendment, specific plan amendment, rezoning, or other legislative approval.

(ii) The project shall not be required to apply for, or receive, any approval or permit not generally required of a project of the same type and density proposed by the applicant.

(iii) Any project that complies with this paragraph shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, redevelopment plan and implementing instruments, or other similar provision for all purposes, and shall not be considered or treated as a nonconforming lot, use, or structure for any purpose.

(E) A local agency shall not adopt or impose any requirement, process, practice, or procedure or undertake any course of conduct, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is a builder's remedy project.

(F) (i) A builder's remedy project shall be deemed to be in compliance with the residential density standards for the purposes of complying with subdivision (b) of Section 65912.123.

(ii) A builder's remedy project shall be deemed to be in compliance with the objective zoning standards, objective subdivision standards, and objective design review standards for the purposes of complying with paragraph (5) of subdivision (a) of Section 65913.4.

(G) (i) (I) If the local agency had a local affordable housing requirement, as defined in Section 65912.101, that on January 1, 2024, required a greater percentage of affordable units than required under subparagraph (A) of paragraph (11) of subdivision (h), or required an affordability level deeper than what is required under subparagraph (A) of paragraph (11) of subdivision (h), then, except as provided in subclauses (II) and (III), the local agency may require a housing development for mixed-income households to comply with an otherwise lawfully applicable local affordability percentage or affordability level. The local agency shall not require housing for mixed-income households to comply with any other aspect of the local affordable housing requirement.

(II) Notwithstanding subclause (I), the local affordable housing requirements shall not be applied to require housing for mixed-income households to dedicate more than 20 percent of the units to affordable units of any kind.

(III) Housing for mixed-income households that is required to dedicate 20 percent of the units to affordable units shall not be required to dedicate any of the affordable units at an income level deeper than lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(IV) A local agency may only require housing for mixed-income households to comply with the local percentage requirement or affordability level described in subclause (I) if it first makes written findings, supported by a preponderance of evidence, that compliance with the local percentage requirement or the affordability level, or both, would not render the housing development project infeasible. If a reasonable person could find compliance with either requirement, either alone or in combination, would render the project infeasible, the project shall not be required to comply with that requirement.

(ii) Affordable units in the development project shall have a comparable bedroom and bathroom count as the market rate units.

(iii) Each affordable unit dedicated pursuant to this subparagraph shall count toward satisfying a local affordable housing requirement. Each affordable unit dedicated pursuant to a local affordable housing requirement that meets the criteria established in this subparagraph shall count towards satisfying the requirements of this subparagraph. This is declaratory of existing law.

(7) (A) For a housing development project application that is deemed complete before January 1, 2025, the development proponent for the project may choose to be subject to the provisions of this section that were in place on the date the preliminary application was submitted, or, if the project meets the definition of a builder's remedy project, it may choose to be subject to any or all of the provisions of this section applicable as of January 1, 2025.

(B) Notwithstanding subdivision (c) of Section 65941.1, for a housing development project deemed complete before January 1, 2025, the development proponent may choose to revise their application so that the project is a builder's remedy project, without being required to resubmit a preliminary application, even if the revision results in the number of residential units or square footage of construction changing by 20 percent or more.

(8) A housing development project proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, that is consistent with the density specified in the most recently updated and adopted housing element, and that is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation on the date the application was deemed complete, shall be subject to the provisions of subparagraphs (A), (B), and (D) of paragraph (6) and paragraph (9).

(9) For purposes of this subdivision, "objective, quantifiable, written development standards, conditions, and policies" means criteria that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal, including, but not limited to, any standard, ordinance, or policy described in paragraph (4) of subdivision (o). Nothing herein shall affect the obligation of the housing development project

to comply with the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code. In the event that applicable objective, quantifiable, written development standards, conditions, and policies are mutually inconsistent, a development shall be deemed consistent with the criteria that permits the density and unit type closest to that of the proposed project.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses that meet any of the following conditions:

(i) At least two-thirds of the new or converted square footage is designated for residential use.

(ii) At least 50 percent of the new or converted square footage is designated for residential use and the project meets both of the following:

(I) The project includes at least 500 net new residential units.

(II) No portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except a portion of the project may be designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.

(iii) At least 50 percent of the net new or converted square footage is designated for residential use and the project meets all of the following:

(I) The project includes at least 500 net new residential units.

(II) The project involves the demolition or conversion of at least 100,000 square feet of nonresidential use.

(III) The project demolishes at least 50 percent of the existing nonresidential uses on the site.

(IV) No portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging, except a portion of the project may be designated for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code.

(C) Transitional housing or supportive housing.

(D) Farmworker housing, as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code.

(3) (A) "Housing for very low, low-, or moderate-income households" means housing for lower income households, mixed-income households, or moderate-income households.

(B) "Housing for lower income households" means a housing development project in which 100 percent of the units, excluding managers'

units, are dedicated to lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable cost, as defined by Section 50052.5 of the Health and Safety Code, or an affordable rent set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee. The units shall be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units.

(C) (i) "Housing for mixed-income households" means any of the following:

(I) A housing development project in which at least 7 percent of the total units, as defined in subparagraph (A) of paragraph (8) of subdivision (o) of Section 65915, are dedicated to extremely low income households, as defined in Section 50106 of the Health and Safety Code.

(II) A housing development project in which at least 10 percent of the total units, as defined in subparagraph (A) of paragraph (8) of subdivision (o) of Section 65915, are dedicated to very low income households, as defined in Section 50105 of the Health and Safety Code.

(III) A housing development project in which at least 13 percent of the total units, as defined in subparagraph (A) of paragraph (8) of subdivision (o) of Section 65915, are dedicated to lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(IV) A housing development project in which there are 10 or fewer total units, as defined in subparagraph (A) of paragraph (8) of subdivision (o) of Section 65915, that is on a site that is smaller than one acre, and that is proposed for development at a minimum density of 10 units per acre.

(ii) All units dedicated to extremely low income, very low income, and low-income households pursuant to clause (i) shall meet both of the following:

(I) The units shall have an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or an affordable rent, as defined in Section 50053 of the Health and Safety Code.

(II) The development proponent shall agree to, and the local agency shall ensure, the continued affordability of all affordable rental units included pursuant to this section for 55 years and all affordable ownership units included pursuant to this section for a period of 45 years.

(D) "Housing for moderate-income households" means a housing development project in which 100 percent of the units are sold or rented to moderate-income households, as defined in Section 50093 of the Health and Safety Code, at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or an affordable rent, as defined in Section 50053 of the Health and Safety Code. The units shall be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code.

(5) Notwithstanding any other law, "deemed complete" means that the applicant has submitted a preliminary application pursuant to Section 65941.1 or, if the applicant has not submitted a preliminary application, has submitted a complete application pursuant to Section 65943. The local agency shall bear the burden of proof in establishing that the application is not complete.

(6) "Disapprove the housing development project" includes any instance in which a local agency does any of the following:

(A) Votes or takes final administrative action on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit.

(B) Fails to comply with the time periods specified in subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(C) Fails to meet the time limits specified in Section 65913.3.

(D) Fails to cease a course of conduct undertaken for an improper purpose, such as to harass or to cause unnecessary delay or needless increases in the cost of the proposed housing development project, that effectively disapproves the proposed housing development without taking final administrative action if all of the following conditions are met:

(i) The project applicant provides written notice detailing the challenged conduct and why it constitutes disapproval to the local agency established under Section 65100.

(ii) Within five working days of receiving the applicant's written notice described in clause (i), the local agency shall post the notice on the local agency's internet website, provide a copy of the notice to any person who has made a written request for notices pursuant to subdivision (f) of Section 21167 of the Public Resources Code, and file the notice with the county clerk of each county in which the project will be located. The county clerk shall post the notice and make it available for public inspection in the manner set forth in subdivision (c) of Section 21152 of the Public Resources Code.

(iii) The local agency shall consider all objections, comments, evidence, and concerns about the project or the applicant's written notice and shall not make a determination until at least 60 days after the applicant has given written notice to the local agency pursuant to clause (i).

(iv) Within 90 days of receipt of the applicant's written notice described in clause (i), the local agency shall issue a written statement that it will immediately cease the challenged conduct or issue written findings that comply with both of the following requirements:

(I) The findings articulate an objective basis for why the challenged course of conduct is necessary.

(II) The findings provide clear instructions on what the applicant must submit or supplement so that the local agency can make a final determination regarding the next necessary approval or set the date and time of the next hearing.

(v) (I) If a local agency continues the challenged course of conduct described in the applicant's written notice and fails to issue the written findings described in clause (iv), the local agency shall bear the burden of establishing that its course of conduct does not constitute a disapproval of the housing development project under this subparagraph in an action taken by the applicant.

(II) If an applicant challenges a local agency's course of conduct as a disapproval under this subparagraph, the local agency's written findings described in clause (iv) shall be incorporated into the administrative record and be deemed to be the final administrative action for purposes of adjudicating whether the local agency's course of conduct constitutes a disapproval of the housing development project under this subparagraph.

(vi) A local agency's action in furtherance of complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), including, but not limited to, imposing mitigating measures, shall not constitute project disapproval under this subparagraph.

(E) Fails to comply with Section 65905.5. For purposes of this subparagraph, a builder's remedy project shall be deemed to comply with the applicable, objective general plan and zoning standards in effect at the time an application is deemed complete.

(F) (i) Determines that an application for a housing development project is incomplete pursuant to subdivision (a) or (b) of Section 65943 and includes in the determination an item that is not required on the local agency's submittal requirement checklist. The local agency shall bear the burden of proof that the required item is listed on the submittal requirement checklist.

(ii) In a subsequent review of an application pursuant to Section 65943, requests the applicant provide new information that was not identified in the initial determination and upholds this determination in the final written determination on an appeal filed pursuant to subdivision (c) of Section 65943. The local agency shall bear the burden of proof that the required item was identified in the initial determination.

(iii) Determines that an application for a housing development project is incomplete pursuant to subdivision (a) or (b) of Section 65943, a reasonable person would conclude that the applicant has submitted all of the items required on the local agency's submittal requirement checklist, and the local agency upholds this determination in the final written determination on an appeal filed pursuant to subdivision (c) of Section 65943.

(iv) If a local agency determines that an application is incomplete under Section 65943 after two resubmittals of the application by the applicant, the local agency shall bear the burden of establishing that the determination is not an effective disapproval of a housing development project under this section.

(G) Violates subparagraph (D) or (E) of paragraph (6) of subdivision (f).

(H) Makes a written determination that a preliminary application described in subdivision (a) of Section 65941.1 has expired or that the

applicant has otherwise lost its vested rights under the preliminary application for any reason other than those described in subdivisions (c) and (d) of Section 65941.1.

(I) (i) Fails to make a determination of whether the project is exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), or commits an abuse of discretion, as defined in subdivision (b) of Section 65589.5.1 if all of the conditions in Section 65589.5.1 are satisfied.

(ii) This subparagraph shall become inoperative on January 1, 2031.

(J) (i) Fails to adopt a negative declaration or addendum for the project, to certify an environmental impact report for the project, or to approve another comparable environmental document, such as a sustainable communities environmental assessment pursuant to Section 21155.2 of the Public Resources Code, as required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), if all of the conditions in Section 65589.5.2 are satisfied.

(ii) This subparagraph shall become inoperative on January 1, 2031.

(7) (A) For purposes of this section and Sections 65589.5.1 and 65589.5.2, "lawful determination" means any final decision about whether to approve or disapprove a statutory or categorical exemption or a negative declaration, addendum, environmental impact report, or comparable environmental review document under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) that is not an abuse of discretion, as defined in subdivision (b) of Section 65589.5.1 or subdivision (b) of Section 65589.5.2.

(B) This paragraph shall become inoperative on January 1, 2031.

(8) "Lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing.

(9) "Objective" means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.

(10) Notwithstanding any other law, "determined to be complete" means that the applicant has submitted a complete application pursuant to Section 65943.

(11) "Builder's remedy project" means a project that meets all of the following criteria:

(A) The project is a housing development project that provides housing for very low, low-, or moderate-income households.

(B) On or after the date an application for the housing development project or emergency shelter was deemed complete, the jurisdiction did not have a housing element that was in substantial compliance with this article.

(C) The project has a density such that the number of units, as calculated before the application of a density bonus pursuant to Section 65915, complies with all of the following conditions:

(i) The density does not exceed the greatest of the following densities:

(I) Fifty percent greater than the minimum density deemed appropriate to accommodate housing for that jurisdiction as specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2.

(II) Three times the density allowed by the general plan, zoning ordinance, or state law, whichever is greater.

(III) The density that is consistent with the density specified in the housing element.

(ii) Notwithstanding clause (i), the greatest allowable density shall be 35 units per acre more than the amount allowable pursuant to clause (i), if any portion of the site is located within any of the following:

(I) One-half mile of a major transit stop, as defined in Section 21064.3 of the Public Resources Code.

(II) A very low vehicle travel area, as defined in subdivision (h).

(III) A high or highest resource census tract, as identified by the latest edition of the "CTCAC/HCD Opportunity Map" published by the California Tax Credit Allocation Committee and the Department of Housing and Community Development.

(D) (i) On sites that have a minimum density requirement and are located within one-half mile of a commuter rail station or a heavy rail station, the density of the project shall not be less than the minimum density required on the site.

(I) For purposes of this subparagraph, "commuter rail" means a railway that is not a light rail, streetcar, trolley, or tramway and that is for urban passenger train service consisting of local short distance travel operating between a central city and adjacent suburb with service operated on a regular basis by or under contract with a transit operator for the purpose of transporting passengers within urbanized areas, or between urbanized areas and outlying areas, using either locomotive-hauled or self-propelled railroad passenger cars, with multitrip tickets and specific station-to-station fares.

(II) For purposes of this subparagraph, "heavy rail" means an electric railway with the capacity for a heavy volume of traffic using high speed and rapid acceleration passenger rail cars operating singly or in multicar trains on fixed rails, separate rights-of-way from which all other vehicular and foot traffic are excluded, and high platform loading.

(ii) On all other sites with a minimum density requirement, the density of the project shall not be less than the local agency's minimum density or one-half of the minimum density deemed appropriate to accommodate housing for that jurisdiction as specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2, whichever is lower.

(E) The project site does not abut a site where more than one-third of the square footage on the site has been used, within the past three years, by a heavy industrial use, or a Title V industrial use, as those terms are defined in Section 65913.16.

(12) "Condition approval" includes imposing on the housing development project, or attempting to subject it to, development standards, conditions, or policies.

(13) "Unit type" means the form of ownership and the kind of residential unit, including, but not limited to, single-family detached, single-family attached, for-sale, rental, multifamily, townhouse, condominium, apartment, manufactured homes and mobilehomes, factory-built housing, and residential hotel.

(14) "Proposed by the applicant" means the plans and designs as submitted by the applicant, including, but not limited to, density, unit size, unit type, site plan, building massing, floor area ratio, amenity areas, open space, parking, and ancillary commercial uses.

(i) If any city, county, or city and county denies approval or imposes conditions, including design changes, lower density, or a reduction of the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the housing development project's application is complete, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of conditions on the development is the subject of a court action which challenges the denial or the imposition of conditions, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d), and that the findings are supported by a preponderance of the evidence in the record, and with the requirements of subdivision (o).

(j) (1) When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(2) (A) If the local agency considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, it shall provide the applicant with written documentation identifying the provision or provisions,

and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity as follows:

(i) Within 30 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains 150 or fewer housing units.

(ii) Within 60 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains more than 150 units.

(B) If the local agency fails to provide the required documentation pursuant to subparagraph (A), the housing development project shall be deemed consistent, compliant, and in conformity with the applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

(3) For purposes of this section, the receipt of a density bonus, incentive, concession, waiver, or reduction of development standards pursuant to Section 65915 shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.

(4) For purposes of this section, a proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan. If the local agency has complied with paragraph (2), the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(k) (1) (A) (i) The applicant, a person who would be eligible to apply for residency in the housing development project or emergency shelter, or a housing organization may bring an action to enforce this section. If, in any action brought to enforce this section, a court finds that any of the following are met, the court shall issue an order pursuant to clause (ii):

(I) The local agency, in violation of subdivision (d), disapproved a housing development project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section.

(II) The local agency, in violation of subdivision (j), disapproved a housing development project complying with applicable, objective general plan and zoning standards and criteria, or imposed a condition that the project be developed at a lower density, without making the findings required by this section.

(III) The local agency, in violation of subdivision (o), required or attempted to require a housing development project to comply with an

ordinance, policy, or standard not adopted and in effect when a preliminary application was submitted.

(IV) The local agency violated a provision of this section applicable to a builder's remedy project.

(ii) If the court finds that one of the conditions in clause (i) is met, the court shall issue an order or judgment compelling compliance with this section within a time period not to exceed 60 days, including, but not limited to, an order that the local agency take action on the housing development project or emergency shelter. The court may issue an order or judgment directing the local agency to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner, provided, however, that the court shall not award attorney's fees in either of the following instances:

(I) The court finds, under extraordinary circumstances, that awarding fees would not further the purposes of this section.

(II) (ia) In a case concerning a disapproval within the meaning of subparagraph (I) or (J) of paragraph (6) of subdivision (h), the court finds that the local agency acted in good faith and had reasonable cause to disapprove the housing development project due to the existence of a controlling question of law about the application of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or implementing guidelines as to which there was a substantial ground for difference of opinion at the time of the disapproval.

(ib) This subclause shall become inoperative on January 1, 2031.

(B) Upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with this section within the time period prescribed by the court, the court shall impose fines on a local agency that has violated this section and require the local agency to deposit any fine levied pursuant to this subdivision into a local housing trust fund. The local agency may elect to instead deposit the fine into the Building Homes and Jobs Trust Fund. The fine shall be in a minimum amount of ten thousand dollars ($10,000) per housing unit in the housing development project on the date the application was deemed complete pursuant to Section 65943. In determining the amount of the fine to impose, the court shall consider the local agency's progress in attaining its target allocation of the regional housing need pursuant to Section 65584 and any prior violations of this section. Fines shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the money in the local housing trust

fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. After five years, if the funds have not been expended, the money shall revert to the state and be deposited in the Building Homes and Jobs Trust Fund for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households.

(C) If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency and to approve the housing development project, in which case the application for the housing development project, as proposed by the applicant at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed to be approved unless the applicant consents to a different decision or action by the local agency.

(D) Nothing in this section shall limit the court's inherent authority to make any other orders to compel the immediate enforcement of any writ brought under this section, including the imposition of fees and other sanctions set forth under Section 1097 of the Code of Civil Procedure.

(2) For purposes of this subdivision, "housing organization" means a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households and have filed written or oral comments with the local agency prior to action on the housing development project. A housing organization may only file an action pursuant to this section to challenge the disapproval of a housing development by a local agency. A housing organization shall be entitled to reasonable attorney's fees and costs if it is the prevailing party in an action to enforce this section.

(*l*) If the court finds that the local agency (1) acted in bad faith when it violated this section and (2) failed to carry out the court's order or judgment within the time period prescribed by the court, the court, in addition to any other remedies provided by this section, shall multiply the fine determined pursuant to subparagraph (B) of paragraph (1) of subdivision (k) by a factor of five. If a court has previously found that the local agency violated this section within the same planning period, the court shall multiply the fines by an additional factor for each previous violation. For purposes of this section, "bad faith" includes, but is not limited to, an action or inaction that is frivolous, pretextual, intended to cause unnecessary delay, or entirely without merit.

(m) (1) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that

the cost of preparation of the record shall be borne by the local agency, unless the petitioner elects to prepare the record as provided in subdivision (n) of this section. A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any other final action on a housing development project or (2) the expiration of the time periods specified in subparagraph (B) of paragraph (5) of subdivision (h). Upon entry of the trial court's order, a party may, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow, or may appeal the judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(2) (A) A disapproval within the meaning of subparagraph (I) of paragraph (6) of subdivision (h) shall be final for purposes of this subdivision, if the local agency did not make a lawful determination within the time period set forth in paragraph (5) of subdivision (a) of Section 65589.5.1 after the applicant's timely written notice.

(B) This paragraph shall become inoperative on January 1, 2031.

(3) (A) A disapproval within the meaning of subparagraph (J) of paragraph (6) of subdivision (h) shall be final for purposes of this subdivision, if the local agency did not make a lawful determination within 90 days of the applicant's timely written notice.

(B) This paragraph shall become inoperative on January 1, 2031.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) (1) Subject to paragraphs (2), (6), and (7), and subdivision (d) of Section 65941.1, a housing development project shall be subject only to the ordinances, policies, and standards adopted and in effect when a preliminary application including all of the information required by subdivision (a) of Section 65941.1 was submitted.

(2) Paragraph (1) shall not prohibit a housing development project from being subject to ordinances, policies, and standards adopted after the preliminary application was submitted pursuant to Section 65941.1 in the following circumstances:

(A) In the case of a fee, charge, or other monetary exaction, to an increase resulting from an automatic annual adjustment based on an independently

published cost index that is referenced in the ordinance or resolution establishing the fee or other monetary exaction.

(B) A preponderance of the evidence in the record establishes that subjecting the housing development project to an ordinance, policy, or standard beyond those in effect when a preliminary application was submitted is necessary to mitigate or avoid a specific, adverse impact upon the public health or safety, as defined in subparagraph (A) of paragraph (1) of subdivision (j), and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.

(C) Subjecting the housing development project to an ordinance, policy, standard, or any other measure, beyond those in effect when a preliminary application was submitted is necessary to avoid or substantially lessen an impact of the project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(D) The housing development project has not commenced construction within two and one-half years, or three and one-half years for an affordable housing project, following the date that the project received final approval. For purposes of this subparagraph:

(i) "Affordable housing project" means a housing development that satisfies both of the following requirements:

(I) Units within the development are subject to a recorded affordability restriction for at least 55 years for rental housing and 45 years for owner-occupied housing, or the first purchaser of each unit participates in an equity sharing agreement as described in subparagraph (C) of paragraph (2) of subdivision (c) of Section 65915.

(II) All of the units within the development, excluding managers' units, are dedicated to lower income households, as defined by Section 50079.5 of the Health and Safety Code.

(ii) "Final approval" means that the housing development project has received all necessary approvals to be eligible to apply for, and obtain, a building permit or permits and either of the following is met:

(I) The expiration of all applicable appeal periods, petition periods, reconsideration periods, or statute of limitations for challenging that final approval without an appeal, petition, request for reconsideration, or legal challenge having been filed.

(II) If a challenge is filed, that challenge is fully resolved or settled in favor of the housing development project.

(E) The housing development project is revised following submittal of a preliminary application pursuant to Section 65941.1 such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision, including any other locally authorized program that offers additional density or other development bonuses when affordable housing is provided. For purposes of this subdivision, "square footage of construction" means the building

area, as defined by the California Building Standards Code (Title 24 of the California Code of Regulations).

(3) This subdivision does not prevent a local agency from subjecting the additional units or square footage of construction that result from project revisions occurring after a preliminary application is submitted pursuant to Section 65941.1 to the ordinances, policies, and standards adopted and in effect when the preliminary application was submitted.

(4) For purposes of this subdivision, "ordinances, policies, and standards" includes general plan, community plan, specific plan, zoning, design review standards and criteria, subdivision standards and criteria, and any other rules, regulations, requirements, and policies of a local agency, as defined in Section 66000, including those relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions.

(5) This subdivision shall not be construed in a manner that would lessen the restrictions imposed on a local agency, or lessen the protections afforded to a housing development project, that are established by any other law, including any other part of this section.

(6) This subdivision shall not restrict the authority of a public agency or local agency to require mitigation measures to lessen the impacts of a housing development project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(7) With respect to completed residential units for which the project approval process is complete and a certificate of occupancy has been issued, nothing in this subdivision shall limit the application of later enacted ordinances, policies, and standards that regulate the use and occupancy of those residential units, such as ordinances relating to rental housing inspection, rent stabilization, restrictions on short-term renting, and business licensing requirements for owners of rental housing.

(p) (1) Upon any motion for an award of attorney's fees pursuant to Section 1021.5 of the Code of Civil Procedure, in a case challenging a local agency's approval of a housing development project, a court, in weighing whether a significant benefit has been conferred on the general public or a large class of persons and whether the necessity of private enforcement makes the award appropriate, shall give due weight to the degree to which the local agency's approval furthers policies of this section, including, but not limited to, subdivisions (a), (b), and (c), the suitability of the site for a housing development, and the reasonableness of the decision of the local agency. It is the intent of the Legislature that attorney's fees and costs shall rarely, if ever, be awarded if a local agency, acting in good faith, approved a housing development project that satisfies conditions established in paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.1 or paragraph (1), (2), or (3) of subdivision (a) of Section 65589.5.2.

(2) This subdivision shall become inoperative on January 1, 2031.

(q) This section shall be known, and may be cited, as the Housing Accountability Act.

(r) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 12. Section 65905.5 of the Government Code is amended to read:

65905.5. (a) Notwithstanding any other law, if a proposed housing development project complies with the applicable, objective general plan and zoning standards in effect at the time an application is deemed complete, after the application is deemed complete, a city, county, or city and county shall not conduct more than five hearings pursuant to Section 65905, or any other law, ordinance, or regulation requiring a public hearing in connection with the approval of that housing development project. If the city, county, or city and county continues a hearing subject to this section to another date, the continued hearing shall count as one of the five hearings allowed under this section. The city, county, or city and county shall consider and either approve or disapprove the application at any of the five hearings allowed under this section consistent with the applicable timelines under the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920)).

(b) For purposes of this section:

(1) "Deemed complete" means that the application has met all of the requirements specified in the relevant list compiled pursuant to Section 65940 that was available at the time when the application was submitted.

(2) "Hearing" includes any public hearing, workshop, or similar meeting, including any appeal, conducted by the city or county with respect to the housing development project, including any meeting relating to Section 65915, whether by the legislative body of the city or county, the planning agency established pursuant to Section 65100, or any other agency, department, board, commission, or any other designated hearing officer or body of the city or county, or any committee or subcommittee thereof. "Hearing" does not include a hearing to review a legislative approval, including any appeal, required for a proposed housing development project, including, but not limited to, a general plan amendment, a specific plan adoption or amendment, or a zoning amendment, or any hearing arising from a timely appeal of the approval or disapproval of a legislative approval.

(3) (A) "Housing development project" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(B) "Housing development project" includes, but is not limited to, projects that involve no discretionary approvals and projects that involve both discretionary and nondiscretionary approvals.

(C) "Housing development project" includes a proposal to construct a single dwelling unit. This subparagraph shall not affect the interpretation of the scope of paragraph (2) of subdivision (h) of Section 65589.5.

(c) (1) For purposes of this section, a housing development project shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project is consistent, compliant, or

in conformity. The receipt of a density bonus including any incentives, concessions, or waivers pursuant to Section 65915 shall not constitute a valid basis on which to find that a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

(2) A proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria, but the zoning for the project site is inconsistent with the general plan. If the local agency complies with the written documentation requirements of paragraph (2) of subdivision (j) of Section 65589.5, the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning that is consistent with the general plan; however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(d) Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.

(e) The amendments to subdivisions (b) and (c) made by the act adding this subdivision do not constitute a change in, but are declaratory of, existing law. However, the amendments to this section in subparagraph (B) of paragraph (3) of subdivision (b) shall not affect a project for which an application was submitted to the city, county, or city and county before January 1, 2022.

SEC. 13. Section 65913.10 of the Government Code is amended to read:

65913.10. (a) For purposes of any state or local law, ordinance, or regulation that requires the city or county to determine whether the site of a proposed housing development project is a historic site, the city or county shall make that determination at the time the application for the housing development project is deemed complete. A determination as to whether a parcel of property is a historic site shall remain valid during the pendency of the housing development project for which the application was made unless any archaeological, paleontological, or tribal cultural resources are encountered during any grading, site disturbance, or building alteration activities.

(b) For purposes of this section:

(1) “Deemed complete” means that the application has met all of the requirements specified in the relevant list compiled pursuant to Section 65940 that was available at the time when the application was submitted.

(2) “Housing development project” has the same meaning as defined in paragraph (3) of subdivision (b) of Section 65905.5.

(c) (1) Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) Nothing in this section supersedes, limits, or otherwise modifies the requirements of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

SEC. 14. Section 65913.16 of the Government Code is amended to read:

65913.16. (a) This section shall be known, and may be cited, as the Affordable Housing on Faith and Higher Education Lands Act of 2023.

(b) For purposes of this section:

(1) "Applicant" means a qualified developer who submits an application for streamlined approval pursuant to this section.

(2) "Development proponent" means a developer that submits a housing development project application to a local government under the streamlined, ministerial review process pursuant to this chapter.

(3) "Health care expenditures" include contributions pursuant to Section 501(c) or (d) or 401(a) of the Internal Revenue Code and payments toward "medical care" as defined in Section 213(d)(1) of the Internal Revenue Code.

(4) "Heavy industrial use" means a use that is a source, other than a Title V source, as defined by Section 39053.5 of the Health and Safety Code, that is subject to permitting by a district, as defined in Section 39025 of the Health and Safety Code, pursuant to Division 26 (commencing with Section 39000) of the Health and Safety Code or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.). A use where the only source permitted by a district is an emergency backup generator, and the source is in compliance with permitted emissions and operating limits, is not a heavy industrial use.

(5) "Housing development project" has the same meaning as defined in Section 65589.5.

(6) "Independent institution of higher education" has the same meaning as defined in Section 66010 of the Education Code.

(7) "Light industrial use" means an industrial use that is not subject to permitting by a district, as defined in Section 39025 of the Health and Safety Code.

(8) "Local government" means a city, including a charter city, county, including a charter county, or city and county, including a charter city and county.

(9) "Qualified developer" means any of the following:

(A) A local public entity, as defined in Section 50079 of the Health and Safety Code.

(B) (i) A developer that is a nonprofit corporation, a limited partnership in which a managing general partner is a nonprofit corporation, or a limited liability company in which a managing member is a nonprofit corporation.

(ii) The developer, at the time of submission of an application for development pursuant to this section, owns property or manages housing units located on property that is exempt from taxation pursuant to the welfare exemption established in subdivision (a) of Section 214 of the Revenue and Taxation Code.

(C) A developer that contracts with a nonprofit corporation that has received a welfare exemption under Section 214.15 of the Revenue and

Taxation Code for properties intended to be sold to low-income families with financing in the form of zero interest rate loans.

(D) A developer that the religious institution or independent institution of education, as defined in this section, has contracted with before to construct housing or other improvements to real property.

(10) "Religious institution" means an institution owned, controlled, and operated and maintained by a bona fide church, religious denomination, or religious organization composed of multidenominational members of the same well-recognized religion, lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110), or as a corporation sole pursuant to Part 6 (commencing with Section 10000), of Division 2 of Title 1 of the Corporations Code.

(11) "Title V industrial use" means a use that is a Title V source, as defined in Section 39053.5 of the Health and Safety Code.

(12) "Use by right" means a development project that satisfies both of the following conditions:

(A) The development project does not require a conditional use permit, planned unit development permit, or other discretionary local government review.

(B) The development project is not a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(c) Notwithstanding any inconsistent provision of a local government's general plan, specific plan, zoning ordinance, or regulation, upon the request of an applicant, a housing development project shall be a use by right, if all of the following criteria are satisfied:

(1) The development is located on land owned on or before January 1, 2024, by an independent institution of higher education or a religious institution, including ownership through an affiliated or associated nonprofit public benefit corporation organized pursuant to the Nonprofit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code).

(2) The development is located on a parcel that satisfies the requirements specified in subparagraphs (A) and (B) of paragraph (2) of subdivision (a) of Section 65913.4.

(3) The development is located on a parcel that satisfies the requirements specified in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4.

(4) The development is located on a parcel that satisfies the requirements specified in paragraph (7) of subdivision (a) of Section 65913.4.

(5) (A) The development is not adjoined to any site where more than one-third of the square footage on the site is dedicated to light industrial use. For purposes of this subdivision, parcels separated by only a street or highway shall be considered to be adjoined.

(B) For purposes of subparagraph (A), a property is "dedicated to light industrial use" if all of the following requirements are met:

(i) The square footage is currently being put to a light industrial use.

(ii) The most recently permitted use of the square footage is a light industrial use.

(iii) The latest version of the local government's general plan, adopted before January 1, 2022, designates the property for light industrial use.

(6) The housing units on the development site are not located within 1,200 feet of a site that is either of the following:

(A) A site that is currently a heavy industrial use.

(B) A site where the most recent permitted use was a heavy industrial use.

(7) Except as provided in paragraph (8), the housing units on the development site are not located within 1,600 feet of a site that is either of the following:

(A) A site that is currently a Title V industrial use.

(B) A site where the most recent permitted use was a Title V industrial use.

(8) For a site where multifamily housing is not an existing permitted use, the housing units on the development site are not located within 3,200 feet of a facility that actively extracts or refines oil or natural gas.

(9) One hundred percent of the development project's total units, exclusive of a manager's unit or units, are for lower income households, as defined by Section 50079.5 of the Health and Safety Code, except that up to 20 percent of the total units in the development may be for moderate-income households, as defined in Section 50053 of the Health and Safety Code, and 5 percent of the units may be for staff of the independent institution of higher education or religious institution that owns the land. Units in the development shall be offered at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or at affordable rent, as set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee. The rent or sales price for a moderate-income unit shall be affordable and shall not exceed 30 percent of income for a moderate-income household or homebuyer for a unit of similar size and bedroom count in the same ZIP Code in the city, county, or city and county in which the housing development is located. The applicant shall provide the city, county, or city and county with evidence to establish that the units meet the requirements of this paragraph. All units, exclusive of any manager unit or units, shall be subject to a recorded deed restriction as provided in this paragraph for at least the following periods of time:

(A) Fifty-five years for units that are rented unless a local ordinance or the terms of a federal, state, or local grant, tax credit, or other project financing requires, as a condition of the development of residential units, that the development include a certain percentage of units that are affordable to, and occupied by, low-income, lower income, very low income, or extremely low income households for a term that exceeds 55 years for rental housing units.

(B) Forty-five years for units that are owner-occupied or the first purchaser of each unit participates in an equity sharing agreement as

described in subparagraph (C) of paragraph (2) of subdivision (c) of Section 65915.

(10) The development project complies with all objective development standards of the city or county that are not in conflict with this section.

(11) If the housing development project requires the demolition of existing residential dwelling units, or is located on a site where residential dwelling units have been demolished within the last five years, the applicant shall comply with subdivision (d) of Section 66300.

(12) The applicant certifies to the local government that either of the following is true for the housing development project, as applicable:

(A) The entirety of the development project is a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(B) A development that contains more than 10 units and is not in its entirety a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code and approved by a local government pursuant to Article 2 (commencing with Section 65912.110) of, or Article 3 (commencing with Section 65912.120) of, Chapter 4.1 shall be subject to all of the following:

(i) All construction workers employed in the execution of the development shall be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs provided by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(ii) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work, and shall also provide notice of all contracts for the performance of the work to the Department of Industrial Relations, in accordance with Section 1773.35 of the Labor Code, for those portions of the development that are not a public work.

(iii) All contractors and subcontractors for those portions of the development that are not a public work shall comply with all of the following:

(I) Pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in the programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(II) Maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided in that section. This subclause does not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure.

For purposes of this subclause, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(III) Be registered in accordance with Section 1725.6 of the Labor Code.

(13) (A) The development proponent completes a Phase I environmental assessment, as defined in Section 78090 of the Health and Safety Code, and a Phase II environmental assessment, as defined in subdivision (o) of Section 25403 of the Health and Safety Code, if warranted.

(B) If a recognized environmental condition is found, the development proponent shall undertake a preliminary endangerment assessment, as defined in Section 78095 of the Health and Safety Code, prepared by an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.

(i) If a release of hazardous substance is found to exist on the site, the release shall be removed, or any significant effect of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(ii) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with current state and federal requirements.

(14) If the development is within 500 feet of a freeway, regularly occupied areas of the building shall provide air filtration media for outside and return air that provide a minimum efficiency reporting value (MERV) of 13.

(15) For a vacant site, the site does not contain tribal cultural resources, as defined in Section 21074 of the Public Resources Code, that could be affected by the development that were found pursuant to a consultation as described in Section 21080.3.1 of the Public Resources Code, and the effects of which cannot be mitigated pursuant to the process described in Section 21080.3.2 of the Public Resources Code.

(d) (1) The obligation of the contractors and subcontractors to pay prevailing wages pursuant to this section may be enforced by any of the following:

(A) The Labor Commissioner, through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, that may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development.

(B) An underpaid worker through an administrative complaint or civil action.

(C) A joint labor-management committee through a civil action pursuant to Section 1771.2 of the Labor Code.

(2) If a civil wage and penalty assessment is issued pursuant to this section, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(3) This subdivision does not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure. For purposes of this subdivision, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(e) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing does not apply to those portions of a development that are not a public work if otherwise provided in a bona fide collective bargaining agreement covering the worker.

(f) The requirement of this section to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(g) In addition to the requirements of paragraph (12) of subdivision (c), and the requirements of subdivisions (d), (e), and (f), a development of 50 or more housing units approved by a local government pursuant to Article 2 (commencing with Section 65912.110) of, or Article 3 (commencing with Section 65912.120) of, Chapter 4.1 shall meet all of the following labor standards:

(1) The development proponent shall require in contracts with construction contractors and shall certify to the local government that each contractor of any tier who will employ construction craft employees or will let subcontracts for at least 1,000 hours shall satisfy the requirements in paragraphs (2) and (3). A construction contractor is deemed in compliance with paragraphs (2) and (3) if it is signatory to a valid collective bargaining agreement that requires use of registered apprentices and expenditures on health care for employees and dependents.

(2) A contractor with construction craft employees shall either participate in an apprenticeship program approved by the Division of Apprenticeship Standards pursuant to Section 3075 of the Labor Code, or request the dispatch of apprentices from a state-approved apprenticeship program under the terms and conditions set forth in Section 1777.5 of the Labor Code. A contractor without construction craft employees shall show a contractual obligation that its subcontractors comply with this subdivision.

(3) Each contractor with construction craft employees shall make health care expenditures for each employee in an amount per hour worked on the development equivalent to at least the hourly pro rata cost of a Covered California Platinum-level plan for two adults 40 years of age and two dependents 0 to 14 years of age for the Covered California rating area in which the development is located. A contractor without construction craft employees shall show a contractual obligation that its subcontractors comply with this paragraph. Qualifying expenditures shall be credited toward

compliance with prevailing wage payment requirements set forth in Section 65912.130.

(4) (A) The development proponent shall provide to the local government, on a monthly basis while its construction contracts on the development are being performed, a report demonstrating compliance with paragraphs (2) and (3). The report shall be considered public records under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall be open to public inspection.

(B) A development proponent that fails to provide the monthly report shall be subject to a civil penalty for each month for which the report has not been provided, in the amount of 10 percent of the dollar value of construction work performed by that contractor on the development in the month in question, up to a maximum of ten thousand dollars ($10,000). Any contractor or subcontractor that fails to comply with paragraph (2) or (3) shall be subject to a civil penalty of two hundred dollars ($200) per day for each worker employed in contravention of paragraph (2) or (3).

(C) Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the procedures for issuance of civil wage and penalty assessments specified in Section 1741 of the Labor Code, and may be reviewed pursuant to Section 1742 of the Labor Code. Penalties shall be deposited in the State Public Works Enforcement Fund established pursuant to Section 1771.3 of the Labor Code.

(5) Each construction contractor shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code. Each construction contractor shall submit payroll records directly to the Labor Commissioner at least monthly in a format prescribed by the Labor Commissioner in accordance with subparagraph (A) of paragraph (3) of subdivision (a) of Section 1771.4 of the Labor Code. The records shall include a statement of fringe benefits. Upon request by a joint labor-management cooperation committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a), the records shall be provided pursuant to subdivision (e) of Section 1776 of the Labor Code.

(6) All construction contractors shall report any change in apprenticeship program participation or health care expenditures to the local government within 10 business days, and shall reflect those changes on the monthly report. The reports shall be considered public records pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000 of Title 1)) and shall be open to public inspection.

(7) A joint labor-management cooperation committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall have standing to sue a construction contractor for failure to make health care expenditures pursuant to paragraph (3) in accordance with Section 218.7 or 218.8 of the Labor Code.

(h) Notwithstanding any other provision of this section, a development project that is eligible for approval as a use by right pursuant to this section may include the following ancillary uses, provided that those uses are limited to the ground floor of the development:

(1) In a single-family residential zone, ancillary uses shall be limited to childcare centers, without limitation on the number of children, and facilities operated by community-based organizations for the provision of recreational, social, or educational services for use by the residents of the development and members of the local community in which the development is located.

(2) In all other zones, the development may include the childcare centers and facilities described in paragraph (1), as well as any other commercial uses that are permitted without a conditional use permit or planned unit development permit.

(i) Notwithstanding any other provision of this section, a development project that is eligible for approval as a use by right pursuant to this section includes any religious institutional use, or any use that was previously existing and legally permitted by the city or county on the site, if all of the following criteria are met:

(1) The total square footage of nonresidential space on the site does not exceed the amount previously existing or permitted in a conditional use permit.

(2) The new uses abide by the same operational conditions as contained in the previous conditional use permit.

(j) A housing development project that qualifies as a use by right pursuant to subdivision (b) shall be allowed the following density, as applicable:

(1) (A) If the development project is located in a zone that allows residential uses, including in single-family residential zones, the development project shall be allowed a density of the applicable density deemed appropriate to accommodate housing for lower income households identified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2 and a height of one story or 11 feet above the maximum height otherwise applicable to the parcel.

(B) If the local government allows for greater residential density on that parcel, or greater residential density or building heights on an adjoining parcel, than permitted in subparagraph (A), the greater density or building height shall apply, including a height of one story or 11 feet above the maximum height otherwise applicable to the parcel.

(C) A housing development project that is located in a zone that allows residential uses, including in single-family residential zones, shall be eligible for a density bonus, incentives, or concessions, or waivers or reductions of development standards and parking ratios, pursuant to Section 65915.

(2) (A) If the development project is located in a zone that does not allow residential uses, the development project shall be allowed a density of 40 units per acre and a height of one story or 11 feet above the maximum height otherwise applicable to the parcel.

(B) If the local government allows for greater residential density or building heights on that parcel, or an adjoining parcel, than permitted in subparagraph (A), the greater density or building height shall apply, including a height of one story or 11 feet above the maximum height otherwise applicable to the parcel. A development project shall not use an

incentive, waiver, or concession to increase the height of the development to greater than the height authorized under this subparagraph.

(C) Except as provided in subparagraph (B), a housing development project that is located in a zone that does not allow residential uses shall be eligible for a density bonus, incentives, or concessions, or waivers or reductions of development standards and parking ratios, pursuant to Section 65915.

(k) (1) Except as provided in paragraph (2), the proposed development, including any religious institutional use or any use that was previously existing and legally permitted by the city or county on the site pursuant to subdivision (j), shall provide off-street parking of up to one space per unit, unless a state law or local ordinance provides for a lower standard of parking, in which case the law or ordinance shall apply.

(2) A local government shall not impose a parking requirement if either of the following is true:

(A) The parcel is located within one-half mile walking distance of public transit, either a high-quality transit corridor or a major transit stop as defined in subdivision (b) of Section 21155 of the Public Resources Code.

(B) There is a car share vehicle located within one block of the parcel.

(*l*) (1) If the local government determines that the proposed development is in conflict with any of the objective planning standards specified in this section, it shall provide the development proponent written documentation of which standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, within the following timeframes:

(A) Within 60 days of submittal of the development proposal to the local government if the development contains 150 or fewer housing units.

(B) Within 90 days of submittal of the development proposal to the local government if the development contains more than 150 housing units.

(2) If the local government fails to provide the required documentation pursuant to paragraph (1), the development shall be deemed to satisfy the required objective planning standards.

(3) For purposes of this section, a development is consistent with the objective planning standards if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective planning standards.

(4) The determination of whether a proposed project submitted pursuant to this section is or is not in conflict with the objective planning standards is not a "project" as defined in Section 21065 of the Public Resources Code.

(5) Design review of the development may be conducted by the local government's planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate. That design review shall be objective and be strictly focused on assessing compliance with criteria required for streamlined, ministerial review of projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submittal of the development to

the local government, and shall be broadly applicable to developments within the jurisdiction. That design review shall be completed as follows and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section or its effect, as applicable:

(A) Within 90 days of submittal of the development proposal to the local government pursuant to this section if the development contains 150 or fewer housing units.

(B) Within 180 days of submittal of the development proposal to the local government pursuant to this section if the development contains more than 150 housing units.

(6) The local government shall ensure that the project satisfies the requirements specified in subdivision (d) of Section 66300, regardless of whether the development is within or not within an affected city or within or not within an affected county.

(7) If the development is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410)) shall be exempt from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(8) A local government's approval of a development pursuant to this section shall, notwithstanding any other law, be subject to the expiration timeframes specified in subdivision (f) of Section 65913.4.

(9) Any proposed modifications to a development project approved pursuant to this section shall be undertaken pursuant to subdivision (g) of Section 65913.4.

(10) A local government shall not adopt or impose any requirement, including, but not limited to, increased fees or inclusionary housing requirements, that applies to a project solely or partially on the basis that the project is eligible to receive streamlined, ministerial review pursuant to this section.

(11) A local government shall issue a subsequent permit required for a development approved under this section pursuant to paragraph (2) of subdivision (h) of Section 65913.4.

(12) A public improvement that is necessary to implement a development that is approved pursuant to this section shall be undertaken pursuant to paragraph (3) of subdivision (h) of Section 65913.4.

(m) This section shall not prevent a development from also qualifying as a housing development project entitled to the protections of Section 65589.5.

(n) The Legislature finds and declares that ensuring residential development at greater density on land owned by independent institutions of higher education and religious institutions is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this section applies to all cities, including charter cities.

(o) The provisions of paragraph (3) of subdivision (g) concerning health care expenditures are distinct and severable from the remaining provisions of this section. However, all other provisions of subdivision (g) are material and integral parts of this section and are not severable. If any provision of subdivision (g), exclusive of those included in paragraph (3), is held invalid, the entire section shall be invalid and shall not be given effect.

(p) This section shall remain in effect only until January 1, 2036, and as of that date is repealed.

SEC. 15. Section 65928 of the Government Code is amended to read:

65928. (a) "Development project" means any project undertaken for the purpose of development. "Development project" includes a project involving the issuance of a permit for construction or reconstruction but not a permit to operate.

(b) (1) (A) Except as otherwise provided in subparagraph (B), "development project" does not include any ministerial projects proposed to be carried out or approved by public agencies.

(B) Notwithstanding subparagraph (A), "development project" includes a housing development project that requires an entitlement from a local agency, regardless of whether the process for permitting that entitlement is discretionary or ministerial.

(2) "Development project" does not include a postentitlement phase permit, as that term is defined in Section 65913.3.

SEC. 16. Section 65940 of the Government Code, as amended by Section 3 of Chapter 754 of the Statutes of 2023, is amended to read:

65940. (a) (1) Each public agency shall compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project. Each public agency shall revise the list of information required from an applicant to include a certification of compliance with Section 65962.5, and the statement of application required by Section 65943. Copies of the information, including the statement of application required by Section 65943, shall be made available to all applicants for development projects and to any person who requests the information.

(2) An affected city or affected county, as defined in Section 66300, shall include the information necessary to determine compliance with the requirements of Article 2 (commencing with Section 66300.5) of Chapter 12 in the list compiled pursuant to paragraph (1).

(b) The list of information required from any applicant shall include, where applicable, identification of whether the proposed project is located within 1,000 feet of a military installation, beneath a low-level flight path or within special use airspace as defined in Section 21098 of the Public Resources Code, and within an urbanized area as defined in Section 65944.

(c) (1) A public agency that is not beneath a low-level flight path or not within special use airspace and does not contain a military installation is not required to change its list of information required from applicants to comply with subdivision (b).

(2) A public agency that is entirely urbanized, as defined in subdivision (e) of Section 65944, with the exception of a jurisdiction that contains a military installation, is not required to change its list of information required from applicants to comply with subdivision (b).

(d) For purposes of this section, "development project" includes a housing development project as defined in paragraph (3) of subdivision (b) of Section 65905.5.

SEC. 17. Section 65940 of the Government Code, as amended by Section 5 of Chapter 161 of the Statutes of 2021, is repealed.

SEC. 18. Section 65941.1 of the Government Code is amended to read:

65941.1. (a) An applicant for a housing development project, as defined in paragraph (3) of subdivision (b) of Section 65905.5, shall be deemed to have submitted a preliminary application upon providing all of the following information about the proposed project to the city, county, or city and county from which approval for the project is being sought and upon payment of the permit processing fee:

(1) The specific location, including parcel numbers, a legal description, and site address, if applicable.

(2) The existing uses on the project site and identification of major physical alterations to the property on which the project is to be located.

(3) A site plan showing the location on the property, elevations showing design, color, and material, and the massing, height, and approximate square footage, of each building that is to be occupied.

(4) The proposed land uses by number of units and square feet of residential and nonresidential development using the categories in the applicable zoning ordinance.

(5) The proposed number of parking spaces.

(6) Any proposed point sources of air or water pollutants.

(7) Any species of special concern known to occur on the property.

(8) Whether a portion of the property is located within any of the following:

(A) A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178.

(B) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(C) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Article 5 (commencing with Section 78760) of Chapter 4 of Part 2 of Division 45 of the Health and Safety Code.

(D) A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.

(E) A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under

the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(F) A stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code.

(9) Any historic or cultural resources known to exist on the property.

(10) The number of proposed below market rate units and their affordability levels.

(11) The number of bonus units and any incentives, concessions, waivers, or parking reductions requested pursuant to Section 65915.

(12) Whether any approvals under the Subdivision Map Act, including, but not limited to, a parcel map, a tentative map, or a condominium map, are being requested.

(13) The applicant's contact information and, if the applicant does not own the property, consent from the property owner to submit the application.

(14) For a housing development project proposed to be located within the coastal zone, whether any portion of the property contains any of the following:

(A) Wetlands, as defined in subdivision (b) of Section 13577 of Title 14 of the California Code of Regulations.

(B) Environmentally sensitive habitat areas, as defined in Section 30240 of the Public Resources Code.

(C) A tsunami run-up zone.

(D) Use of the site for public access to or along the coast.

(15) The number of existing residential units on the project site that will be demolished and whether each existing unit is occupied or unoccupied.

(16) A site map showing a stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code and an aerial site photograph showing existing site conditions of environmental site features that would be subject to regulations by a public agency, including creeks and wetlands.

(17) The location of any recorded public easement, such as easements for storm drains, water lines, and other public rights of way.

(b) (1) A development proponent that submits a preliminary application providing the information required by subdivision (a) may include in its preliminary application a request for a preliminary fee and exaction estimate, which the city, county, or city and county shall provide within 30 business days of the submission of the preliminary application.

(2) For development fees imposed by an agency other than a city, county, or city and county, including fees levied by a school district or a special district, the development proponent shall request the fee schedule from the agency that imposes the fee, and the agency that imposes the fee shall provide the fee schedule to the development proponent without delay.

(3) For purposes of this subdivision:

(A) “Exaction” has the same meaning as defined in Section 65940.1.

(B) (i) “Fee” means a fee or charge described in the Mitigation Fee Act (Chapter 5 (commencing with Section 66000), Chapter 6 (commencing with Section 66010), Chapter 8 (commencing with Section 66016), and Chapter 9 (commencing with Section 66020)).

(ii) Notwithstanding clause (i), “fee” does not include either of the following:

(I) The cost of providing electrical or gas service from a local publicly owned utility.

(II) A charge imposed on a housing development project to comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(C) “Fee and exaction estimate” means a good faith estimate of the total amount of fees and exactions expected to be imposed in connection with the project.

(4) Except for the provision of the fee and exaction estimate by the local agency, nothing in this subdivision shall create or affect any rights or obligations with respect to fees or exactions.

(5) The fee and exaction estimate shall be for informational purposes only and shall not be legally binding or otherwise affect the scope, amount, or time of payment of any fee or exaction that is determined by other provisions of law.

(6) A development proponent may request a fee schedule from a city, county, or special district for fees described in Chapter 7 (commencing with Section 66012), or for the cost of providing electrical or gas service from a local publicly owned utility. The city, county, special district, or local publicly owned utility shall provide the fee schedule upon request.

(c) (1) Each local agency shall compile a checklist and application form that applicants for housing development projects may use for the purpose of satisfying the requirements for submittal of a preliminary application.

(2) The Department of Housing and Community Development shall adopt a standardized form that applicants for housing development projects may use for the purpose of satisfying the requirements for submittal of a preliminary application if a local agency has not developed its own application form pursuant to paragraph (1). Adoption of the standardized form shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) A checklist or form shall not require or request any information beyond that expressly identified in subdivision (a).

(d) After submittal of all of the information required by subdivision (a), if the development proponent revises the project such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision, the housing development project shall not be deemed to have submitted a preliminary application that satisfies this section until the development proponent resubmits the information required by subdivision (a) so that it reflects the revisions. For

purposes of this subdivision, “square footage of construction” means the building area, as defined by the California Building Standards Code (Title 24 of the California Code of Regulations).

(e) (1) Within 180 calendar days after submitting a preliminary application with all of the information required by subdivision (a) to a city, county, or city and county, the development proponent shall submit an application for a development project that includes all of the information required to process the development application consistent with Sections 65940, 65941, and 65941.5.

(2) If the public agency determines that the application for the development project is not complete pursuant to Section 65943, the development proponent shall submit the specific information needed to complete the application within 90 days of receiving the agency’s written identification of the necessary information. If the development proponent does not submit this information within the 90-day period, then the preliminary application shall expire and have no further force or effect.

(3) This section shall not require an affirmative determination by a city, county, or city and county regarding the completeness of a preliminary application or a development application for purposes of compliance with this section.

(f) Notwithstanding any other law, submission of a preliminary application in accordance with this section shall not preclude the listing of a tribal cultural resource on a national, state, tribal, or local historic register list on or after the date that the preliminary application is submitted. For purposes of Section 65589.5 or any other law, the listing of a tribal cultural site on a national, state, tribal, or local historic register on or after the date the preliminary application was submitted shall not be deemed to be a change to the ordinances, policies, and standards adopted and in effect at the time that the preliminary application was submitted.

SEC. 19. Section 65943 of the Government Code, as amended by Section 7 of Chapter 161 of the Statutes of 2021, is amended to read:

65943. (a) Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete. That list shall be limited to those items actually required on the lead agency’s submittal requirement checklist. In any subsequent review of the application determined to be incomplete, the local agency shall not request the applicant to provide any new information that was not stated in the initial list of items that were not complete. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If

the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.

(b) Not later than 30 calendar days after receipt of the submitted materials described in subdivision (a), the public agency shall determine in writing whether the application as supplemented or amended by the submitted materials is complete and shall immediately transmit that determination to the applicant. In making this determination, the public agency is limited to determining whether the application as supplemented or amended includes the information required by the list and a thorough description of the specific information needed to complete the application required by subdivision (a). If the written determination is not made within that 30-day period, the application together with the submitted materials shall be deemed complete for purposes of this chapter.

(c) If the application together with the submitted materials are determined not to be complete pursuant to subdivision (b), the public agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. A city or county shall provide that the right of appeal is to the governing body or, at their option, the planning commission, or both.

There shall be a final written determination by the agency on the appeal not later than 60 calendar days after receipt of the applicant's written appeal. The fact that an appeal is permitted to both the planning commission and to the governing body does not extend the 60-day period. Notwithstanding a decision pursuant to subdivision (b) that the application and submitted materials are not complete, if the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete for the purposes of this chapter.

(d) Nothing in this section precludes an applicant and a public agency from mutually agreeing to an extension of any time limit provided by this section.

(e) A public agency may charge applicants a fee not to exceed the amount reasonably necessary to provide the service required by this section. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

(f) Each city and each county shall make copies of any list compiled pursuant to Section 65940 with respect to information required from an applicant for a housing development project, as that term is defined in paragraph (2) of subdivision (h) of Section 65589.5, available both (1) in writing to those persons to whom the agency is required to make information available under subdivision (a) of that section, and (2) publicly available on the internet website of the city or county.

(g) For purposes of this section, "development project" includes a housing development project as defined in paragraph (3) of subdivision (b) of Section 65905.5.

SEC. 20. Section 65943 of the Government Code, as amended by Section 8 of Chapter 161 of the Statutes of 2021, is repealed.

SEC. 21. Section 65950 of the Government Code, as amended by Section 9 of Chapter 161 of the Statutes of 2021, is amended to read:

65950. (a) A public agency that is the lead agency for a development project shall approve or disapprove the project within whichever of the following periods is applicable:

(1) One hundred eighty days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for the development project.

(2) Ninety days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for a development project defined in subdivision (c).

(3) Sixty days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for a development project defined in subdivision (c) and all of the following conditions are met:

(A) At least 49 percent of the units in the development project are affordable to very low or low-income households, as defined by Sections 50105 and 50079.5 of the Health and Safety Code, respectively. Rents for the lower income units shall be set at an affordable rent, as that term is defined in Section 50053 of the Health and Safety Code, for at least 30 years. Owner-occupied units shall be available at an affordable housing cost, as that term is defined in Section 50052.5 of the Health and Safety Code.

(B) Prior to the application being deemed complete for the development project pursuant to Article 3 (commencing with Section 65940), the lead agency received written notice from the project applicant that an application has been made or will be made for an allocation or commitment of financing, tax credits, bond authority, or other financial assistance from a public agency or federal agency, and the notice specifies the financial assistance that has been applied for or will be applied for and the deadline for application for that assistance, the requirement that one of the approvals of the development project by the lead agency is a prerequisite to the application for or approval of the application for financial assistance, and that the financial assistance is necessary for the project to be affordable as required pursuant to subparagraph (A).

(C) There is confirmation that the application has been made to the public agency or federal agency prior to certification of the environmental impact report.

(4) Sixty days from the date of adoption by the lead agency of the negative declaration, if a negative declaration is completed and adopted for the development project.

(5) Sixty days from the determination by the lead agency that the project is exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), if the project is exempt from that act.

(6) Except as provided in subdivision (a) of Section 65912.114 and subdivision (a) of Section 65912.124, sixty days from the date of receipt of a complete application if the project is subject to ministerial review by the public agency.

(7) Thirty days from the conclusion of the process outlined in subdivision (b) of Section 21080.66 of the Public Resources Code, if a development project is exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) pursuant to Section 21080.66 of the Public Resources Code.

(b) This section does not preclude a project applicant and a public agency from mutually agreeing in writing to an extension of any time limit provided by this section pursuant to Section 65957.

(c) For purposes of paragraphs (2) and (3) of subdivision (a) and Section 65952, "development project" means a housing development project, as defined in paragraph (3) of subdivision (b) of Section 65905.5.

(d) For purposes of this section, "lead agency" and "negative declaration" have the same meaning as defined in Sections 21067 and 21064 of the Public Resources Code, respectively.

SEC. 22. Section 65950 of the Government Code, as amended by Section 10 of Chapter 161 of the Statutes of 2021, is repealed.

SEC. 23. Section 65952 of the Government Code is amended to read:

65952. (a) Except as provided in subdivision (b), a public agency that is a responsible agency for a development project that has been approved by the lead agency shall approve or disapprove the development project within whichever of the following periods of time is longer:

(1) Within 180 days from the date on which the lead agency has approved the project.

(2) Within 180 days of the date on which the completed application for the development project has been received and accepted as complete by that responsible agency.

(b) A public agency that is a responsible agency for a development project described in paragraph (2) or (3) of subdivision (a) of Section 65950 that has been approved by the lead agency shall approve or disapprove the development project within whichever of the following periods of time is longer:

(1) Within 90 days from the date on which the lead agency has approved the project.

(2) Within 90 days of the date on which the completed application for the development project has been received and accepted as complete by that responsible agency.

(c) At the time a decision by a lead agency to disapprove a development project becomes final, applications for that project which are filed with responsible agencies shall be deemed withdrawn.

SEC. 24. Section 65953 of the Government Code is amended to read:

65953. (a) All time limits specified in this article are maximum time limits for approving or disapproving development projects. All public agencies shall, if possible, approve or disapprove development projects in shorter periods of time.

(b) All time limits specified in this article shall only apply to the extent that the time limits are equal to or shorter than the applicable time limits for public agency review established in any other law.

SEC. 25. Section 65956 of the Government Code is amended to read:

65956. (a) If any provision of law requires the lead agency or responsible agency to provide public notice of the development project or to hold a public hearing, or both, on the development project and the agency has not provided the public notice or held the hearing, or both, at least 60 days prior to the expiration of the time limits established by Sections 65950 and 65952, the applicant or the applicant's representative may file an action pursuant to Section 1085 of the Code of Civil Procedure to compel the agency to provide the public notice or hold the hearing, or both, and the court shall give the proceedings preference over all other civil actions or proceedings, except older matters of the same character.

(b) In the event that a lead agency or a responsible agency fails to act to approve or to disapprove a development project within the time limits required by this article, the failure to act shall be deemed approval of the permit application for the development project.

(c) Failure of an applicant to submit complete or adequate information pursuant to Sections 65943 to 65944, inclusive, may constitute grounds for disapproving a development project.

(d) Nothing in this section shall diminish the permitting agency's legal responsibility to provide, where applicable, public notice and hearing before acting on a permit application.

SEC. 26. Section 66301 of the Government Code is repealed.

SEC. 27. Section 66323 of the Government Code is amended to read:

66323. (a) Notwithstanding Sections 66314 to 66322, inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(1) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(A) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(B) The space has exterior access from the proposed or existing single-family dwelling.

(C) The side and rear setbacks are sufficient for fire and safety.

(D) The junior accessory dwelling unit complies with the requirements of Article 3 (commencing with Section 66333).

(2) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in paragraph (1). A local agency may impose the following conditions on the accessory dwelling unit:

(A) A total floor area limitation of not more than 800 square feet.

(B) A height limitation as provided in subparagraph (A), (B), or (C) of paragraph (4) of subdivision (b) of Section 66321, as applicable.

(3) (A) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(B) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(4) (A) (i) Multiple accessory dwelling units, not to exceed the number specified in clause (ii) or (iii), as applicable, that are located on a lot that has an existing or proposed multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limitation in subparagraph (A), (B), or (C) of paragraph (4) of subdivision (b) of Section 66321, as applicable, and rear yard and side setbacks of no more than four feet.

(ii) On a lot with an existing multifamily dwelling, not more than eight detached accessory dwelling units. However, the number of accessory dwelling units allowable pursuant to this clause shall not exceed the number of existing units on the lot.

(iii) On a lot with a proposed multifamily dwelling, not more than two detached accessory dwelling units.

(B) If the existing multifamily dwelling has a rear or side setback of less than four feet, the local agency shall not require any modification of the existing multifamily dwelling as a condition of approving the application to construct an accessory dwelling unit that satisfies the requirements of this paragraph.

(b) A local agency shall not impose any objective development or design standard that is not authorized by this section upon any accessory dwelling unit that meets the requirements of any of paragraphs (1) to (4), inclusive, of subdivision (a).

(c) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a

junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(d) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence. The construction of an accessory dwelling unit shall not trigger a requirement for fire sprinklers to be installed in the existing multifamily dwelling.

(e) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this section be for a term longer than 30 days.

(f) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite wastewater treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

SEC. 28. Section 66499.41 of the Government Code, as amended by Section 3 of Chapter 294 of the Statutes of 2024, is amended to read:

66499.41. (a) A local agency shall ministerially consider, without discretionary review or a hearing, a parcel map or a tentative and final map for a housing development project that meets all of the following requirements:

(1) (A) The proposed subdivision will result in 10 or fewer parcels and the housing development project on the lot proposed to be subdivided will contain 10 or fewer residential units, except as provided in subdivision (g).

(B) The proposed subdivision may designate a remainder parcel, as defined under Section 66424.6, that retains existing land uses or structures, does not contain any new residential units, and is not exclusively dedicated to serving the housing development project. The remainder parcel shall not be counted against the 10-parcel maximum permitted under subparagraph (A).

(2) The lot proposed to be subdivided meets all of the following sets of requirements:

(A) The lot is one of the following:

(i) Zoned to allow multifamily residential dwelling use.

(ii) Vacant and zoned for single-family residential development. For purposes of this paragraph, “vacant” means having no permanent structure, unless the permanent structure is abandoned and uninhabitable. All of the following types of housing shall not be defined as “vacant:”

(I) Housing that is subject to a recorded covenant, ordinance, or law that restricts rent or sales price to levels affordable to persons and families of low, very low, or extremely low income.

(II) Housing that is subject to any form of rent or sales price control through a local public entity’s valid exercise of its police power.

(III) Housing occupied by tenants within the five years preceding the date of the application, including housing that has been demolished or that tenants have vacated prior to the submission of the application for a development permit.

(B) (i) A lot zoned to allow multifamily residential dwelling use is no larger than five acres and is substantially surrounded by qualified urban uses.

(ii) A vacant lot zoned for single-family residential development is no larger than one and one-half acres and is substantially surrounded by qualified urban uses.

(iii) For purposes of this subparagraph, the following definitions apply:

(I) "Qualified urban use" has the same meaning as defined in Section 21072 of the Public Resources Code.

(II) "Substantially surrounded" has the same meaning as defined in paragraph (2) of subdivision (a) of Section 21159.25 of the Public Resources Code.

(C) The lot is a legal parcel located within one of the following:

(i) An incorporated city, the boundaries of which include some portion of an urbanized area.

(ii) An urbanized area or urban cluster in a county with a population greater than 600,000 based on the most recent United States Census Bureau data.

(iii) For purposes of this subparagraph, the following definitions apply:

(I) "Urbanized area" means an urbanized area designated by the United States Census Bureau, as published in the Federal Register, Volume 77, Number 59, on March 27, 2012.

(II) "Urban cluster" means an urban cluster designated by the United States Census Bureau, as published in the Federal Register, Volume 77, Number 59, on March 27, 2012.

(D) The lot was not established pursuant to this section, including a designated remainder parcel described in subparagraph (B) of paragraph (1), or Section 66411.7.

(3) (A) Except as specified in subparagraphs (B) and (C), the newly created parcels are no smaller than 600 square feet.

(B) If the parcels are zoned for single-family residential use, the newly created parcels are no smaller than 1,200 square feet.

(C) A local agency may, by ordinance, adopt a smaller minimum parcel size subject to ministerial approval under this subdivision.

(4) The housing units on the lot proposed to be subdivided are one of the following:

(A) Constructed on fee simple ownership lots.

(B) Part of a common interest development.

(C) Part of a housing cooperative, as defined in Section 817 of the Civil Code.

(D) Constructed on land owned by a community land trust. For the purpose of this subparagraph, "community land trust" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that satisfies all of the following:

(i) Has as its primary purposes the creation and maintenance of permanently affordable single-family or multifamily residences.

(ii) All dwellings and units located on the land owned by the nonprofit corporation are sold to qualified owners to be occupied as the qualified owner's primary residence or rented to persons and families of low or moderate income. For the purpose of this subparagraph, "qualified owner"

means a person or family of low or moderate income, including a person or family of low or moderate income who owns a dwelling or unit collectively as a member occupant or resident shareholder of a limited-equity housing cooperative.

(iii) The land owned by the nonprofit corporation, on which a dwelling or unit sold to a qualified owner is situated, is leased by the nonprofit corporation to the qualified owner for the convenient occupation and use of that dwelling or unit for a renewable term of 99 years.

(E) Part of a tenancy in common, as described in Section 685 of the Civil Code.

(5) The proposed housing development project will, pursuant to the requirements of this division, meet one of the following, as applicable:

(A) If the parcel is identified in the jurisdiction's housing element for the current planning period that is in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1, the housing development project will result in at least as many units as projected for that parcel in the housing element. If the parcel is identified to accommodate any portion of the jurisdiction's share of the regional housing need for low-income or very low income households, the housing development project will result in at least as many low-income or very low income units as projected in the housing element. These units shall be subject to a recorded affordability restriction of at least 45 years.

(B) (i) If the parcel is not identified in the jurisdiction's housing element for the current planning period that is in substantial compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1, the housing development project will result in at least 66 percent of the maximum allowable residential density as specified by local zoning or 66 percent of the applicable residential density specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2, whichever is greater.

(ii) Where local zoning does not specify a maximum allowable residential density, the housing development project will result in at least 66 percent of the applicable residential density as specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2.

(iii) The area of any designated remainder parcel described in subparagraph (B) of paragraph (1) shall be excluded from the calculation of residential density under this paragraph.

(6) The average total area of floorspace for the proposed housing units on the lot proposed to be subdivided does not exceed 1,750 net habitable square feet. For purposes of this paragraph, "net habitable square feet" means the finished and heated floor area fully enclosed by the inside surface of walls, windows, doors, and partitions, and having a headroom of at least six and one-half feet, including working, living, eating, cooking, sleeping, stair, hall, service, and storage areas, but excluding garages, carports, parking spaces, cellars, half-stories, and unfinished attics and basements.

(7) The housing development project on the lot proposed to be subdivided complies with any local inclusionary housing ordinances adopted by the local agency.

(8) The development of a housing development project on the lot proposed to be subdivided does not require the demolition or alteration of any of the following types of housing:

(A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rent to levels affordable to persons and families of low, very low, or extremely low income.

(B) Housing that is subject to any form of rent or price control through a local public entity's valid exercise of its police power.

(C) Housing occupied by tenants within the five years preceding the date of the application, including housing that has been demolished or that tenants have vacated prior to the submission of the application for a development permit.

(D) A parcel on which an owner of residential real property has exercised the owner's rights under Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 to withdraw accommodations from rent or lease within 15 years before the date that the development proponent submits an application.

(9) The lot proposed to be subdivided is not located on a site that is any of the following:

(A) Either prime farmland or farmland of statewide importance, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.

(B) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(C) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code.

(D) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to former Section 25356 of the Health and Safety Code, unless either of the following applies:

(i) The site is an underground storage tank site that received a uniform closure letter issued pursuant to subdivision (g) of Section 25296.10 of the Health and Safety Code based on closure criteria established by the State Water Resources Control Board for residential use or residential mixed uses. This section does not alter or change the conditions to remove a site from the list of hazardous waste sites listed pursuant to Section 65962.5.

(ii) The State Department of Public Health, State Water Resources Control Board, Department of Toxic Substances Control, or a local agency making a determination pursuant to subdivision (c) of Section 25296.10 of the Health

and Safety Code, has otherwise determined that the site is suitable for residential use or residential mixed uses.

(E) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the housing development project complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(F) Within a special flood hazard area subject to inundation by the 1-percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this paragraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site. A housing development project may be located on a site described in this subparagraph if either of the following is met:

(i) The site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction.

(ii) The site meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.

(G) Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the housing development project has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.

(H) Land identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or another adopted natural resource protection plan.

(I) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).

(J) Land under conservation easement.

(10) The proposed subdivision conforms to all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)), except as otherwise expressly provided in this section.

(11) The proposed subdivision complies with all applicable standards established pursuant to Section 65852.28.

(12) Any parcels proposed to be created pursuant to this section will be served by a public water system and a municipal sewer system.

(13) The proposed subdivision will not result in any existing dwelling unit being alienable separate from the title to any other existing dwelling unit on the lot.

(b) A housing development project on a proposed site to be subdivided pursuant to this section is not required to comply with either of the following requirements:

(1) A minimum requirement on the size, width, depth, frontage, or dimensions of an individual parcel created by the housing development project beyond the minimum parcel size specified in, or established pursuant to, paragraph (3) of subdivision (a).

(2) (A) The formation of a homeowners' association, except as required by the Davis-Stirling Common Interest Development Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).

(B) Subparagraph (A) shall not be construed to prohibit a local agency from requiring a mechanism for the maintenance of common space within the subdivision, including, but not limited to, a road maintenance agreement.

(c) A local agency shall approve or deny an application for a parcel map or a tentative map for a housing development project submitted to a local agency pursuant to this section within 60 days from the date the local agency receives a completed application. If the local agency does not approve or deny a completed application within 60 days, the application shall be deemed approved. If the local agency denies the application, the local agency shall, within 60 days from the date the local agency receives the completed application, return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the applicant can remedy the application.

(d) Any housing development project constructed on the lot proposed to be subdivided pursuant to this section shall comply with all applicable objective zoning standards, objective subdivision standards, and objective design standards as established by the local agency that are not inconsistent with this section and paragraph (2) of subdivision (a) of Section 65852.28.

(e) (1) (A) Except as provided in paragraph (2), no person shall sell, lease, or finance any parcel or parcels of real property resulting from a subdivision under this section separately from any other such parcel or parcels, unless each parcel that is sold, leased, or financed meets one of the following criteria:

(i) The parcel contains a residential structure completed in compliance with all applicable provisions of the California Building Standards Code that includes at least one dwelling unit.

(ii) The parcel already contains an existing legally permitted residential structure.

(iii) The parcel is reserved for internal circulation, open space, or common area.

(iv) The parcel is the only remaining parcel within the subdivision that is not developed with a residential structure that was completed in compliance with all applicable provisions of the California Building Standards Code.

(B) For purposes of this subdivision, "parcel or parcels of real property resulting from a subdivision under this section" shall not include any designated remainder parcel described in subparagraph (B) of paragraph (1) of subdivision (a).

(C) Violation of this paragraph shall constitute the sale of real property that has been divided in violation of the provisions of this division and shall be subject to the penalties and remedies set forth in Chapter 7 (commencing with Section 66499.30).

(2) A local agency may, by ordinance or map condition, authorize the sale, lease, or finance of any parcel or parcels of real property resulting from a subdivision under this section without compliance with the provisions of paragraph (1).

(f) A local agency may deny the issuance of a parcel map, a tentative map, or a final map if it makes a written finding, based upon a preponderance of the evidence, that the proposed housing development project would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

(g) Notwithstanding Article 2 (commencing with Section 66314) or Article 3 (commencing with Section 66333) of Chapter 13 of Division 1, a local agency is not required to permit an accessory dwelling unit or a junior accessory dwelling unit on parcels created through the exercise of the authority contained within this section. If a local agency chooses to permit accessory dwelling units or junior accessory dwelling units, the units shall not count as residential units for the purposes of paragraph (1) of subdivision (a).

(h) (1) Notwithstanding Section 66411.7, a local agency is not required to permit an urban lot split on a parcel created through the exercise of the authority contained within this section.

(2) Notwithstanding Sections 65852.21 and 66411.7, those sections shall not apply to a site that meets both of the following requirements:

(A) The site is located within a single-family residential horsekeeping zone designated in a master plan, adopted before January 1, 1994, that regulates land zoned single-family horsekeeping, commercial, commercial-recreational, and existing industrial within the plan area.

(B) The applicable local government has an adopted housing element that is compliant with applicable law.

(i) A local agency may adopt an ordinance to implement the provisions of this section. An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

SEC. 29. Section 17958 of the Health and Safety Code is amended to read:

17958. (a) Except as provided in subdivision (b), and in Sections 17958.8 and 17958.9, any city or county may make changes in the provisions adopted pursuant to Section 17922 and published in the California Building Standards Code or the other regulations thereafter adopted pursuant to Section 17922 to amend, add, or repeal ordinances or regulations which impose the same requirements as are contained in the provisions adopted pursuant to Section 17922 and published in the California Building Standards Code or the other regulations adopted pursuant to Section 17922 or make changes or modifications in those requirements upon express findings pursuant to Sections 17958.5 and 17958.7. If any city or county does not amend, add, or repeal ordinances or regulations to impose those requirements or make changes or modifications in those requirements upon express findings, the provisions published in the California Building Standards Code or the other regulations promulgated pursuant to Section 17922 shall be applicable to it and shall become effective 180 days after publication by the California Building Standards Commission. Amendments, additions, and deletions to the California Building Standards Code adopted by a city or county pursuant to Section 17958.7, together with all applicable portions of the California Building Standards Code, shall become effective 180 days after publication of the California Building Standards Code by the California Building Standards Commission.

(b) Commencing October 1, 2025, to June 1, 2031, inclusive, a city or county shall not make changes that are applicable to residential units in the provisions adopted pursuant to Section 17922 and published in the California Building Standards Code or the other regulations thereafter adopted pursuant to Section 17922 to amend, add, or repeal ordinances or regulations which impose the same requirements as are contained in the provisions adopted pursuant to Section 17922 and published in the California Building Standards Code or the other regulations adopted pursuant to Section 17922 or make changes or modifications in those requirements upon express findings pursuant to Sections 17958.5 and 17958.7, unless one of the following conditions is met:

(1) The changes or modifications are substantially equivalent to changes or modifications that were previously filed by the governing body of the city or county and were in effect as of September 30, 2025.

(2) The commission deems those changes or modifications necessary as emergency standards to protect health and safety.

(3) The changes or modifications relate to home hardening.

(4) The building standards relate to home hardening and are proposed for adoption by a fire protection district pursuant to Section 13869.7.

(5) The changes or modifications are necessary to implement a local code amendment that is adopted to align with a general plan approved on or before June 10, 2025, and that permits mixed-fuel residential construction consistent with federal law while also incentivizing all-electric construction as part of an adopted greenhouse gas emissions reduction strategy.

(6) The changes or modifications are related to administrative practices, are proposed for adoption during the intervening period pursuant to Section 18942, and exclusively result in any of the following:

(A) Reductions in time for a local agency to issue a postentitlement permit.

(B) Alterations to a local agency's postentitlement fee schedule.

(C) Modernization of, or adoption of, new permitting platforms and software utilized by the local agency.

(D) Reductions in cost of internal operation for a local agency.

(E) Establishment, alteration, or removal of local programs related to enforcement of building code violations or complaints alleging building code violations.

SEC. 30. Section 17958.5 of the Health and Safety Code is amended to read:

17958.5. (a) Except as provided in subdivision (c) and in Section 17922.6, in adopting the ordinances or regulations pursuant to Section 17958, a city or county may make those changes or modifications in the requirements contained in the provisions published in the California Building Standards Code and the other regulations adopted pursuant to Section 17922, including, but not limited to, green building standards, as it determines, pursuant to the provisions of Section 17958.7, are reasonably necessary because of local climatic, geological, or topographical conditions.

(b) For purposes of this section, a city or county may make reasonably necessary modifications to the requirements, adopted pursuant to Section 17922, including, but not limited to, green building standards, contained in the provisions of the code and regulations on the basis of local conditions.

(c) Commencing October 1, 2025, to June 1, 2031, inclusive, a city or county shall not make a change or modification as described in subdivision (a) or (b), including to green building standards, that is applicable to residential units, unless one of the following conditions is met:

(1) The changes or modifications are substantially equivalent to changes or modifications that were previously filed by the governing body of the city or county and were in effect as of September 30, 2025.

(2) The commission deems those changes or modifications necessary as emergency standards to protect health and safety.

(3) The changes or modifications relate to home hardening.

(4) The building standards relate to home hardening and are proposed for adoption by a local fire prevention district pursuant to Section 13869.7.

(5) The changes or modifications are necessary to implement a local code amendment that is adopted to align with a general plan approved on or before June 10, 2025, and that permits mixed-fuel residential construction consistent with federal law while also incentivizing all-electric construction as part of an adopted greenhouse gas emissions reduction strategy.

(6) The changes or modifications are related to administrative practices, are proposed for adoption during the intervening period pursuant to Section 18942, and exclusively result in any of the following:

(A) Reductions in time for a local agency to issue a postentitlement permit.

(B) Alterations to a local agency's postentitlement fee schedule.

(C) Modernization of, or adoption of, new permitting platforms and software utilized by the local agency.

(D) Reductions in cost of internal operation for a local agency.

(E) Establishment, alteration, or removal of local programs related to enforcement of building code violations or complaints alleging building code violations.

SEC. 31. Section 17958.7 of the Health and Safety Code is amended to read:

17958.7. (a) Except as provided in subdivision (c) and in Section 17922.6, the governing body of a city or county, before making any modifications or changes pursuant to Section 17958.5, shall make an express finding that such modifications or changes are reasonably necessary because of local climatic, geological, or topographical conditions. Such a finding shall be available as a public record. A copy of those findings, together with the modification or change expressly marked and identified to which each finding refers, shall be filed with the California Building Standards Commission. No modification or change shall become effective or operative for any purpose until the finding and the modification or change have been filed with the California Building Standards Commission.

(b) The California Building Standards Commission may reject a modification or change filed by the governing body of a city or county if no finding was submitted.

(c) Commencing October 1, 2025, to June 1, 2031, inclusive, the commission shall reject a modification or change to any building standard affecting a residential unit and filed by the governing body of a city or county, unless one of the following conditions is met:

(1) The changes or modifications are substantially equivalent to changes or modifications that were previously filed by the governing body of the city or county and were in effect as of September 30, 2025.

(2) The commission deems those changes or modifications necessary as emergency standards to protect health and safety.

(3) The changes or modifications relate to home hardening.

(4) The building standards relate to home hardening and are proposed for adoption by a local fire prevention district pursuant to Section 13869.7.

(5) The changes or modifications are necessary to implement a local code amendment that is adopted to align with a general plan approved on or before June 10, 2025, and that permits mixed-fuel residential construction consistent with federal law while also incentivizing all-electric construction as part of an adopted greenhouse gas emissions reduction strategy.

(6) The changes or modifications are related to administrative practices, are proposed for adoption during the intervening period pursuant to Section 18942, and exclusively result in any of the following:

(A) Reductions in time for a local agency to issue a postentitlement permit.

(B) Alterations to a local agency's postentitlement fee schedule.

(C) Modernization of, or adoption of, new permitting platforms and software utilized by the local agency.

(D) Reductions in cost of internal operation for a local agency.

(E) Establishment, alteration, or removal of local programs related to enforcement of building code violations or complaints alleging building code violations.

(d) (1) The commission, in determining that a modification or change meets any of the criteria in paragraph (1) to (5), inclusive, of subdivision (c), may rely on a statement by the local agency to that effect.

(2) The changes or modifications made pursuant to paragraph (6) of subdivision (c) may be filed with the commission and shall be reviewed by the commission, in consultation with the Department of Housing and Community Development, within 60 days of receipt, if requested by the local agency.

SEC. 32. Section 17973 of the Health and Safety Code is amended to read:

17973. (a) Exterior elevated elements that include load-bearing components in all buildings containing three or more multifamily dwelling units shall be inspected. The inspection shall be performed by a licensed architect; licensed civil or structural engineer; a building contractor holding any or all of the "A," "B," or "C-5" license classifications issued by the Contractors State License Board, with a minimum of five years' experience, as a holder of the aforementioned classifications or licenses, in constructing multistory wood frame buildings; or an individual certified as a building inspector or building official from a recognized state, national, or international association, as determined by the local jurisdiction. These individuals shall not be employed by the local jurisdiction while performing these inspections. The purpose of the inspection is to determine that exterior elevated elements and their associated waterproofing elements are in a generally safe condition, adequate working order, and free from any hazardous condition caused by fungus, deterioration, decay, or improper alteration to the extent that the life, limb, health, property, safety, or welfare

of the public or the occupants is not endangered. The person or business performing the inspection shall be hired by the owner of the building.

(b) For purposes of this section, the following terms have the following definitions:

(1) "Associated waterproofing elements" include flashings, membranes, coatings, and sealants that protect the load-bearing components of exterior elevated elements from exposure to water and the elements.

(2) "Exterior elevated element" means the following types of structures, including their supports and railings: balconies, decks, porches, stairways, walkways, and entry structures that extend beyond exterior walls of the building and which have a walking surface that is elevated more than six feet above ground level, are designed for human occupancy or use, and rely in whole or in substantial part on wood or wood-based products for structural support or stability of the exterior elevated element.

(3) "Load-bearing components" are those components that extend beyond the exterior walls of the building to deliver structural loads from the exterior elevated element to the building.

(c) The inspection required by this section shall at a minimum include:

(1) Identification of each type of exterior elevated element that, if found to be defective, decayed, or deteriorated to the extent that it does not meet its load requirements, would, in the opinion of the inspector, constitute a threat to the health or safety of the occupants.

(2) Assessment of the load-bearing components and associated waterproofing elements of the exterior elevated elements identified in paragraph (1) using methods allowing for evaluation of their performance by direct visual examination or comparable means of evaluating their performance. For purposes of this section, a sample of at least 15 percent of each type of exterior elevated element shall be inspected.

(3) The evaluation and assessment shall address each of the following as of the date of the evaluation:

(A) The current condition of the exterior elevated elements.

(B) Expectations of future performance and projected service life.

(C) Recommendations of any further inspection necessary.

(4) A written report of the evaluation stamped or signed by the inspector presented to the owner of the building or the owner's designated agent within 45 days of completion of the inspection. The report shall include photographs, any test results, and narrative sufficient to establish a baseline of the condition of the components inspected that can be compared to the results of subsequent inspections. In addition to the evaluation required by this section, the report shall advise which, if any, exterior elevated element poses an immediate threat to the safety of the occupants, and whether preventing occupant access or conducting emergency repairs, including shoring, are necessary.

(d) (1) The inspection shall be completed by January 1, 2026, and by January 1 every six years thereafter. The inspector conducting the inspection shall produce an initial report pursuant to paragraph (4) of subdivision (c) and, if requested by the owner, a final report indicating that any required

repairs have been completed. A copy of any report that recommends immediate repairs, advises that any building assembly poses an immediate threat to the safety of the occupants, or that preventing occupant access or emergency repairs, including shoring, are necessary, shall be provided by the inspector to the owner of the building and to the local enforcement agency within 15 days of completion of the report. Subsequent inspection reports shall incorporate copies of prior inspection reports, including the locations of the exterior elevated elements inspected. Local enforcement agencies may determine whether any additional information is to be provided in the report and may require a copy of the initial or final reports, or both, be submitted to the local jurisdiction. Copies of all inspection reports shall be maintained in the building owner's permanent records for not less than two inspection cycles, and shall be disclosed and delivered to the buyer at the time of any subsequent sale of the building.

(2) Notwithstanding paragraph (1), if the owner of the building confirms the presence of asbestos containing material (ACM) during the inspection process and is unable to complete the inspection as a result, the owner of the building shall have up to nine months to complete the necessary ACM abatement in accordance with applicable federal, state, and local laws. Upon completion of ACM abatement, the owner of the building shall have no more than three months to complete the inspection in paragraph (1). The owner of the building shall retain records confirming the presence of ACM and its abatement for three years after completion of the inspection.

(e) The inspection of buildings for which a building permit application has been submitted on or after January 1, 2019, shall occur no later than six years following issuance of a certificate of occupancy from the local jurisdiction and shall otherwise comply with the provisions of this section.

(f) If the property was inspected within three years prior to January 1, 2019, by an inspector as described in subdivision (a) and a report of that inspector was issued stating that the exterior elevated elements and associated waterproofing elements are in proper working condition and do not pose a threat to the health and safety of the public, no new inspection pursuant to this section shall be required until January 1, 2026.

(g) An exterior elevated element found by the inspector that is in need of repair or replacement shall be corrected by the owner of the building. All necessary permits for repair or replacement shall be obtained from the local jurisdiction. All repair and replacement work shall be performed by a qualified and licensed contractor in compliance with all of the following:

(1) The recommendations of a licensed professional described in subdivision (a).

(2) Any applicable manufacturer's specifications.

(3) The California Building Standards Code, consistent with subdivision (d) of Section 17922 of the Health and Safety Code.

(4) All local jurisdictional requirements.

(h) (1) An exterior elevated element that the inspector advises poses an immediate threat to the safety of the occupants, or finds preventing occupant access or emergency repairs, including shoring, or both, are necessary, shall

be considered an emergency condition and the owner of the building shall perform required preventive measures immediately. Immediately preventing occupant access to the exterior elevated element until emergency repairs can be completed constitutes compliance with this paragraph. Repairs of emergency conditions shall comply with the requirements of subdivision (g), be inspected by the inspector, and reported to the local enforcement agency.

(2) The owner of the building requiring corrective work to an exterior elevated element that, in the opinion of the inspector, does not pose an immediate threat to the safety of the occupants, shall apply for a permit within 120 days of receipt of the inspection report. Once the permit is approved, the owner of the building shall have 120 days to make the repairs unless an extension of time is granted by the local enforcement agency.

(i) (1) The owner of the building shall be responsible for complying with the requirements of this section.

(2) If the owner of the building does not comply with the repair requirements within 180 days, the inspector shall notify the local enforcement agency and the owner of the building. If within 30 days of the date of the notice the repairs are not completed, the owner of the building shall be assessed a civil penalty based on the fee schedule set by the local authority of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) per day until the repairs are completed, unless an extension of time is granted by the local enforcement agency.

(3) In the event that a civil penalty is assessed pursuant to this section, a building safety lien may be recorded in the county recorder's office by the local jurisdiction in the county in which the parcel of land is located and from the date of recording shall have the force, effect, and priority of a judgment lien.

(j) (1) A building safety lien authorized by this section shall specify the amount of the lien, the name of the agency on whose behalf the lien is imposed, the street address, the legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the building.

(2) In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in paragraph (1) shall be recorded by the governmental agency. A safety lien and the release of the lien shall be indexed in the grantor-grantee index.

(3) A building safety lien may be foreclosed by an action brought by the appropriate local jurisdiction for a money judgment.

(4) Notwithstanding any other law, the county recorder may impose a fee on the city to reimburse the costs of processing and recording the lien and providing notice to the owner of the building. A city may recover from the owner of the building any costs incurred regarding the processing and recording of the lien and providing notice to the owner of the building as part of its foreclosure action to enforce the lien.

(k) The continued and ongoing maintenance of exterior elevated elements in a safe and functional condition in compliance with these provisions shall be the responsibility of the owner of the building.

(*l*) Local enforcement agencies shall have the ability to recover enforcement costs associated with the requirements of this section.

(m) For any building subject to the provisions of this section that is proposed for conversion to condominiums to be sold to the public after January 1, 2019, the inspection required by this section shall be conducted prior to the first close of escrow of a separate interest in the project and shall include the inspector's recommendations for repair or replacement of any exterior elevated element found to be defective, decayed, or deteriorated to the extent that it does not meet its load requirements, and would, in the opinion of the inspector, constitute a threat to the health or safety of the occupants. The inspection report and written confirmation by the inspector that any repairs or replacements recommended by the inspector have been completed shall be submitted to the Department of Real Estate by the proponent of the conversion and shall be a condition to the issuance of the final public report. A complete copy of the inspection report and written confirmation by the inspector that any repairs or replacements recommended by the inspector have been completed shall be included with the written statement of defects required by Section 1134 of the Civil Code, and provided to the local jurisdiction in which the project is located. The inspection, report, and confirmation of completed repairs shall be a condition of the issuance of a final inspection or certificate of occupancy by the local jurisdiction.

(n) This section shall not apply to a common interest development, as defined in Section 4100 of the Civil Code.

(o) The governing body of any city, county, or city and county, may enact ordinances or laws imposing requirements greater than those imposed by this section.

SEC. 33. Section 17974.1 of the Health and Safety Code is amended to read:

17974.1. (a) Notwithstanding any other provision of this part, a city or county that receives a complaint from an occupant of a homeless shelter, or an agent of an occupant, that alleges a homeless shelter is substandard pursuant to Section 17920.3 shall do all of the following:

(1) Inspect the homeless shelter or portion thereof intended for human occupancy that may be substandard pursuant to Section 17920.3.

(2) Identify whether the homeless shelter or any portion thereof intended for human occupancy is substandard pursuant to Section 17920.3, as applicable. The documentation shall be included in the inspection report described in subdivision (h).

(3) As applicable, advise the owner or operator of a homeless shelter of each violation and of each action that is required to be taken to remedy the violation. The city or county shall schedule a reinspection to verify correction of the violations.

(b) Notwithstanding any other provision of this part, and consistent with Section 17970, a city or county shall perform an annual inspection on every homeless shelter located in its jurisdiction to ensure that the homeless shelter is compliant with this part. A city or county conducting an inspection pursuant to this subdivision shall comply with this section, to the extent those provisions are applicable.

(c) (1) If, upon inspection, the city or county determines that a homeless shelter is substandard pursuant to Section 17920.3, the city or county shall promptly, but not later than 10 business days after the city or county completes the inspection, issue a notice to correct the violation to the owner or operator of the homeless shelter.

(2) In the event that the city or county determines that a violation constitutes an imminent threat to the health and safety of the occupants of the homeless shelter, the notice of violation shall be issued immediately and served on the owner or operator of the homeless shelter.

(3) In the event that the city or county determines that deficiencies, violations, or conditions exist at a homeless shelter that are dangerous, hazardous, imminently detrimental to life or health, or otherwise render the homeless shelter unfit for human habitation, the city or county may issue an emergency order directing the owner or operator to take immediate measures to rectify those deficiencies, violations, or conditions.

(d) An inspection conducted pursuant to this section may be announced or unannounced.

(e) The city or county shall maintain all records on file of each homeless shelter inspection. These records shall be made available to the public for inspection.

(f) A city or county shall perform an inspection conducted pursuant to subdivision (a) at least as promptly as that city or county conducts an inspection in response to a request for final inspection pursuant to Section 110 of Part 2 of Division 2 of Chapter 1 of the California Building Code (Part 2 of Title 24 of the California Code of Regulations).

(g) Notwithstanding subdivision (a), a city or county is not required to conduct an inspection in response to either of the following:

(1) A complaint that does not allege one or more substandard conditions.

(2) A complaint submitted by a tenant, resident, or occupant who, within the past 180 days, submitted a complaint about the same property that the chief building inspector or their designee reasonably determined, after inspection, was frivolous or unfounded.

(h) A city or county shall provide free, certified copies of an inspection report and citations issued pursuant to this section, if any, to the complaining occupant or their agent. If the inspection reveals a condition potentially affecting multiple occupants, including, but not limited to, conditions relating to the premises, common areas, or structural features, then the city or county shall provide free copies of the inspection report and citations issued to all potentially affected occupants or their agents.

(i) A city or county shall not unreasonably refuse to communicate with an occupant or the agent of an occupant regarding any matter covered by this article.

(j) A city or county shall conduct an inspection pursuant to this section based on the location of the homeless shelter, in accordance with the following:

(1) A city shall conduct an inspection for shelters within the city's jurisdiction.

(2) A county shall conduct an inspection for shelters within the county's jurisdiction.

(3) A city with a population under 100,000 may partner with its county to conduct an inspection pursuant to this section.

SEC. 34. Section 17974.1.5 is added to the Health and Safety Code, to read:

17974.1.5. (a) A homeless shelter shall prominently display at the shelter information about an occupant's rights and the process for reporting a complaint alleging a homeless shelter is substandard pursuant to Section 17920.3, including the contact information for all of the following:

(1) The owner or operator of the homeless shelter.

(2) The city or county.

(3) The department.

(b) A homeless shelter shall provide in writing the notice specified in subdivision (a) to any new occupant during intake.

SEC. 35. Section 17974.3 of the Health and Safety Code is amended to read:

17974.3. (a) The requirements of this article shall not be construed to impose a mandatory duty pursuant to Section 815.6 of the Government Code, and shall not be construed to affect the availability of any immunity otherwise applicable to the city or county or its employees, including, but not limited to, Sections 818.2, 818.4, 818.6, 820.2, 821, 821.2, and 821.4 of the Government Code.

(b) (1) An action to enforce the requirements of this article may be brought pursuant to Section 1085 of the Code of Civil Procedure.

(2) A plaintiff who prevails in an action described in paragraph (1) shall be entitled to recover reasonable attorney's fees and costs.

(3) Notwithstanding any other law, including any provision of this part authorizing the department to enforce this part by means of administrative enforcement, the department may bring a civil action pursuant to this subdivision in order to enforce this part.

(c) For purposes of Section 1085 of the Code of Civil Procedure, the requirements of this article shall be construed as acts that the law specially enjoins, as a duty resulting from an office, trust, or station.

SEC. 36. Section 17974.5 of the Health and Safety Code is amended to read:

17974.5. (a) Each city and each county shall submit a report annually to the department and the state agency by April 1 of each year that includes all of the following information:

(1) The number of complaints received by the city or county, pursuant to Section 17920.3, including if the city or county did not receive any complaints.

(2) Any pending uncorrected violations determined by the city or county, pursuant to Section 17974.1.

(3) Any determinations by the city or county that conditions exist or existed that make or made the homeless shelter dangerous, hazardous, imminently detrimental to life or health, or otherwise render the homeless shelter unfit for human habitation.

(4) A list of any emergency orders issued pursuant to paragraph (3) of subdivision (c) of Section 17974.1.

(5) A list of any owners or operators who received three or more violations within any six-month period.

(6) Any corrected violations from the prior year.

(b) The report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(c) If a city or county applies for state funding to support the ongoing operations of a homeless shelter, the city or county shall disclose to the state agency that administers the state funding the status of any unresolved violations pursuant to this article and the names of the homeless shelter owner or operator.

(d) The department or the state agency, may, pursuant to the reported information in subdivision (b), deem an owner or operator of a shelter ineligible for state funding for shelter operations.

(e) The department shall withhold state funding from a city or county that fails to comply with the reporting requirements in this section or fails to take action to correct a violation of this article by a homeless shelter pursuant to Section 17974.4.

SEC. 37. Section 18916 of the Health and Safety Code is amended to read:

18916. “Model code” means any building code drafted by private organizations or otherwise, and shall include, but not be limited to, the latest edition of the following:

(a) The International Building Code of the International Code Council.

(b) The Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials.

(c) The Uniform Mechanical Code of the International Association of Plumbing and Mechanical Officials.

(d) The National Electrical Code of the National Fire Protection Association.

(e) The International Fire Code of the International Code Council.

(f) The International Existing Building Code of the International Code Council.

(g) The International Residential Code of the International Code Council.

(h) The International Wildland-Urban Interface Code of the International Code Council.

SEC. 38. Section 18929.1 of the Health and Safety Code is amended to read:

18929.1. (a) Except as provided in subdivision (c), the commission shall receive proposed building standards from state agencies for consideration in an 18-month code adoption cycle. The commission shall develop regulations setting forth the procedures for the 18-month adoption cycle. The regulations shall ensure all of the following:

(1) Adequate public participation in the development of building standards prior to submittal to the commission for adoption and approval.

(2) Adequate notice, in written form, to the public of the compiled building standards and their justification.

(3) Adequate technical review of proposed building standards and accompanying justification by advisory bodies appointed by the commission.

(4) Adequate time for review of recommendations by advisory bodies prior to action by the commission.

(5) The procedures shall meet the intent of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and Section 18930.

(b) Where this section is in conflict with other provisions of this part, the intent of this section shall prevail.

(c) Commencing October 1, 2025, to June 1, 2031, inclusive, subdivision (a) shall not apply to any building standards affecting residential units and proposed building standards affecting residential units shall not be considered, approved, or adopted by the commission, unless any of the following conditions are met:

(1) The commission deems those changes necessary as emergency standards to protect health and safety.

(2) The building standards are amendments by the State Fire Marshal to building standards within the California Wildland-Urban Interface Code (Part 7 of Title 24 of the California Code of Regulations).

(3) The building standards are proposed for adoption in relation to standards researched pursuant to Section 13108.5.2.

(4) The building standards are proposed for adoption pursuant to Section 17921.9, 17921.11, or 18940.7 of this code, or Section 13558 of the Water Code.

(5) The building standards are necessary to ensure the latest editions of the model codes specified in Section 18916 are incorporated into the triennial edition of the California Building Standards Code, along with any necessary and related state amendments supporting or facilitating the incorporation of the model codes.

(6) The building standards are necessary to incorporate errata or emergency updates to the national model codes specified in Section 18916, along with any necessary and related state amendments supporting or facilitating the incorporation of errata or emergency updates to the model codes.

(7) The building standards under consideration would take effect on or after January 1, 2032.

SEC. 39. Section 18930 of the Health and Safety Code is amended to read:

18930. (a) Except as provided in subdivision (g), any building standard adopted or proposed by state agencies shall be submitted to, and approved or adopted by, the California Building Standards Commission prior to codification. Prior to submission to the commission, building standards shall be adopted in compliance with the procedures specified in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. Building standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the adopting agency or state agency that proposes the building standards which shall, to the satisfaction of the commission, justify the approval thereof in terms of the following criteria:

(1) The proposed building standards do not conflict with, overlap, or duplicate other building standards.

(2) The proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.

(3) The public interest requires the adoption of the building standards. The public interest includes, but is not limited to, health and safety, resource efficiency, fire safety, seismic safety, building and building system performance, and consistency with environmental, public health, and accessibility statutes and regulations.

(4) The proposed building standard is not unreasonable, arbitrary, unfair, or capricious, in whole or in part.

(5) The cost to the public is reasonable, based on the overall benefit to be derived from the building standards.

(6) The proposed building standard is not unnecessarily ambiguous or vague, in whole or in part.

(7) The applicable national specifications, published standards, and model codes have been incorporated therein as provided in this part, where appropriate.

(A) If a national specification, published standard, or model code does not adequately address the goals of the state agency, a statement defining the inadequacy shall accompany the proposed building standard when submitted to the commission.

(B) If there is no national specification, published standard, or model code that is relevant to the proposed building standard, the state agency shall prepare a statement informing the commission and submit that statement with the proposed building standard.

(8) The format of the proposed building standards is consistent with that adopted by the commission.

(9) The proposed building standard, if it promotes fire and panic safety, as determined by the State Fire Marshal, has the written approval of the State Fire Marshal.

(b) In reviewing building standards submitted for its approval, the commission shall consider only the record of the proceedings of the adopting

agency, except as provided in subdivision (b) of Section 11359 of the Government Code.

(c) Where the commission is the adopting agency, it shall consider the record submitted to, and considered by, the state agency that proposes the building standards and the record of public comment that results from the commission's adoption of proposed regulations.

(d) (1) The commission shall give great weight to the determinations and analysis of the adopting agency or state agency that proposes the building standards on each of the criteria for approval set forth in subdivision (a). Any factual determinations of the adopting agency or state agency that proposes the building standards shall be considered conclusive by the commission unless the commission specifically finds, and sets forth its reasoning in writing, that the factual determination is arbitrary and capricious or substantially unsupported by the evidence considered by the adopting agency or state agency that proposes the building standards.

(2) Whenever the commission makes a finding, as described in this subdivision, it shall return the standard to the adopting agency or state agency that proposes the building standards for a reexamination of its original determination of the disputed fact.

(e) Whenever a building standard is principally intended to protect the public health and safety, its adoption shall not be a "factual determination" for purposes of subdivision (d). Whenever a building standard is principally intended to conserve energy or other natural resources, the commission shall consider or review the cost to the public or benefit to be derived as a "factual determination" pursuant to subdivision (d). Whenever a building standard promotes fire and panic safety, each agency shall, unless adopted by the State Fire Marshal, submit the building standard to the State Fire Marshal for prior approval.

(f) Whenever the commission finds, pursuant to paragraph (2) of subdivision (a), that a building standard is adopted by an adopting agency pursuant to statutes requiring adoption of the building standard, the commission shall not consider or review whether the adoption is in the public interest pursuant to paragraph (3) of subdivision (a).

(g) Commencing October 1, 2025, to June 1, 2031, inclusive, proposed building standards affecting residential units shall not be considered, approved, or adopted by the commission or any other adopting agency, unless any of the following conditions are met:

(1) The commission deems those changes necessary as emergency standards to protect health and safety.

(2) The building standards are amendments by the State Fire Marshal to building standards within the California Wildland-Urban Interface Code (Part 7 of Title 24 of the California Code of Regulations).

(3) The building standards are proposed for adoption in relation to standards researched pursuant to Section 13108.5.2.

(4) The building standards are proposed for adoption pursuant to Section 17921.9, 17921.11, or 18940.7 of this code, or Section 13558 of the Water Code.

(5) The building standards are necessary to ensure the latest editions of the model codes specified in Section 18916 are incorporated into the triennial edition of the California Building Standards Code, along with any necessary and related state amendments supporting or facilitating the incorporation of the model codes.

(6) The building standards are necessary to incorporate errata or emergency updates to the national model codes specified in Section 18916, along with any necessary and related state amendments supporting or facilitating the incorporation of errata or emergency updates to the model codes.

(7) The building standards are necessary to incorporate updates to accessibility requirements that align with minimum federal accessibility laws, standards, and regulations.

(8) The building standards under consideration would take effect on or after January 1, 2032.

SEC. 40. Section 18938.5 of the Health and Safety Code is amended to read:

18938.5. (a) Only those building standards approved by the commission, and that are effective at the local level at the time an application for a building permit is submitted, shall apply to the plans and specifications for, and to the construction performed under, that building permit.

(b) (1) A local ordinance adding or modifying building standards for residential occupancies, which are published in the California Building Standards Code, shall apply only to an application for a building permit submitted after the effective date of the ordinance and to the plans and specifications for, and the construction performed under, that permit.

(2) Paragraph (1) shall not apply to any of the following:

(A) A city or county that has been subject to an emergency proclaimed pursuant to the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code).

(B) A permit that is subsequently deemed expired because the building or work authorized by the permit is not commenced within 12 months from the date of the permit or the permittee has abandoned the work authorized by the permit.

(C) A permit that is subsequently deemed suspended or revoked because the building official has, in writing, suspended or revoked the permit due to its issuance in error or on the basis of incorrect information supplied.

(c) No model code made applicable to any additional occupancy shall apply to any project that has been submitted for a building permit prior to the effective date of that model code.

(d) Notwithstanding subdivisions (a) to (c), inclusive, the state and local building standards in effect at the time an application for a building permit is submitted, for a residential dwelling based on a model home design approved under those standards, shall apply to all future residential dwellings based on that approved model home design in the same jurisdiction, unless the model home design substantially changes at a later date or 10 years have

passed since the building permit for the model home design was approved by the jurisdiction, whichever comes first.

SEC. 41. Section 18941.5 of the Health and Safety Code is amended to read:

18941.5. (a) (1) Amendments, additions, and deletions to the California Building Standards Code, including, but not limited to, green building standards, adopted by a city, county, or city and county pursuant to Section 18941.5 or pursuant to Section 17958.7, together with all applicable portions of the California Building Standards Code, shall become effective 180 days after publication of the California Building Standards Code by the commission, or at a later date after publication established by the commission.

(2) The publication date established by the commission shall be no earlier than the date the California Building Standards Code is available for purchase by the public.

(b) Neither the State Building Standards Law contained in this part, nor the application of building standards contained in this section, shall limit the authority of a city, county, or city and county to establish more restrictive building standards, including, but not limited to, green building standards, reasonably necessary because of local climatic, geological, or topographical conditions. The governing body shall make the finding required by Section 17958.7 and the other requirements imposed by Section 17958.7 shall apply to that finding. Nothing in this section shall limit the authority of fire protection districts pursuant to subdivision (a) of Section 13869.7. Further, nothing in this section shall require findings required by Section 17958.7 beyond those currently required for more restrictive building standards related to housing.

(c) Notwithstanding subdivision (b), and commencing October 1, 2025, to June 1, 2031, inclusive, a city or county shall not establish more restrictive building standards, including, but not limited to, green building standards, that are applicable to residential units, unless one of the following conditions is met:

(1) The changes or modifications are substantially equivalent to changes or modifications that were previously filed by the governing body of the city or county and were in effect as of September 30, 2025.

(2) The commission deems those changes or modifications necessary as emergency standards to protect health and safety.

(3) The changes or modifications relate to home hardening.

(4) The building standards relate to home hardening and are proposed for adoption by a fire protection district pursuant to Section 13869.7.

(5) The changes or modifications are necessary to implement a local code amendment that is adopted to align with a general plan approved on or before June 10, 2025, and that permits mixed-fuel residential construction consistent with federal law while also incentivizing all-electric construction as part of an adopted greenhouse gas emissions reduction strategy.

SEC. 42. Section 18942 of the Health and Safety Code is amended to read:

18942. (a) (1) The commission shall publish, or cause to be published, editions of the code in its entirety once every three years. In the intervening period the commission shall publish, or cause to be published, supplements as necessary. For emergency building standards defined in subdivision (a) of Section 18913, an emergency building standards supplement shall be published whenever the commission determines it is necessary.

(2) Changes adopted during the intervening period described in paragraph (1) shall be limited to only the following:

(A) Technical updates to existing code requirements only to the extent necessary to effectuate support or facilitate the incorporation or implementation of those existing code requirements. The updates shall be limited to clarifying, conforming, or coordinating changes that do not materially alter the substance or intent of the existing code provisions.

(B) Emergency building standards.

(C) Amendments by the State Fire Marshal to building standards within the California Wildland-Urban Interface Code (Part 7 of Title 24 of the California Code of Regulations).

(D) The building standards are necessary to incorporate errata or emergency updates to the national model codes specified in Section 18916, along with any necessary and related state amendments supporting or facilitating the incorporation of errata or emergency updates to the model codes.

(E) Changes or modifications made pursuant to paragraph (6) of subdivision (b) of Section 17958, paragraph (6) of subdivision (c) of Section 17958.5, or paragraph (6) of subdivision (c) of Section 17958.7.

(F) Building standards necessary to incorporate updates to accessibility requirements that align with minimum federal accessibility laws, standards, and regulations.

(b) The commission shall publish the text of Article 2.5 (commencing with Section 115920) of Chapter 5 of Part 10 of Division 104, within the requirements for single-family residential occupancies contained in Part 2.5 of Title 24 of the California Code of Regulations, with the following note:

"NOTE: These regulations are subject to local government modification. You should verify the applicable local government requirements at the time of application for a building permit."

(c) The commission shall publish the text of Section 116064.2 within Part 2 of Title 24 of the California Code of Regulations.

(d) The commission may publish, stockpile, and sell at a reasonable price the code and materials incorporated therein by reference if it deems the latter is insufficiently available to the public, or unavailable at a reasonable price. Each state department concerned and each city, county, or city and county shall have an up-to-date copy of the code available for public inspection.

(e) (1) Each city, county, and city and county, including charter cities, shall obtain and maintain with all revisions on a current basis, at least one

copy of the building standards and other state regulations relating to buildings published in Titles 8, 19, 20, 24, and 25 of the California Code of Regulations. These codes shall be maintained in the office of the building official responsible for the administration and enforcement of this part.

(2) This subdivision shall not apply to a city or county that contracts for the administration and enforcement of the provisions of this part with another local government agency that complies with this section.

SEC. 43. Section 37001 of the Health and Safety Code is amended to read:

37001. The term "low-rent housing project," as defined in Section 1 of Article XXXIV of the California Constitution, does not apply to any development composed of urban or rural dwellings, apartments, or other living accommodations that meets any one of the following criteria:

(a) The development is privately owned housing, receiving no ad valorem property tax exemption, other than exemptions granted pursuant to subdivision (f) or (g) of Section 214 of the Revenue and Taxation Code, not fully reimbursed to all taxing entities; and not more than 49 percent of the dwellings, apartments, or other living accommodations of the development may be occupied by persons of low income.

(b) The development is privately owned housing, is not exempt from ad valorem taxation by reason of any public ownership, and is not financed with direct long-term financing from a public body.

(c) The development is intended for owner-occupancy, which may include a limited equity housing cooperative, as defined in Section 50076.5, or cooperative or condominium ownership, rather than for rental-occupancy.

(d) The development consists of newly constructed, privately owned, one-to-four family dwellings not located on adjoining sites.

(e) The development consists of existing dwelling units leased by the state public body from the private owner of these dwelling units.

(f) The development consists of the rehabilitation, reconstruction, improvement or addition to, or replacement of, dwelling units of a previously existing low-rent housing project, or a project previously or currently occupied by lower income households, as defined in Section 50079.5.

(g) The development consists of the acquisition, rehabilitation, reconstruction, improvement, or any combination thereof, of a rental housing development which, prior to the date of the transaction to acquire, rehabilitate, reconstruct, improve, or any combination thereof, was subject to a contract for federal or state public body assistance for the purpose of providing affordable housing for low-income households and maintains, or enters into, a contract for federal or state public body assistance for the purpose of providing affordable housing for low-income households.

(h) The development consists of the acquisition, rehabilitation, reconstruction, alterations work, new construction, or any combination thereof, of lodging facilities or dwelling units using any of the following:

(1) Moneys received from the Coronavirus Relief Fund established by the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law 116-136).

(2) Moneys received from the Coronavirus State Fiscal Recovery Fund established by the federal American Rescue Plan Act of 2021 (ARPA) (Public Law 117-2).

(3) Moneys appropriated and disbursed pursuant to Division 31 (commencing with Section 50000) of this code and Part 1 (commencing with Section 75200) of Division 44 of the Public Resources Code.

(4) An allocation of federal or state low-income housing tax credits from the California Tax Credit Allocation Committee.

(5) Moneys appropriated and disbursed pursuant to the Behavioral Health Infrastructure Bond Act of 2024 (Chapter 4 (commencing with Section 5965) of Part 7 of Division 5 of the Welfare and Institutions Code).

SEC. 44. Section 50058.8 is added to the Health and Safety Code, to read:

50058.8. "Capitalized operating reserves" means capitalized funds for assisted units for the purpose of covering potential or projected operating deficits over time, including, but not limited to, operations, supportive services, and rent subsidies.

SEC. 45. Section 50222 of the Health and Safety Code is amended to read:

50222. (a) Beginning in 2021, in addition to the data required on the report under Section 50221, applicants shall provide the following information for both rounds of program allocations through a data collection, reporting, performance monitoring, and accountability framework, as established by the department:

(1) Data collection shall include, but not be limited to, information regarding individuals and families served, including demographic information, information regarding partnerships among entities or lack thereof, and participant and regional outcomes.

(2) The performance monitoring and accountability framework shall include clear metrics, which may include, but are not limited to, the following:

(A) The number of individual exits to permanent housing, as defined by the United States Department of Housing and Urban Development, from unsheltered environments and interim housing resulting from this funding.

(B) Racial equity, as defined by the department in consultation with representatives of state and local agencies, service providers, the Legislature, and other stakeholders.

(C) Any other metrics deemed appropriate by the department and developed in coordination with representatives of state and local agencies, advocates, service providers, and the Legislature.

(3) Data collection and reporting requirements shall support the efficient and effective administration of the program and enable the monitoring of jurisdiction performance and program outcomes.

(b) Based on the data collection, reporting, performance monitoring, and accountability framework established by the department pursuant to subdivision (a), all recipients of a program allocation, no later than April 1 of the year following receipt of funds, and annually on that date thereafter

until all funds have been expended, shall submit a report to the department in a format provided by the department.

(c) No later than April 1, 2027, each recipient that receives a round 2 program allocation shall submit to the department a final report in a format provided by the department, as well as detailed uses of all program funds.

(d) Data collection and data sharing pursuant to this chapter shall be conducted and maintained in accordance with all applicable state and federal privacy and confidentiality laws and regulations.

(e) The client information and records of services provided pursuant to this chapter shall be subject to the requirements of Section 10850 of the Welfare and Institutions Code and shall be exempt from inspection under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Part 1 of the Government Code).

(f) Notwithstanding any other law, data collected through the administration and operation of this chapter shall be captured based on the Homeless Management Information System data standards set forth by the United States Department of Housing and Urban Development and by any other means specified by the department, and may be shared with other programs to maximize the efficient and effective provision of public benefits and services, and to evaluate this chapter or its impact on other public benefit and services programs.

SEC. 46. Section 50223 of the Health and Safety Code is amended to read:

50223. (a) In addition to the data required under Sections 50221 and 50222, applicants shall provide the following information for all rounds of program allocations through a data collection, reporting, performance monitoring, and accountability framework, as established by the department:

(1) (A) Data on the applicant's progress towards meeting their system performance measures, which shall be submitted annually on April 1 of each year reporting through December 31 of the prior year for the duration of the program.

(B) If the applicant has not made significant progress toward their system performance measures, the applicant shall submit a description of barriers and possible solutions to those barriers.

(C) Applicants that do not demonstrate significant progress towards meeting system performance measures shall accept technical assistance from the department and may also be required to limit the allowable uses of these program funds, as determined by the department.

(2) A monthly fiscal report of program funds expended and obligated in each allowable budget category approved in their application for program funds.

(b) No later than April 1, 2027, each recipient that receives a round 3 program allocation shall submit to the department a final report in a format provided by the department, as well as detailed uses of all program funds.

(c) No later than April 1, 2028, each recipient that receives a round 4 program allocation shall submit to the department a final report in a format provided by the department, as well as detailed uses of all program funds.

(d) No later than April 1, 2029, each recipient that receives a round 5 program allocation shall submit to the department a final report in a format provided by the department, as well as detailed uses of all program funds.

(e) No later than April 1, 2030, each recipient that receives a round 6 allocation shall submit to the department a final report in a format provided by the department, as well as detailed uses of all program funds.

(f) The department shall post the information described in this section on its internet website within 30 days of its receipt of the information, and provide notice to the Senate Committee on Housing, Assembly Committee on Housing and Community Development, and the appropriate budget committees.

SEC. 47. Section 50253 of the Health and Safety Code is amended to read:

50253. (a) The council shall administer the funding round 1 moneys of the program in accordance with the following timelines:

(1) The council shall make a program application available no later than October 31, 2021.

(2) Applications shall be due to the council no later than December 31, 2021.

(3) The council shall make initial award determinations no later than March 1, 2022.

(4) If not all funds have been awarded after the first round of grant awards, the council may accept additional applications and make additional awards until all funds have been allocated.

(b) (1) Recipients of funding round 1 moneys shall expend at least 50 percent of their allocation by June 30, 2023.

(2) Recipients who fail to expend their allocated funds in compliance with this subdivision shall return to the council no less than 25 percent of their total allocation amount for reallocation by the council during subsequent rounds of funding.

(c) Recipients of funding round 1 moneys shall expend all program funds no later than June 30, 2024. Any funds not expended by this date shall be returned to the council to be reallocated pursuant to Section 50252.1.

(d) (1) Recipients of additional funding round moneys pursuant to subdivision (b) of Section 50252.1 shall expend at least 50 percent of their allocation within two fiscal years of the date of the award. Any funds not expended by this date shall be returned to the council and reallocated pursuant to Section 50252.1.

(2) Recipients of additional funding round moneys pursuant to subdivision (b) of Section 50252.1 shall obligate 100 percent of their allocation within two fiscal years of the date of the award.

(3) Recipients that do not meet requirement in paragraph (2) shall submit to the council within 60 days of the end of the second fiscal year a plan for obligating 100 percent of their allocation within six months.

(4) The council may subject recipients that do not meet the requirement in paragraph (2) to additional corrective action determined by the council.

(5) Recipients of additional funding round moneys pursuant to subdivision (b) of Section 50252.1 shall expend all program funds within three fiscal years of the date of the award. Any funds not expended by this date shall revert to the fund of origin.

(e) (1) Recipients of additional funding round moneys pursuant to subdivision (c) of Section 50252.1 shall expend at least 50 percent of their allocation within two fiscal years of the date of the award.

(2) Recipients of additional funding round moneys pursuant to subdivision (c) of Section 50252.1 shall obligate 100 percent of their allocation within two fiscal years of the date of the award.

(3) Recipients that do not meet the requirement in paragraph (2) shall submit to the council within 60 days of the end of the second fiscal year a plan for obligating 100 percent of their allocation within six months.

(4) The council may subject recipients that do not meet the requirement in paragraph (2) to additional corrective action determined by the council.

(5) Recipients of additional funding round moneys pursuant to subdivision (c) of Section 50252.1 shall expend all program funds within four fiscal years of the date of the award. Any funds not expended by this date shall revert to the fund of origin.

SEC. 48. Section 50406.4 is added to the Health and Safety Code, to read:

50406.4. Notwithstanding any other law, and to the extent permitted under federal law and the California Constitution, the department shall allow an owner of a property subject to a regulatory agreement with the department to take out additional debt on the development to finance, with the department's approval, rehabilitation of the property or investment in new affordable housing, if all of the following conditions are met:

(a) (1) All hard debt, including the additional debt, is underwritten with a debt-service coverage ratio of at a minimum 1.15 and is demonstrated to project positive cash flow for 15 consecutive years.

(2) For the purposes of this subdivision, "hard debt" means debt that must be repaid via an amortizing payment or at a specified maturity date.

(b) Any new debt is subordinate to the department's lien and regulatory agreement, as applicable, unless the department reasonably determines that subordination of the department's lien is necessary for the feasibility of a project and to fund reasonable rehabilitation or improvements, including soft costs.

(c) (1) Any extracted equity is any of the following:

(A) With the department's approval, contributed to other projects that will increase or improve the supply of deed-restricted affordable housing serving low-income households in the state.

(B) Utilized in the purchase of a limited partner interest of a tax credit investor in the project, provided that the amount used to purchase that interest shall be subject to the guidelines adopted pursuant to subdivision (h) of 50560.

(C) Utilized in the payment of any unpaid deferred developer fee for the project pursuant to any applicable department regulations.

(D) Applied toward payment for necessary repairs and rehabilitation of the project.

(E) Utilized for the establishment or replenishment of department-approved project reserves.

(F) Utilized for any other purposes approved by the department.

(2) For the purposes of this subdivision, "extracted equity" means debt added to a department-regulated property that is not used for any of the following purposes:

(A) Approved project rehabilitation work.

(B) To pay off existing debt.

(C) Replenishment of reserves.

(D) Other department-approved project specific uses.

(d) The department's regulatory agreement remains in place for the project for its remaining term. If equity is extracted for purposes of paragraph (1) of subdivision (c), the department's regulatory agreement will be recorded in a senior position.

(e) The department continues to be entitled to receive monitoring fees to ensure compliance with the existing regulatory agreement.

SEC. 49. Section 50410 is added to the Health and Safety Code, to read:

50410. (a) There is hereby established in the State Treasury the Affordable Housing Default Reserve Account. All interest or other increments resulting from the investment of moneys in the Affordable Housing Default Reserve Account shall be deposited in the account, notwithstanding Section 16305.7 of the Government Code.

(b) Notwithstanding Section 13340 of the Government Code, all moneys in the account are continuously appropriated to the department for the purpose of curing or averting a default on the terms of any loan or other obligation by the recipient of financial assistance, or bidding at any foreclosure sale where the default or foreclosure sale would jeopardize the department's security in the rental housing development assisted by the department.

(c) The department may use funds in the account to repair or maintain any rental housing development assisted by the department that was acquired to protect the department's security interest.

(d) The payment or advance of funds by the department from the account shall be exclusively within the department's discretion, and no person shall be deemed to have any entitlement to the payment or advance of those funds.

(e) The amount of any funds expended by the department for the purposes of curing or averting a default shall be added to the loan amount secured by the rental housing development and shall be payable to the department upon demand.

(f) Notwithstanding any other law, the Department of Finance may transfer to the Affordable Housing Default Reserve Account, for expenditure by the department, the amounts in the all of the following funds or programs:

(1) The Joe Serna, Jr. Farmworker Housing Grant Fund, pursuant to Section 50517.6.

(2) The Multifamily Housing Program, pursuant to subdivision (a) of Section 50675.10.

(3) The Housing Rehabilitation Loan Fund, pursuant to subparagraph (C) of paragraph (5) of subdivision (b) of Section 50668.5, subdivision (c) of Section 53566, subdivision (c) of Section 987.010 of the Military and Veterans Code, and subdivisions (c) and (f) of Section 75218 of the Public Resources Code.

(4) The Transit-Oriented Development Implementation Fund, pursuant to subdivision (f) of Section 53566.

(5) The Housing for Veterans Fund, pursuant to subdivision (f) of Section 987.010 of the Military and Veterans Code.

(6) The No Place Like Home Fund, pursuant to paragraph (1) of subdivision (f) of Section 5849.8 of the Welfare and Institutions Code.

(7) The Family Housing Demonstration Account and the Rental Housing Construction Fund, pursuant to subdivision (b) of Section 50883.5.

(g) Notwithstanding Section 10231.5 of the Government Code, during any fiscal year, if the department spends a total of more than 25 percent of the balance that was in the Affordable Housing Default Reserve Account at the start of that fiscal year, then the department shall, within 30 days of surpassing that amount, provide written notice to the Joint Legislative Budget Committee. The notice shall include all of the following:

(A) The starting balance in the Affordable Housing Default Reserve Account for that fiscal year.

(B) A list of each expenditure made during that fiscal year and the total amount spent.

(C) The purpose of each expenditure made during that fiscal year.

(D) The balance in the Affordable Housing Default Reserve Account as of the date of the notice.

(E) The department's assessment of the risk of additional defaults for the remainder of that fiscal year and the following fiscal year.

SEC. 50. Section 50515.10 of the Health and Safety Code is amended to read:

50515.10. (a) (1) Subject to paragraph (2), an eligible entity that receives an allocation of program funds pursuant to Section 50515.08 shall submit a report, in the form and manner prescribed by the department, to be made publicly available on its internet website, by April 1 of the year following the receipt of those funds, and annually thereafter until those funds are expended, that includes, but is not limited to, the following information:

(A) The status of the proposed uses and expenditures listed in the eligible entity's application for funding and the corresponding impact, including, but not limited to, housing units accelerated and reductions in per capita vehicle miles traveled.

(B) All status and impact reports shall be categorized based on the eligible uses specified in Section 50515.08.

(2) The department may request additional information, as needed, to meet other applicable reporting or audit requirements.

(b) The department shall maintain records of the following and provide that information publicly on its internet website:

(1) The name of each applicant for program funds and the status of that entity's application.

(2) The number of applications for program funding received by the department.

(3) The information described in subdivision (a) for each recipient of program funds.

(c) A recipient of funds under this program shall post, make available, and update, as appropriate on its internet website, land use maps and vehicle miles traveled generation maps produced in the development of its adopted sustainable communities strategy.

(d) A recipient of funds under this program shall collaborate and share progress, templates, and best practices with the department and fellow recipients in implementation of funds. To the greatest extent practicable, adjacent eligible entities shall coordinate in the development of applications, consider potential for joint activities, and seek to coordinate housing and transportation planning across regions.

(e) (1) A recipient of funds under the program shall expend those funds no later than December 31, 2026.

(2) The final invoice submission deadline to reimburse those funds shall be June 30, 2027.

(3) No later than June 30, 2027, each eligible entity that receives an allocation of funds pursuant to Section 50515.08 shall submit a final report on the use of those funds to the department, in the form and manner prescribed by the department. The report required by this paragraph shall include an evaluation of actions taken in support of the entity's proposed uses of those funds, as specified in the entity's application, including, but not limited to, housing units accelerated and per capita reductions in vehicle miles traveled.

(f) (1) If an eligible entity described in paragraphs (1) to (6), inclusive, of subdivision (a) of Section 50515.08 that received an allocation of funds pursuant to Section 50515.08 has unexpended funds after December 31, 2026, the department may, pursuant to procedures prescribed by the department, make those funds available to other eligible entities described in paragraphs (1) to (6), inclusive, of subdivision (a) of Section 50515.08 for reimbursement of other expenditures incurred prior to December 31, 2026, that were included in an application approved pursuant to paragraph (2) of subdivision (c) of Section 50515.08 no later than December 31, 2027.

(2) Paragraph (1) applies to all eligible entities, including an eligible entity that received a suballocation from an eligible entity described in paragraphs (1) to (6), inclusive, of subdivision (a) of Section 50515.08.

(g) The department may monitor expenditures and activities of an applicant, as the department deems necessary, to ensure compliance with program requirements.

(h) The department may, as it deems appropriate or necessary, request the repayment of funds from an applicant, or pursue any other remedies available to it by law for failure to comply with program requirements.

(i) The department, in collaboration with the Office of Land Use and Climate Innovation, the Strategic Growth Council, and the State Air Resources Board, may implement the program through the issuance of forms, guidelines, application materials, funding allocation methodologies, and one or more notices of funding availability, as the department deems necessary, to exercise the powers and perform the duties conferred on it by this chapter. Any forms, guidelines, application materials, funding allocation methodologies, or notices of funding availability prepared or adopted pursuant to this section are exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(j) The department's decision to approve or deny an application or request for funding pursuant to the program, and its determination of the amount of funding to be provided or request for repayment or other remedies for failure to comply with program requirements, shall be final.

SEC. 51. Section 50560 of the Health and Safety Code is amended to read:

50560. (a) Subject to the requirements of this chapter, the department may approve an extension of a department loan, the reinstatement of a qualifying unpaid matured loan, the subordination of a department loan to new debt, the payoff of a department loan in whole or part before the end of its term, the extraction of equity from a development for purposes set forth in subdivision (c) of Section 50406.4, or an investment of tax credit equity under one or more of the following rental housing finance programs: the original Rental Housing Construction Program established by Chapter 9 (commencing with Section 50735), the Special User Housing Rehabilitation Program established by Section 50670, the Deferred-Payment Rehabilitation Loan Program established by Chapter 6.5 (commencing with Section 50660), the rental component of the California Natural Disaster Assistance Program established by Chapter 6.5 (commencing with Section 50671), the State Earthquake Rehabilitation Assistance Program established by Chapter 6.5 (commencing with Section 50671), the rental component of the California Housing Rehabilitation Program established by Section 50668.5, the component of the Rental Housing Construction Program funded with bond proceeds governed by Section 50771.1, the Family Housing Demonstration Program established by Chapter 15 (commencing with Section 50880), the Families Moving to Work Program established by Chapter 15 (commencing with Section 50880), the Multifamily Housing Program established by Chapter 6.7 (commencing with Section 50675), and any and all other multifamily housing loans funded or monitored by the department.

(b) Once the department has approved a loan extension, reinstatement of a qualifying unpaid matured loan, subordination, payoff of a department loan in whole or part before the end of its term, extraction of equity from a

development for purposes set forth in subdivision (c) of Section 50406.4, or tax credit investment pursuant to this chapter, the statutes enumerated in subdivision (a), and the regulations or guidelines promulgated pursuant to these statutes, shall no longer apply to developments restructured pursuant to this chapter. These developments shall instead be governed by this chapter and guidelines adopted pursuant to subdivision (h).

(c) All projects restructured pursuant to this chapter shall comply with the affirmative marketing and language accessibility requirements set forth in Section 50736 of this code and Section 65863 of the Government Code.

(d) The department may approve an extension of a loan, the reinstatement of a qualifying unpaid matured loan, the subordination of a department loan to new debt, the payoff of a department loan in whole or part before the end of its term, the extraction of equity from a development for purposes set forth in subdivision (c) of Section 50406.4, or an investment of tax credit equity if it determines that the project has, or will have after rehabilitation or repairs, a potential remaining useful life equal to or greater than the term of the department's regulatory agreement. Eligible uses of loan and equity sources under this subdivision include, but are not limited to, the purchase of a limited partner interest of a tax credit investor in the project, payment of any unpaid deferred developer fee for the project, payment for necessary repairs and rehabilitation of the project, and the establishment or replenishment of department-approved project reserves.

(e) The department may subordinate its loan to refinance existing senior debt for eligible activities pursuant to subdivision (d) and to reimburse borrower advances for predevelopment costs, unreimbursed capital improvements, and unreimbursed operating deficits, only if it determines that the department's security is not negatively impacted and the requirements of Section 50406.4 are satisfied, and provided that the reimbursements shall be subject to the guidelines adopted pursuant to subdivision (h) of Section 50560. The department shall not withhold consent unreasonably.

(f) If the extension of a department loan, the reinstatement of a qualifying unpaid matured loan, the subordination of a department loan to new debt, or an investment of tax credit equity will result in a rent increase for tenants of a development exceeding the annual adjustment to the tenants' rents under the department's regulatory agreement, except as reasonably necessary, in the sole discretion of the department, for the feasibility of the project, the department may only subordinate a loan to senior debt if necessary for the feasibility of a project and to fund reasonable rehabilitation or improvements including soft costs. The application to refinance shall include a third-party analysis that supports the need for refinancing. The department shall not approve the extraction of equity from a development for purposes set forth in paragraph (1) of subdivision (c) of Section 50406.4, if it will result in a rent increase for tenants of a development exceeding the annual adjustment to the tenants' rents under the department's regulatory agreement.

(g) The department may approve additional senior debt only as necessary for eligible activities pursuant to subdivision (d), and only as necessary to

finance rehabilitation or repairs, including soft costs, that are reasonable in size, scope, and cost, as determined by the department. In approving additional senior debt, the department may consider information from third-party capital needs assessment reports.

(h) It is the intent of the Legislature in enacting this chapter to provide to the department the flexibility necessary to maintain the quality of the affordable rental housing units for which the state has already made a significant public investment. The department may implement this chapter through guidelines that shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. These guidelines shall be developed through the following process:

(1) The department shall provide a notice of proposed action as described in Section 11346.5 of the Government Code to the public at least 21 days before the close of the public comment period.

(2) The department shall schedule at least one public hearing as described in Section 11346.8 of the Government Code before the close of the public comment period.

(3) The department shall maintain a rulemaking file as described in Section 11347.3 of the Government Code.

(4) The final version of the guidelines shall be accompanied by a final statement of reason as described in subdivision (a) of Section 11346.9 of the Government Code.

(5) The rules and guidelines shall be effective immediately upon adoption by the department.

SEC. 52. Section 50561 of the Health and Safety Code is amended to read:

50561. (a) The department may approve an extension of an existing rental housing development loan or regulatory agreement, if the extension facilitates the reinstatement of a qualifying unpaid matured loan, the subordination of a department loan to new debt, the extraction of equity from a development for purposes set forth in subdivision (c) of Section 50406.4, or an investment of tax credit equity, only if the rental housing development is being operated in a manner consistent with the regulatory agreement and the development requires an extension in order to continue to operate in a manner consistent with this chapter. Each extension shall be for a period of not less than 10 years and each extension shall not exceed 55 years, or 58 years if needed to match the term of tax credit restrictions. The interest rate shall be 3 percent simple interest. All loan payments shall be deferred for the full term of the loan, except for residual receipts payments. These residual receipts payments shall be structured to avoid reducing the amount of payments on local public agency loans resulting solely from changes in the payment terms on the department's loan, and not resulting from fees or other payments to the borrower, and shall otherwise be consistent with the provisions of the department's Uniform Multifamily Regulations or successor regulations. The department may charge a monitoring fee to cover the aggregate monitoring costs it incurs from the date of the recordation of the loan or regulatory documents regarding any

of the eligible activities pursuant to this subdivision, and may charge a transaction fee or other fee to cover its costs for processing restructuring transactions. The monitoring fees shall continue until the end of the term of the department regulatory agreement, notwithstanding any payoff of the department loan, and the monitoring fees shall not be diminished in the event of any paydown of the department loan. The department may waive or defer some or all fees, if it determines that a particular development or class of developments does not have the ability to make these payments, or if necessary, in the sole discretion of the department, for the feasibility of the project. In determining the fees and payments to be charged, the department shall seek to share monitoring activities with other regulatory agencies and to minimize the impact on tenants with the lowest incomes and on the capacity of the developments to support private debt or secure tax credit investments.

(b) To the minimum extent necessary to support new debt to pay for rehabilitation, but not for extraction of equity, rents for assisted units in these developments may be adjusted pursuant to the department guidelines and Section 42 of the Internal Revenue Code. This rehabilitation shall be determined by the department to be demonstrably necessary, based on third-party assessment and on the department's own inspection, if the department deems an inspection necessary. Assisted units in developments with a specific, department-approved plan to undertake the necessary rehabilitation, at a level that equals or exceeds the minimum per-unit rehabilitation cost standards under the low-income housing tax credit program, may be adjusted as follows:

(1) For developments originally financed under the bond-funded component of the Rental Housing Construction Program pursuant to Section 50771.1, and the Family Housing Demonstration Program, rents may be increased up to a maximum of 30 percent of 60 percent of area median income, for units designated in the development's original regulatory agreement as lower income units, and up to a maximum of 30 percent of 35 percent of area median income, for units designated in the development's original regulatory agreement as very low income units.

(2) For developments originally financed under other programs that calculate income levels and rent limits consistent with the calculation methodology used under the low-income housing tax credit program and the Multifamily Housing Program, the income and rent limits under those programs shall be preserved in accordance with the applicable requirements of those programs, and rent increases shall be subject to the applicable requirements of those programs, all to the extent that the income, rent, and rent increase requirements continue to apply to the developments under those programs.

(3) Developments originally financed under other programs that require formula-based rents for at least 35 percent of the assisted units, or as specified in the original regulatory agreement governing the development, whichever is greater, shall be restricted to the midlevel target used by the Multifamily Housing Program. Rents for the balance of the assisted units

may be increased up to a maximum of 30 percent of 60 percent of area median income. For purposes of this paragraph, "midlevel target used by the Multifamily Housing Program" shall mean either of the following:

(A) For counties with an area median income of 110 percent or less of state median income, it shall mean 30 percent of 30 percent of state median income, expressed as a percentage of area median income.

(B) For counties with an area median income that exceeds 110 percent of the state median income, it shall mean 30 percent of 35 percent of state median income, expressed as a percentage of area median income.

(c) Rent increases for tenants living in assisted units at the time of restructuring pursuant to this chapter shall be limited as follows:

(1) For existing tenants with incomes not exceeding 35 percent of area median income, increases shall be limited to 5 percent per year, until the rents reach the levels set under subdivision (b).

(2) For existing tenants with incomes exceeding 35 percent of area median income, increases shall be limited to 10 percent per year, until they reach the levels specified in paragraphs (1) and (2) of subdivision (b) of Section 50561.

(3) It is the intent of the Legislature that rent increases for existing tenants authorized by this subdivision shall not be greater than necessary to ensure the financial feasibility of the project. The projected maximum rent for tenants in assisted units, as determined by subdivision (b), shall not exceed 50 percent of the household's actual income. This requirement shall be applied using maximum rent levels and household incomes determined at the time of restructuring or at the time of the department's approval of the restructuring.

(4) If the refinance of a loan results in a rent increase, the project sponsor shall provide tenants with the following notifications:

(A) Notice six months before the scheduled rent increase with an estimate of the amount of the increase.

(B) Notice 90 days before the actual increase with the exact amount of the new rent.

(d) If existing tenants move, the rent for these units may be increased immediately up to the level specified in paragraphs (1), (2), and (3) of subdivision (b). The income limit for new tenants shall correspond with the rent limit set pursuant to paragraphs (1), (2), and (3) of subdivision (b).

(e) Once rents achieve the levels set forth in paragraphs (1), (2), and (3) of subdivision (b), income levels and rent limits shall be calculated consistent with the calculation methodology used under the Low Income Housing Tax Credit program and the Multifamily Housing Program, and rent increases shall be based on increases in the area median income.

(f) Eligible households displaced as a result of rehabilitation pursuant to this section shall be accorded first priority in occupying comparable units in the development from which they were displaced, subsequent to rehabilitation. Tenants of rental housing developments repaired with assistance provided under this chapter who are temporarily or permanently displaced as a result of rehabilitation or other repair work, shall be entitled

to relocation benefits pursuant to, and subject to, the requirements of Section 7260 of the Government Code. Sponsors of assisted rental housing developments shall be responsible for providing the benefits and assistance. The costs of the benefits and the assistance provided to tenants shall be eligible for funding by a loan provided pursuant to this section.

(g) The guidelines adopted by the department pursuant to subdivision (h) of Section 50560 shall be patterned after the regulations governing the Multifamily Housing Program, including the Uniform Multifamily Regulations, except that the department may adopt different standards for the following factors:

(1) Commercial vacancy loss assumptions must reflect project operating history.

(2) Debt service coverage ratios.

(3) Payment terms and principal amount of senior debt, considering financial market conditions, including costs and department risk, as determined by the department.

(4) Developer fee limitations shall be consistent with California Tax Credit Allocation Committee regulations for inclusion in the basis for projects receiving 9 percent tax credits, for projects receiving the special rent increases contemplated by this chapter, and, consistent with the requirements of other funding sources, for projects not receiving special rent increases, but developer fees shall not exceed the amount allowed by the California Tax Credit Allocation Committee regulations for projects receiving 9 or 4 percent tax credits, as applicable, and shall not exceed 25 percent of actual rehabilitation costs where there is no tax credit resyndication. Developer fees shall only be payable in the event of a resyndication involving major rehabilitation, as defined by the California Tax Credit Allocation Committee in regulations.

(5) Replacement reserve deposit amounts must be based on projected costs over 20 years, adjusted for inflation, and as shown in an independent replacement reserve analysis.

(h) It is the intent of the Legislature in enacting this section that the department shall manage its reserves for the original Rental Housing Construction Program in a manner that will allow for the continuation of benefits to current low-income tenants for the longest period of time possible up to the term of the original regulatory agreement or the depletion of the annuity funds, whichever occurs first. Accordingly, rents for those households in units subsidized by the annuity fund established pursuant to Section 50748 may be increased to 30 percent of household income. A household affected by the rent increase permitted by this subdivision shall be given at least 90 days advanced notice of the increase.

(i) (1) The department shall, within available resources, post on its internet website information regarding household incomes and rents for developments approved for restructuring.

(2) The information shall be provided within six months of a restructuring and, thereafter, no less than every three years.

(3) The information shall include the following or similar information:

(A) The monthly rent of each household at the time of restructuring.

(B) The current monthly rent of each household.

(C) The annual income of each household as a percentage of area median income at the time of restructuring.

(D) The current income of each household as a percentage of area median income.

SEC. 53. Section 50562 of the Health and Safety Code is amended to read:

50562. (a) If a department loan is extended, subordinated, or paid off before the end of its term, the department approves the reinstatement of a qualifying unpaid matured loan, the department approves the extraction of equity from a development, or a new tax credit investment occurs, then the department shall enter into a new regulatory agreement with the development's owner, or amend the existing agreement, and may add another regulatory agreement if the department determines it necessary. The agreement shall be binding upon the development's owner and successors in interest upon sale or transfer of the development property, regardless of any prepayment of the loan. The agreement shall be recorded in the office of the county recorder in the county in which the development is located. The new or amended regulatory agreement shall:

(1) Set standards for tenant selection to ensure occupancy by the eligible households.

(2) Govern the terms of occupancy agreements.

(3) Restrict rents for assisted units, consistent with this chapter, and require reports to confirm all of the following:

(A) Compliance with these rent restrictions.

(B) The qualification of tenants under applicable income restrictions consistent with this chapter.

(C) The special populations being served.

(D) That any required tenant services are being provided consistent with this chapter.

(4) Provide for periodic inspections by the department.

(5) Require occupancy and financial reports, and financial audits for the development, unless waived by the department if the department loan is paid off and the waiver may be rescinded in the sole determination of the department.

(6) Govern the use of operating income for the development, unless waived by the department if the department loan is paid off and the waiver may be rescinded in the sole determination of the department.

(7) Govern the use of reserves for the development, unless waived by the department if the department loan is paid off and the waiver may be rescinded in the sole determination of the department.

(8) Have a term for not less than the term of the loan, including any extension.

(9) Include other provisions necessary to carry out the purposes of this chapter.

(b) The development's owner shall agree to replace or amend any other loan document to accomplish the purposes of this chapter.

SEC. 54. Section 53560 of the Health and Safety Code is amended to read:

53560. (a) There is hereby established the Transit-Oriented Development Implementation Program, to be administered by the Department of Housing and Community Development, to provide local assistance to cities, counties, cities and counties, transit agencies, eligible tribal applicants as defined in subdivision (b) of Section 50651, and developers for the purpose of supporting the development of higher density vehicle miles traveled-efficient affordable housing or related infrastructure, including projects within close proximity to transit stations or projects that could increase public transit ridership.

(b) The department may adopt additional guidelines to administer this part. Guidelines adopted pursuant to this subdivision shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

(c) The guidelines in subdivision (b) shall emphasize the importance of long-term affordability. Prioritization among affordable housing projects shall be based on all of the following:

(1) Affordability, with highest priority given to projects that include a greater percentage of units restricted to lower income households, as defined in Section 50079.5.

(2) Affordable housing projects that result in improved vehicle miles traveled efficiency with committed state or federal funding in need of gap funding to begin construction.

(3) Affordable housing projects that demonstrate project readiness, as determined by the department.

(d) The guidelines in subdivision (b) may evaluate how publicly owned land, including state and local surplus properties, can be prioritized or leveraged to support affordable housing or related infrastructure projects eligible for funding pursuant to this section, with the goal of maximizing public benefit and reducing overall development costs.

SEC. 55. Section 53562 of the Health and Safety Code is amended to read:

53562. (a) To the extent that funds are available, the department may make grants to cities, counties, cities and counties, eligible tribal applicants as defined in subdivision (b) of Section 50651, or transit agencies for the provision of infrastructure necessary for the development of higher density vehicle miles traveled-efficient affordable housing or related infrastructure project. Any award of program funds as a grant shall be made pursuant to (1) the priority order set forth in paragraph (1) of subdivision (c) of Section 21080.44 of the Public Resources Code and (2) considerations, including, but not limited to, the discretionary considerations set forth in paragraph (2) of subdivision (c) of Section 21080.44 of the Public Resources Code. Any award may be made either through a competitive or over-the-counter basis.

(b) To the extent that funds are available, the department may make repayable loans or forgivable loans for the development and construction of vehicle miles traveled-efficient affordable housing. Any award of repayable loans or forgivable loans shall be made pursuant to (1) the priority order set forth in paragraph (1) of subdivision (c) of Section 21080.44 of the Public Resources Code and (2) considerations, including, but not limited to, the discretionary considerations set forth in paragraph (2) of subdivision (c) of Section 21080.44 of the Public Resources Code.

(c) For vehicle miles traveled-efficient affordable housing projects, to be eligible for a grant pursuant to subdivision (a) or a repayable loan or forgivable loan pursuant to subdivision (b), the housing development project shall meet all of the following:

(1) At least 20 percent of the units in the proposed development shall be made available at an affordable rent or at an affordable housing cost to persons of very low or low income for at least 55 years. The project shall be subject to an affordability requirement under which not less than 20 percent of the total units shall be restricted to lower income households, as defined in Section 50079.5, for a period of not less than 55 years. If the project is subject to any other public funding, regulatory agreement, or financial assistance that imposes an affordability requirement that exceeds 20 percent of the total units, then the project shall comply with the requirements associated with that funding source.

(2) A housing development project may include a mixed-use development consisting of residential and nonresidential uses.

(3) Meet minimum density requirements, as established by the department.

(4) If applicable, demonstrate consistency with the applicable region's sustainable communities strategy adopted pursuant to Section 65080 of the Government Code or alternative planning strategy pursuant to Section 65080 of the Government Code.

(5) Meet any other threshold requirement established by the department.

(d) With respect to grants made pursuant to subdivision (a) or repayable loans or forgivable loans pursuant to subdivision (b) for the development of rental housing, the department may do any or a combination of the following:

(1) Make program funds available at the same time it makes funds, if any, available under the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2).

(2) Rate and rank applications in a manner consistent with the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2), except that the department may establish additional point categories for the purposes of rating and ranking applications that seek funding pursuant to this subdivision in addition to those used in the Multifamily Housing Program.

(3) Administer funds in a manner consistent with the Multifamily Housing Program (Chapter 6.7 (commencing with Section 50675) of Part 2). However, in furtherance of the purposes of the Transit-Oriented

Development Implementation Program, the department may alternatively accept applications on an over-the-counter basis and confirm compliance with threshold requirements in order to make awards of Transit-Oriented Development Implementation Program funds.

(e) (1) With respect to loans for the development of owner-occupied housing, the department shall do all of the following:

(A) Make funds available at the same time it makes funds, if any, available under the CalHome Program (Chapter 6 (commencing with Section 50650) of Part 2).

(B) Rate and rank applications in a manner consistent with the CalHome Program (Chapter 6 (commencing with Section 50650) of Part 2), except that the department may establish additional point categories for the purposes of rating and ranking applications that seek funding pursuant to this subdivision in addition to those used in the CalHome Program.

(C) Administer funds in a manner consistent with the CalHome Program (Chapter 6 (commencing with Section 50650) of Part 2).

(2) Notwithstanding paragraph (1), for the purposes of the program established pursuant to Section 21080.44 of the Public Resources Code, the department shall ensure that administration of the CalHome Program (Chapter 6 (commencing with Section 50650) of Part 2) aligns with the affordability objectives, eligible uses, availability of grants or loans, and timing requirements of the Transit-Oriented Development Implementation Program.

(f) With respect to any moneys appropriated or allocated for the purposes of this part, the department shall determine the amounts, if any, to be made available for each of the purposes described in subdivisions (a) to (e), inclusive.

(g) Only applications meeting the applicable threshold requirements of subdivisions (a) to (e), inclusive, shall be eligible to receive funds pursuant to this part.

(h) As used in this part, "infrastructure" may include any or a combination of paragraphs (1) to (3), inclusive.

(1) Capital improvements required by a city, county, city and county, eligible tribal applicant as defined in subdivision (b) of Section 50651, transit agency, or special district as a condition for the development of the affordable housing, including but not limited to, sewer or water system upgrades, streets, construction of drainage basins, utility access, connection or relocation, and noise mitigation.

(2) Capital improvements that clearly and substantially enhance public pedestrian or bicycle access from one or more specifically identified housing developments within the areas identified in paragraph (1) of subdivision (c) of Section 21080.44 of the Public Resources Code, including, but not limited to, pedestrian walkways, plazas, or mini-parks, signal lights, streetscape improvements, security enhancements, bicycle lanes, intelligent transportation, and information systems.

(3) Capital improvements for the construction, rehabilitation, as defined in Section 50096, including improvements and repairs made to a residential

structure acquired for the purpose of preserving its affordability, acquisition, or other physical improvement that is an integral part or necessary to facilitate the development of the housing development.

SEC. 56. Section 53568 is added to the Health and Safety Code, to read:

53568. (a) The Office of Land Use and Climate Innovation shall, subject to appropriation, and, with the agreement of the Regents of the University of California, contract with the University of California to conduct an evaluation of the mitigation measures used by projects participating in the TOD Implementation Program to reduce vehicle miles traveled. The evaluation shall summarize the different categories of mitigation measures utilized across regions, the types of projects implementing those measures, the estimated annual vehicle miles traveled reductions achieved, total costs to construct or implement the mitigation measures, project-level funding contributions, cost per vehicle miles traveled reduced, and per capita vehicle miles traveled reduction.

(b) The evaluation shall also assess how the mitigation measures used under the Transit-Oriented Development Implementation Program complement other vehicle miles traveled mitigation options and strategies.

(c) The Office of Land Use and Climate Innovation shall complete this evaluation and submit, in compliance with Section 9795 of the Government Code, a report to the Legislature on or before July 1, 2031.

SEC. 57. Section 21080.43 is added to the Public Resources Code, to read:

21080.43. The Legislature finds and declares all of the following:

(a) The Legislature reaffirms that the California Environmental Quality Act (CEQA) established longstanding legal requirements for the imposition of mitigation measures on projects.

(b) Specifically, CEQA requires that mitigation measures:

(1) Be feasible, meaning capable of being accomplished in a successful manner within a reasonable timeframe, taking into account economic, environmental, legal, social, and technological factors.

(2) Be roughly proportional to the impacts of the project.

(3) Be supported by substantial evidence demonstrating a reasonable relationship, or "nexus," between the mitigation and the impact it is intended to address.

(c) The Legislature further reaffirms that mitigation frameworks, including those aimed at addressing cumulative impacts such as vehicle miles traveled, must comply with these longstanding requirements that provide legal certainty, and equitable treatment of projects.

(d) Guidelines shall be developed in a manner that reflects and upholds these established principles.

(e) The Legislature further finds that existing guidance has been established in CEQA guidelines and subsequent technical advisories for addressing transportation impacts under CEQA. Impact analysis under CEQA is a dynamic process, continually informed by advancements in research, data, and practice. Currently, the Department of Transportation is developing updated methodologies for analyzing transportation impacts in

rural settings, which are expected to be published on or before July 1, 2026. It is the intent of the Legislature that these ongoing efforts be integrated into relevant guidance for addressing transportation impacts that promote more effective practices statewide.

(f) It is the intent of Legislature that lead agencies ensure that vehicle miles traveled mitigation is achieved through a balanced approach by ensuring a project invests in multiple types of mitigation measures when working to reduce the vehicle miles traveled impacts of a project.

(g) It is the intent of the Legislature that this program serve as one optional strategy that a project applicant may use to mitigate a significant transportation impact under CEQA. The program established pursuant Section 21080.44 is intended to facilitate an existing category of mitigation, specifically, the development of vehicle miles traveled-efficient affordable housing or related infrastructure, by providing a streamlined and accessible mechanism through which applicants can contribute to eligible mitigation projects. This approach is consistent with established practices already used at the local and regional level across the state and provides project applicants an additional tool to support their mitigation efforts.

SEC. 58. Section 21080.44 is added to the Public Resources Code, to read:

21080.44. (a) For purposes of this section, all of the following definitions apply:

(1) "Department" means the Department of Housing and Community Development.

(2) "Office" means the Office of Land Use and Climate Innovation.

(3) "Region" means the territory of the metropolitan planning organization within which a project is located, or the territory of the regional transportation planning agency within which a project is located if the project is located outside of the boundaries of a metropolitan planning organization.

(4) "Transit-Oriented Development Implementation Fund" means the fund created pursuant to Section 53561 of the Health and Safety Code.

(5) "Transit-Oriented Development Implementation Program" means the program established pursuant to Part 13 (commencing with Section 53560) of Division 31 of the Health and Safety Code.

(b) (1) (A) If a lead agency determines that a project will have a significant transportation impact pursuant to the metrics adopted pursuant to paragraph (1) of subdivision (b) of Section 21099, the lead agency may mitigate the transportation impact to a less than significant level by helping to fund or otherwise facilitating vehicle miles traveled-efficient affordable housing or related infrastructure projects, provided the projects meet the requirements of mitigation measures contained within this division and Chapter 3 of Division 6 of Title 14 of the California Code of Regulations, including by contributing an amount, to be determined pursuant to the office's guidance issued pursuant to subdivision (d), to the Transit-Oriented Development Implementation Fund for purposes of the Transit-Oriented Development Implementation Program.

(B) This section shall not preclude the lead agency's use of other mitigation strategies, including, but not limited to, transportation demand management, transit improvements, active transportation infrastructure, road diets, or utilizing local or regional mitigation banks and exchanges.

(2) Moneys may be deposited into the Transit-Oriented Development Implementation Fund pursuant to paragraph (1) beginning on or before July 1, 2026, as determined by the department.

(3) Consistent with paragraph (1), a project applicant may use the Transit-Oriented Development Implementation Fund as one optional strategy to mitigate a significant transportation impact under this division. The ultimate use of this mitigation option is subject to the discretion of the lead agency that retains full authority to determine the sufficiency of any proposed mitigation consistent with this division.

(c) (1) Moneys deposited into the Transit-Oriented Development Implementation Fund pursuant to subdivision (b) shall be available to the department, upon appropriation by the Legislature, for the purpose of awarding funding for affordable housing or related infrastructure projects, including infrastructure necessary for higher density uses, under the Transit-Oriented Development Implementation Program in the following priority order:

(A) First priority to affordable housing or related infrastructure projects in location-efficient areas, as defined in the office's guidance issued pursuant to subdivision (d), within the same region as the project.

(B) Second priority to affordable housing or related infrastructure projects within the same region as the project.

(C) (i) Third priority to affordable housing or related infrastructure projects in location-efficient areas that are outside of the originating region but within an adjacent region, provided the project site is located within a defined proximity radius established by the office issued pursuant to clause (ii).

(ii) The proximity radius shall be specified in the office's guidance and may vary based on regional characteristics such as population density and travel patterns. The intent of this provision is to support projects in neighboring regions that offer similar vehicle miles traveled-reducing benefits due to the project's location efficiency, including access to high-quality transit, jobs, and essential services.

(2) Affordable housing or related infrastructure projects for which funding was applied from other state funding programs, but was not awarded due to limited program resources, or was awarded but a financing gap still exists, may be considered for funding pursuant to this subdivision. The applications for funding for these affordable housing or related infrastructure projects shall be eligible for consideration through a streamlined and expedited administrative review process to accelerate delivery.

(3) For each award of funding for affordable housing or related infrastructure projects pursuant to this subdivision, the department shall, in partnership with the office, confirm the estimated reduction in vehicle miles traveled associated with the affordable housing or related infrastructure

project using the methodology established in the office's guidance issued pursuant to subdivision (d).

(d) On or before July 1, 2026, and at least once every three years thereafter, the office, in consultation with other state agencies, as appropriate, shall issue guidance related to the implementation of this section. This guidance shall include all of the following:

(1) A methodology for determining the amounts that are required to be contributed to the Transit-Oriented Development Implementation Fund pursuant to subdivision (b) to mitigate the environmental impacts associated with vehicle miles traveled.

(2) A definition of location-efficient areas that reflects a reasonable nexus between the location of the transportation impact of the project and the location of the vehicle miles traveled-efficient affordable housing or related infrastructure project which shall consider the location efficient area's consistency with an adopted sustainable communities strategy pursuant to Section 65080 of the Government Code, alternative planning strategy pursuant to Section 65080 of the Government Code, or other adopted regional growth plan intended to foster efficient land use.

(3) A process for validating a project's vehicle miles traveled funding contribution, which shall be designed to provide certainty to the lead agency and project applicant that the contribution satisfies applicable mitigation requirements under this division for significant transportation impacts.

(4) A methodology for estimating the anticipated reduction in vehicle miles traveled associated with affordable housing or related infrastructure projects funded pursuant to subdivision (c). This methodology may consider existing methodologies, but shall be tailored to the specific purposes and structure of this section, including accounting for relevant factors influencing vehicle miles traveled reduction, including proximity to transit, job access, walkability, and the level of affordability, and the length of the affordability period, of the affordable housing or related infrastructure project.

(e) (1) (A) The initial guidance, which is required to be issued by the office on or before July 1, 2026, pursuant to subdivision (d), shall not be subject to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(B) Before finalizing the initial guidance, the office shall provide public notice, make a draft version publicly available, and allow for a public comment period of at least 30 days. The office shall consider all comments received before issuing the final guidance.

(2) The office shall commence the regular rulemaking process for subsequent guidance on or before January 1, 2028, in compliance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(f) Beginning the year following the first distributions of funding pursuant to this section, the office, in consultation with the department, the Transportation Agency, and regions, shall evaluate the use of vehicle miles

traveled mitigation resources allocated pursuant to this section. The evaluation shall assess the distribution of funds across project types, the effectiveness of supported projects in reducing vehicle miles traveled, the affordability of the housing units produced, and other relevant metrics that reflect program performance. Based on this assessment, the department, in consultation with the office and the Transportation Agency, may revise program guidelines to enhance outcomes.

(g) This section does not prevents a local agency from charging local impact fees based on vehicle miles traveled pursuant to the Mitigation Fee Act (Chapter 5 (commencing with Section 66000), Chapter 6 (commencing with Section 66010), Chapter 7 (commencing with Section 66012), Chapter 8 (commencing with Section 66016), and Chapter 9 (commencing with Section 66020) of Division 1 of Title 7 of the Government Code).

SEC. 59. Section 21080.66 is added to the Public Resources Code, to read:

21080.66. (a) Without limiting any other statutory or categorical exemption, this division does not apply to any aspect of a housing development project, as defined in subdivision (b) of Section 65905.5 of the Government Code, including any permits, approvals, or public improvements required for the housing development project, as may be required by this division, if the housing development project meets all of the following conditions:

(1) (A) Except as provided in subparagraph (B), the project site is not more than 20 acres.

(B) The project site or the parcel size for a builder's remedy project, as defined in paragraph (11) of subdivision (h) of Section 65589.5 of the Government Code, or the project site or the parcel size for a project that applied pursuant to paragraph (5) of subdivision (d) of Section 65589.5 of the Government Code as it read before January 1, 2025, is not more than five acres.

(2) The project site meets either of the following criteria:

(A) Is located within the boundaries of an incorporated municipality.

(B) Is located within an urban area, as defined by the United States Census Bureau.

(3) The project site meets any of the following criteria:

(A) Has been previously developed with an urban use.

(B) At least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses.

(C) At least 75 percent of the area within a one-quarter mile radius of the site is developed with urban uses.

(D) For sites with four sides, at least three out of four sides are developed with urban uses and at least two-thirds of the perimeter of the site adjoins parcels that are developed with urban uses.

(4) (A) The project is consistent with the applicable general plan and zoning ordinance, as well as any applicable local coastal program as defined in Section 30108.6. For purposes of this section, a housing development project shall be deemed consistent with the applicable general plan and

zoning ordinance, and any applicable local coastal program, if there is substantial evidence that would allow a reasonable person to conclude that the housing development project is consistent.

(B) If the zoning and general plan are not consistent with one another, a project shall be deemed consistent with both if the project is consistent with one.

(C) The approval of a density bonus, incentives or concessions, waivers or reductions of development standards, and reduced parking ratios pursuant to Section 65915 of the Government Code shall not be grounds for determining that the project is inconsistent with the applicable general plan, zoning ordinance, or local coastal program.

(5) The project will be at least one-half of the applicable density specified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65583.2 of the Government Code.

(6) The project satisfies the requirements specified in paragraph (6) of subdivision (a) of Section 65913.4 of the Government Code.

(7) The project does not require the demolition of a historic structure that was placed on a national, state, or local historic register before the date a preliminary application was submitted for the project pursuant to Section 65941.1 of the Government Code.

(8) For a project that was deemed complete pursuant to paragraph (5) of subdivision (h) of Section 65589.5 of the Government Code on or after January 1, 2025, no portion of the project is designated for use as a hotel, motel, bed and breakfast inn, or other transient lodging. For the purposes of this section, "other transient lodging" does not include either of the following:

(A) A residential hotel, as defined in Section 50519 of the Health and Safety Code.

(B) After the issuance of a certificate of occupancy, a resident's use or marketing of a unit as short-term lodging, as defined in Section 17568.8 of the Business and Professions Code, in a manner consistent with local law.

(b) (1) (A) A local government shall provide formal notification via certified mail and email to each California Native American tribe that is traditionally and culturally affiliated with the project site as an invitation to consult on the proposed project, its location, and the project's potential effects on tribal cultural resources pursuant to one of the following deadlines:

(i) Within 14 days of the application for the project being deemed complete pursuant to paragraph (5) of subdivision (h) of Section 65589.5 of the Government Code.

(ii) For projects whose applications were deemed complete pursuant to paragraph (5) of subdivision (h) of Section 65589.5 of the Government Code before July 1, 2026, within 14 days of notifying the local government that the project is eligible to be exempt from this division pursuant to this section.

(B) The formal notification shall include all of the following:

(i) Detailed project information to help inform the consultation, including site maps, proposed project scope, and any known cultural resource studies.

(ii) Contact information for the local government.

(iii) Contact information for the project proponent.

(iv) Notice that the California Native American tribe has 60 days to request consultation with the local government pursuant to this subdivision.

(2) (A) Each California Native American tribe has 60 days to notify the local government that it accepts the invitation to consult.

(B) If a California Native American tribe chooses not to accept the invitation to consult, or does not notify the local government of its decision within 60 days, the consultation shall be considered to have concluded.

(3) (A) Within 14 days of receiving the notification that the California Native American tribe has elected to consult, pursuant to subparagraph (A) of paragraph (2), the local government shall initiate the consultation.

(B) During the consultation, the local government shall act in good faith to identify whether a tribal cultural resource could be affected by the proposed project and shall give deference to the tribal information, tribal knowledge and customs, and the significance of the resource to the California Native American tribe.

(C) The project proponent may participate in the consultation with the approval of the California Native American tribe if the project proponent agrees to engage in good faith and comply with the confidentiality requirements of Sections 7927.000 and 7927.005 of the Government Code, subdivision (d) of Section 21082.3, subdivision (d) of Section 15120 of Title 14 of the California Code of Regulations, and any confidentiality standards adopted by the California Native American tribe participating in the consultation.

(D) The consultation shall seek to find measures that would avoid significant impacts to a tribal cultural resource.

(E) The local government shall document the results of the consultation.

(F) The consultation shall conclude within 45 days of initiation, subject to a one-time 15-day extension upon request by a participating California Native American tribe.

(4) The local government shall include, as binding conditions of the project approval, all of the following:

(A) Any enforceable agreements reached during the project consultation.

(B) All of the following measures, unless there is mutual agreement between the California Native American tribe and the project proponent not to include the measure as a binding condition:

(i) Upon request by a California Native American tribe, the project shall include tribal monitoring during all ground-disturbing activities, as follows:

(I) The California Native American tribe shall designate the monitor.

(II) The tribal monitor shall comply with applicant’s site access and workplace safety requirements.

(III) The applicant shall compensate the tribal monitor at a reasonable rate, determined in good faith, that aligns with customary compensation for cultural resource monitoring, taking into account factors such as the scope and duration of the project.

(ii) Tribal cultural resources shall be avoided where feasible, in accordance with subdivision (a) of Section 21084.3. In furtherance of this requirement, where feasible, the project applicant shall provide deference to tribal preferences regarding access to spiritual, ceremonial, and burial sites, and incorporate tribal traditional knowledge in the protection and sustainable use of tribal cultural resources and landscapes.

(iii) All treatment and documentation of tribal cultural resources shall be conducted in a culturally appropriate manner, consistent with Section 21083.9.

(iv) A California Historical Resources Information System archaeological records search and a tribal cultural records search shall be completed for the project site.

(v) A Sacred Lands Inventory request shall be submitted to the Native American Heritage Commission.

(vi) The project shall comply with Section 7050.5 of the Health and Safety Code and Section 5097.98, including immediate work stoppage upon discovery of human remains or burial grounds, and treatment in accordance with applicable law and in consultation with the affected California Native American tribe.

(vii) An application of tribal ecological knowledge into habitat restoration efforts undertaken by the project as applicable to the specific environmental context and conditions of the project.

(5) For purposes of this subdivision, the following definitions apply:

(A) "California Native American tribe" has the same meaning as defined in Section 21073.

(B) "Enforceable agreement" means an agreement between the local government, project proponent, and any California Native American tribe that has engaged in consultation pursuant to this subdivision regarding the methods, measures, and conditions for tribal cultural resource identification, treatment, and protection, including consideration of avoidance. Compliance with the enforceable agreement shall be a required condition of approval for the project and its terms must be enforceable against the project proponent by the local government and the California Native American tribe.

(C) "Tribal cultural resource" means a site, feature, place, cultural landscape, sacred place, including a Native American sanctified cemetery, Indian cemetery, or Indian burial area, or an object with cultural value to a California Native American tribe that is any of the following:

(i) Included or eligible for inclusion in the California Register of Historical Resources or the National Register of Historic Places.

(ii) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.

(iii) Identified by the Native American Heritage Commission as a sacred place pursuant to Section 5097.94 or 5097.96.

(iv) Included in a local tribal register.

(c) (1) (A) The local government shall, as a condition of approval for the development, require the development proponent to complete a phase

I environmental assessment, as defined in Section 78090 of the Health and Safety Code.

(B) If a recognized environmental condition is found, the development proponent shall complete a preliminary endangerment assessment, as defined in Section 78095 of the Health and Safety Code, prepared by an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.

(C) If a release of a hazardous substance is found to exist on the site, the release shall be removed or any effects of the release shall be mitigated to levels required by current federal and state statutory and regulatory standards before the local government issues a certificate of occupancy.

(D) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to levels required by current federal and state statutory and regulatory standards before the local government issues a certificate of occupancy.

(2) For any housing on the site located within 500 feet of a freeway, all of the following shall apply:

(A) The building shall have a centralized heating, ventilation, and air-conditioning system.

(B) The outdoor air intakes for the heating, ventilation, and air-conditioning system shall face away from the freeway.

(C) The building shall provide air filtration media for outside and return air that provides a minimum efficiency reporting value of 16.

(D) The air filtration media shall be replaced at the manufacturer's designated interval.

(E) The building shall not have any balconies facing the freeway.

(d) (1) Notwithstanding any other law, all construction workers employed in the execution of a housing development project exempt from this division pursuant to this section where 100 percent of the units within the development project are dedicated to lower income households, as defined by Section 50079.5 of the Health and Safety Code, shall be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate, regardless of whether the housing development project is a public work.

(2) Notwithstanding any other law, the labor standards of paragraph (8) of subdivision (a) of Section 65913.4 of the Government Code shall apply to buildings over 85 feet in height above grade in any housing development project exempt from this division pursuant to this section.

(3) (A) Notwithstanding any other law, the labor standards of Article 4 (commencing with Section 65912.130) of Chapter 4.1 of Division 1 of Title

7 of the Government Code shall apply for projects of 50 units or greater in the City and County of San Francisco that are not covered by paragraph (2), for any construction craft where at least 50 percent of the units in market-rate multifamily housing projects that received their certificate of occupancy between 2022 and 2024, inclusive, were built by workers that were paid not less than the general prevailing rate of per diem wages.

(B) For purposes of this section, "market-rate multifamily housing development project" means a housing development project of greater than 10 units where less than 95 percent of the units are dedicated to lower income households, as defined by Section 50079.5 of the Health and Safety Code.

(C) (i) The eligibility of this subparagraph, by classification, will be determined by the Department of Industrial Relations and published on its internet website by January 1, 2026.

(ii) In making a determination of eligibility pursuant to this subparagraph, the Director of Industrial Relations shall obtain and consider data from the labor organizations and employers or employer associations concerned no later than October 1, 2025.

(iii) To determine the number of market-rate multifamily housing projects that received their certificate of occupancy in a given year, the Department of Industrial Relations shall use the annual progress report data as reported by the jurisdiction pursuant to Section 65400 of the Government Code.

(4) The provisions of Section 218.8 of the Labor Code shall extend to the development proponent in addition to the direct contractor or subcontractor. For purposes of this paragraph, "development proponent" shall mean a developer who submits the housing development project application to a local government that is exempt from this division pursuant to this section.

(5) (A) A joint labor-management cooperation committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) may undertake any of the following on a housing development project that is exempt from this division pursuant to this section:

(i) Bring an action in a court of competent jurisdiction against a contractor or subcontractor at any tier on behalf of construction workers employed by the contractor or subcontractor on a housing development project that is exempt from this division pursuant to this section to enforce Section 226 of the Labor Code. A contractor is not subject to an action pursuant to this subparagraph due to the failure of a subcontractor to comply with Section 226 of the Labor Code.

(ii) Bring an action in a court of competent jurisdiction on behalf of an affected employee against an employer for damages as if Division 4 (commencing with Section 3200) of the Labor Code did not apply, if the employer fails to secure the payment of compensation as required by Article 1 (commencing with Section 3700) of Chapter 4 of Part 1 of Division 4 of the Labor Code.

(iii) In addition to the remedies set forth in Section 7028.3 of the Business and Professions Code, on proper showing by a joint labor-management cooperation committee of a continuing violation of Chapter 9 (commencing

with Section 7000) of Division 3 of the Business and Professions Code by a person who constructs a housing project and does not hold a state contractor's license in any classification, an injunction shall issue by a court specified in Section 7028.3 of the Business and Professions Code at the request of the joint labor-management cooperation committee, prohibiting that violation.

(B) For any action brought pursuant to this paragraph, the court shall award a prevailing joint labor-management committee its reasonable attorney's fees and costs incurred maintaining the action.

(C) An action brought pursuant to this paragraph shall be filed within one year of a local government issuing a certificate of occupancy for the housing development project or for the portion relating to the action.

(D) This paragraph shall apply only to violations that occur on the site of construction of the housing development project.

(e) This section does not affect the eligibility of a housing development project for a density bonus, incentives or concessions, waivers or reductions of development standards, and reduced parking ratios pursuant to Section 65915 of the Government Code.

(f) For purposes of this section, the following terms apply:

(1) "Adjoins" includes parcels that are only separated by a street, pedestrian path, or bicycle path.

(2) "Construction worker" means one performing onsite work associated with construction, including work involving alteration, demolition, building, excavation, renovation, remodeling, maintenance, improvement, repair work, and any other work as described by Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and other similar or related occupations or trades.

(3) "Urban use" means any current or previous residential or commercial development, public institution, or public park that is surrounded by other urban uses, parking lot or structure, transit or transportation passenger facility, or retail use, or any combination of those uses.

SEC. 60. Section 21180 of the Public Resources Code is amended to read:

21180. For purposes of this chapter, the following definitions apply:

(a) "Applicant" means a public or private entity or its affiliates, or a person or entity that undertakes a public works project, that proposes a project and its successors, heirs, and assignees.

(b) "Environmental leadership development project," "leadership project," or "project" means a project as described in Section 21065 that is one of the following:

(1) A residential, retail, commercial, sports, cultural, entertainment, or recreational use project that is certified as Leadership in Energy and Environmental Design (LEED) gold or better by the United States Green Building Council and, where applicable, that achieves a 15-percent greater standard for transportation efficiency than for comparable projects. These projects must be located on an infill site. For a project that is within a metropolitan planning organization for which a sustainable communities

strategy or alternative planning strategy is in effect, the infill project shall be consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board has accepted a metropolitan planning organization's determination, under subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(2) A clean renewable energy project that generates electricity exclusively through wind or solar, but not including waste incineration or conversion.

(3) A clean energy manufacturing project that manufactures products, equipment, or components used for renewable energy generation, energy efficiency, or for the production of clean alternative fuel vehicles.

(4) (A) A housing development project that meets all of the following conditions:

(i) The housing development project is located on an infill site.

(ii) For a housing development project that is located within a metropolitan planning organization for which a sustainable communities strategy or alternative planning strategy is in effect, the project is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board has accepted a metropolitan planning organization's determination, under subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(iii) Notwithstanding paragraph (1) of subdivision (a) of Section 21183, the housing development project will result in a minimum investment of fifteen million dollars ($15,000,000) in California upon completion of construction.

(iv) (I) Except as provided in subclause (II), at least 15 percent of the housing development project is dedicated as housing that is affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code. Upon completion of a housing development project that is qualified under this paragraph and is certified by the Governor, the lead agency or applicant of the project shall notify the Office of Planning and Research of the number of housing units and affordable housing units established by the project.

(II) Notwithstanding subclause (I), if a local agency has adopted an inclusionary zoning ordinance that establishes a minimum percentage for affordable housing within the jurisdiction in which the housing development project is located that is higher than 15 percent, the percentage specified in the inclusionary zoning ordinance shall be the threshold for affordable housing.

(v) (I) Except for use as a residential hotel, as defined in Section 50519 of the Health and Safety Code, no part of the housing development project shall be used for a rental unit for a term shorter than 30 days, or designated for hotel, motel, bed and breakfast inn, or other transient lodging use.

(II) No part of the housing development project shall be used for manufacturing or industrial uses.

(B) For purposes of this paragraph, "housing development project" means a project for any of the following:

(i) Residential units only.

(ii) Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.

(iii) Transitional housing or supportive housing.

(c) "Infill site" has the same meaning as set forth in Section 21061.3.

(d) "Transportation efficiency" means the number of vehicle trips by employees, visitors, or customers of the residential, retail, commercial, sports, cultural, entertainment, or recreational use project divided by the total number of employees, visitors, and customers.

SEC. 61. Section 21183 of the Public Resources Code is amended to read:

21183. The Governor may certify a leadership project for streamlining before a lead agency certifies a final environmental impact report for a project under this chapter if all the following conditions are met:

(a) (1) Except as provided in paragraph (2), the project will result in a minimum investment of one hundred million dollars ($100,000,000) in California upon completion of construction.

(2) Paragraph (1) does not apply to a leadership project described in paragraph (4) of subdivision (b) of Section 21180.

(b) The project creates high-wage, highly skilled jobs that pay prevailing wages and living wages, provides construction jobs and permanent jobs for Californians, helps reduce unemployment, and promotes apprenticeship training. For purposes of this subdivision, a project is deemed to create jobs that pay prevailing wages, create highly skilled jobs, and promote apprenticeship training if the applicant demonstrates to the satisfaction of the Governor that the project will comply with Section 21183.5.

(c) (1) For a project described in paragraph (1), (2), or (3) of subdivision (b) of Section 21180, the project does not result in any net additional emission of greenhouse gases, including greenhouse gas emissions from employee transportation. For purposes of this paragraph, a project is deemed to meet the requirements of this paragraph if the applicant demonstrates to the satisfaction of the Governor that the project will comply with Section 21183.6.

(2) For a project described in paragraph (4) of subdivision (b) of Section 21180, the project does not result in any net additional emission of greenhouse gases, including greenhouse gas emissions from employee transportation, or demonstrates consistency with the most recent scoping

plan adopted by the State Air Resources Board pursuant to Section 38561 of the Health and Safety Code.

(d) The applicant demonstrates compliance with the requirements of Chapter 12.8 (commencing with Section 42649) and Chapter 12.9 (commencing with Section 42649.8) of Part 3 of Division 30, as applicable.

(e) The applicant has entered into a binding and enforceable agreement that all mitigation measures required under this division to certify the project under this chapter shall be conditions of approval of the project, and those conditions will be fully enforceable by the lead agency or another agency designated by the lead agency. In the case of environmental mitigation measures, the applicant agrees, as an ongoing obligation, that those measures will be monitored and enforced by the lead agency for the life of the obligation.

(f) The applicant agrees to pay the costs of the trial court and the court of appeal in hearing and deciding any case challenging a lead agency's action on a certified project under this division, including payment of the costs for the appointment of a special master if deemed appropriate by the court, in a form and manner specified by the Judicial Council, as provided in the California Rules of Court adopted by the Judicial Council under Section 21185.

(g) The applicant agrees to pay the costs of preparing the record of proceedings for the project concurrent with review and consideration of the project under this division, in a form and manner specified by the lead agency for the project. The cost of preparing the record of proceedings for the project shall not be recoverable from the plaintiff or petitioner before, during, or after any litigation.

(h) For a project for which environmental review has commenced, the applicant demonstrates that the record of proceedings is being prepared in accordance with Section 21186.

SEC. 62. Section 30114.5 is added to the Public Resources Code, to read:

30114.5. "Residential development project" means a multifamily housing project that consists exclusively of residential uses and includes four or more units.

SEC. 63. Section 30405 is added to the Public Resources Code, to read:

30405. (a) Notwithstanding Section 10231.5 of the Government Code, no later than July 1, 2027, and annually thereafter, the commission shall submit a report to the Legislature that includes all of the following information for the preceding year:

(1) The number of residential development projects that were appealed to the commission.

(2) The number of appealed residential development projects for which the permit applicant waived the deadline for the commission to hear the appeal.

(3) The number of appealed residential development projects that were approved, approved with conditions, denied, or withdrawn.

(4) For each project described in paragraph (3), the commission shall include all of the following:

(A) A description of the project, including, but not limited to, the number of units in the project and the percentage of units affordable to very low, low-, and moderate-income households.

(B) The length of time from the appeal to the final action on each project.

(C) Any conditions imposed by the commission on a project, and the reason for approval, approval with conditions, or denial.

(b) A report to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 64. Section 30603 of the Public Resources Code is amended to read:

30603. (a) After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments:

(1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.

(2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.

(3) (A) Developments approved by the local government not included within paragraph (1) or (2) that are located in a sensitive coastal resource area.

(B) This paragraph shall not apply to a residential development project.

(4) (A) Any development approved by a coastal county that is not designated as the principal permitted use under the zoning ordinance or zoning district map approved pursuant to Chapter 6 (commencing with Section 30500).

(B) This paragraph shall not apply to a residential development project.

(C) For purposes of this paragraph, “coastal county” shall not include a local government that is both a city and county.

(5) Any development that constitutes a major public works project or a major energy facility.

(b) (1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

(2) The grounds for an appeal of a denial of a permit pursuant to paragraph (5) of subdivision (a) shall be limited to an allegation that the development conforms to the standards set forth in the certified local coastal program and the public access policies set forth in this division.

(c) An action described in subdivision (a) shall become final at the close of business on the 10th working day from the date of receipt by the

commission of the notice of the local government's final action, unless an appeal is submitted within that time. Regardless of whether an appeal is submitted, the local government's action shall become final if an appeal fee is imposed pursuant to subdivision (d) of Section 30620 and is not deposited with the commission within the time prescribed.

(d) (1) A local government taking an action on a coastal development permit shall send notification of its final action to the commission by certified mail, or by electronic mail pursuant to paragraph (2), within seven calendar days from the date of taking the action.

(2) (A) In order for a local government to notify the commission via electronic mail of an action on a coastal development permit, the notification shall be sent from a verifiable local government electronic mail account, and shall be received in the electronic mailbox designated by the commission on its internet website for receipt of that notification.

(B) For the purposes of determining the 10th working day from the date of receipt of notice by the commission under subdivision (c), notice received by the commission by electronic mail after the close of business shall be considered received on the next working day.

SEC. 65. Section 17053.5 of the Revenue and Taxation Code is amended to read:

17053.5. (a) (1) For a qualified renter, there shall be allowed a credit against the renter's "net tax," as defined in Section 17039. The amount of the credit shall be as follows:

(A) For spouses filing joint returns, heads of household, and surviving spouses, as defined in Section 17046, if adjusted gross income is fifty thousand dollars ($50,000) or less, the credit shall be equal to:

(i) For taxable years beginning before January 1, 2026, one hundred twenty dollars ($120).

(ii) Except as otherwise provided in subdivision (k), for taxable years beginning on or after January 1, 2026:

(I) Two hundred fifty dollars ($250) if the qualified renter has no dependents, as defined in Section 17056.

(II) Five hundred dollars ($500) if the qualified renter has one or more dependents, as defined in Section 17056.

(B) For other individuals, if adjusted gross income is twenty-five thousand dollars ($25,000) or less, the credit shall be equal to:

(i) For taxable years beginning before January 1, 2026, sixty dollars ($60).

(ii) Except as otherwise provided in subdivision (k), for taxable years beginning on or after January 1, 2026:

(I) Two hundred fifty dollars ($250) if the qualified renter has no dependents, as defined in Section 17056.

(II) Five hundred dollars ($500) if the qualified renter has one or more dependents, as defined in Section 17056.

(2) Except as provided in subdivision (b), spouses shall receive only one credit under this section. If the spouses file separate returns, the credit may be taken by either or equally divided between them, except as follows:

(A) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed one-half the credit allowed to married persons and the nonresident spouse shall be permitted one-half the credit allowed to married persons, prorated as provided in subdivision (e).

(B) If both spouses were nonresidents for part of the taxable year, the credit allowed to married persons shall be divided equally between them subject to the proration provided in subdivision (e).

(b) For spouses, if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed one-half the full credit allowed to married persons provided in subdivision (a).

(c) For purposes of this section, a "qualified renter" means an individual who satisfies both of the following:

(1) Was a resident of this state, as defined in Section 17014.

(2) Rented and occupied premises in this state that constituted the individual's principal place of residence during at least 50 percent of the taxable year.

(d) "Qualified renter" does not include any of the following:

(1) An individual who for more than 50 percent of the taxable year rented and occupied premises that were exempt from property taxes, except that an individual, otherwise qualified, is deemed a qualified renter if the individual or the individual's landlord pays possessory interest taxes, or the owner of those premises makes payments in lieu of property taxes that are substantially equivalent to property taxes paid on properties of comparable market value.

(2) An individual whose principal place of residence for more than 50 percent of the taxable year is with another person who claimed that individual as a dependent for income tax purposes.

(3) An individual who has been granted or whose spouse has been granted the homeowners' property tax exemption during the taxable year. This paragraph does not apply to an individual whose spouse has been granted the homeowners' property tax exemption if each spouse maintained a separate residence for the entire taxable year.

(e) An otherwise qualified renter who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of those credits for each full month that individual resided within this state during the taxable year.

(f) A person claiming the credit provided in this section shall, as part of that claim, and under penalty of perjury, furnish that information as the Franchise Tax Board prescribes on a form supplied by the board.

(g) The credit provided in this section shall be claimed on returns in the form as the Franchise Tax Board may from time to time prescribe.

(h) For purposes of this section, "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, unless the dwelling unit is a mobilehome. The credit is not allowed for any taxable

year for the rental of land upon which a mobilehome is located if the mobilehome has been granted a homeowners' exemption under Section 218 in that year.

(i) This section shall become operative on January 1, 1998, and applies to any taxable year beginning on or after January 1, 1998.

(j) For each taxable year beginning on or after January 1, 1999, the Franchise Tax Board shall recompute the adjusted gross income amounts set forth in subdivision (a). The computation shall be made as follows:

(1) The Department of Industrial Relations shall transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current year, no later than August 1 of the current calendar year.

(2) The Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to the portion of the percentage change figure that is furnished pursuant to paragraph (1) and dividing the result by 100.

(3) The Franchise Tax Board shall multiply the adjusted gross income amount in subparagraph (B) of paragraph (1) of subdivision (a) for the preceding taxable year by the inflation adjustment factor determined in paragraph (2), and round off the resulting products to the nearest one dollar ($1).

(4) In computing the adjusted gross income amounts pursuant to this subdivision, the adjusted gross income amounts provided in subparagraph (A) of paragraph (1) of subdivision (a) shall be twice the amount provided in subparagraph (B) of paragraph (1) of subdivision (a).

(k) (1) Unless otherwise specified annually in any bill providing for appropriations related to the Budget Act, for taxable years beginning on or after January 1, 2026, the amount of credit under clause (ii) of subparagraph (A) of, and clause (ii) of subparagraph (B) of, paragraph (1) of subdivision (a) shall be zero dollars ($0).

(2) For any taxable year for which the amount of the credit under clause (ii) of subparagraph (A) of, or clause (ii) of subparagraph (B), as applicable, of, paragraph (1) of subdivision (a) is zero dollars ($0) pursuant to paragraph (1), the credit amounts set forth in clause (i) of subparagraph (A) of, or clause (i) of subparagraph (B), as applicable, of, paragraph (1) of subdivision (a) shall be the credit amounts for a qualified renter for the taxable year.

(*l*) For the purposes of complying with Section 41, the Legislature finds and declares as follows:

(1) The specific goals, purposes, and objectives of this bill are as follows:

(A) To address the housing affordability crisis in California, as millions of Californians, who are disproportionately lower income and people of color, are making difficult decisions about paying for housing at the expense of other costs like food, health care, or childcare, as one in three households do not earn enough money to meet their basic needs.

(B) To compensate low- and middle-income renters who are rent burdened by the increasing rates of rent throughout the State of California.

(C) To restructure the credit to reflect the disproportionate burden of high rents on single-parent families.

(D) To stimulate consumer spending and economic growth by providing more disposable income to reinvest in the economy.

(2) To measure whether the credit achieves its intended purpose, for those taxable years for which the amount of credit under clause (ii) of subparagraph (A) of, or clause (ii) of subparagraph (B) of, paragraph (1) of subdivision (a) is not zero dollars ($0), the Franchise Tax Board shall prepare a written report on both of the following:

(A) The number of taxpayers claiming the credit.

(B) The average credit amount on tax returns claiming the credit.

(3) The Franchise Tax Board shall provide the written report prepared pursuant to paragraph (2) to the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, the Assembly and Senate Committees on Appropriations, the Senate Committee on Revenue and Taxation, and the Assembly Committee on Revenue and Taxation. The report shall be submitted in compliance with Section 9795 of the Government Code. The report shall be due July 1 two years following any taxable year that the credit under paragraph (1) of subdivision (k) is not equal to zero dollars ($0).

SEC. 66. Section 5849.2 of the Welfare and Institutions Code is amended to read:

5849.2. As used in this part, the following definitions shall apply:

(a) "At risk of chronic homelessness" includes, but is not limited to, persons who are at high risk of long-term or intermittent homelessness, including persons with mental illness exiting institutionalized settings, including, but not limited to, jail, mental health, and substance use disorder facilities, who were homeless prior to admission, transition age youth experiencing homelessness or with significant barriers to housing stability, and others, as defined in program guidelines.

(b) "Authority" means the California Health Facilities Financing Authority established pursuant to Part 7.2 (commencing with Section 15430) of Division 3 of Title 2 of the Government Code.

(c) "Capitalized operating reserves" has the same meaning as defined in Section 50058.8 of the Health and Safety Code.

(d) "Chronically homeless" has the same meaning as defined in Section 578.3 of Title 24 of the Code of Federal Regulations as that section read on May 1, 2016, or as otherwise modified or expanded by the State Department of Health Care Services.

(e) "Commission" means the Behavioral Health Services Oversight and Accountability Commission established by Section 5845.

(f) "Committee" means the No Place Like Home Program Advisory Committee established pursuant to Section 5849.3.

(g) "County" includes, but is not limited to, a city and a city and county receiving funds pursuant to Section 5701.5.

(h) "Department" means the Department of Housing and Community Development.

(i) "Development sponsor" has the same meaning as "sponsor" as defined in Section 50675.2 of the Health and Safety Code.

(j) "Fund" means the No Place Like Home Fund established pursuant to Section 5849.4.

(k) "Homeless" has the same meaning as defined in Section 578.3 of Title 24 of the Code of Federal Regulations as that section read on May 1, 2016.

(*l*) "Permanent supportive housing" has the same meaning as "supportive housing," as defined in Section 50675.14 of the Health and Safety Code, except that "permanent supportive housing" shall include associated facilities if used to provide services to housing residents.

(m) (1) "Program" means the process for awarding funds and distributing moneys to applicants established in Sections 5849.7, 5849.8, and 5849.9 and the ongoing monitoring and enforcement of the applicants' activities pursuant to Sections 5849.8, 5849.9, and 5849.11.

(2) "Competitive program" means the portion of the program established by Section 5849.8.

(3) "Distribution program" means the portion of the program described in Section 5849.9.

(n) "Target population" means individuals or households, as provided in Section 5600.3, who are homeless, chronically homeless, or at risk of chronic homelessness.

(o) This section shall become operative on January 1, 2025, if amendments to the Mental Health Services Act are approved by the voters at the March 5, 2024, statewide primary election.

SEC. 67. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 68. The Legislature finds and declares that the state faces a severe housing shortage, largely due to the lack of available housing affordable to lower income and moderate-income families. By expanding opportunities for ownership of more affordable housing types on smaller, less expensive parcels, this act ensures access to affordable housing and addresses a matter of statewide concern, rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 28 of this act amending Section 66499.41 of the Government Code applies to all cities, including charter cities.

SEC. 69. The Legislature finds and declares all of the following:

(a) The state faces a housing crisis of availability and affordability, in large part due to a severe shortage of housing.

(b) Solving the housing crisis therefore requires a multifaceted, statewide approach, which will include, but is not limited to, any or some of the following:

(1) Encouraging an increase in the overall supply of housing.

(2) Encouraging the development of housing that is affordable to households at all income levels.

(3) Removing barriers to housing production.

(4) Expanding the availability of rental housing.

(c) A temporary pause on additional changes to state building standards affecting residential construction for six years, with limited exceptions, would support this statewide approach by bringing more certainty to the home construction industry, including both affordable and market-rate developers, and helping stem further construction cost increases.

(d) Addressing the housing crisis and the severe shortage of housing is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 29, 30, 31, and 41 of this act amending Sections 17958, 17958.5, 17958.7, and 18941.5 of the Health and Safety Code apply to all cities, including charter cities.

SEC. 70. The Legislature finds and declares that Section 59 of this act adding Section 21080.66 to the Public Resources Code addresses a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 59 of this act applies to all cities, including charter cities.

SEC. 71. (a) The Legislature finds and declares all of the following:

(1) The state faces a housing crisis of availability and affordability, in large part due to a severe shortage of housing.

(2) Solving the housing crisis therefore requires a multifaceted, statewide approach which will include, but is not limited to, any or some of the following:

(A) Encouraging an increase in the overall supply of housing.

(B) Encouraging the development of housing that is affordable to households at all income levels.

(C) Removing barriers to housing production.

(D) Expanding home ownership opportunities.

(E) Expanding the availability of rental housing.

(b) Therefore, addressing the housing crisis and the severe shortage of housing is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this act applies to all cities, including charter cities.

SEC. 72. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique construction of housing projects in the City and County of San Francisco.

SEC. 73. 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 or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 74. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

O

State of California

HEALTH AND SAFETY CODE

Section 17974.1

17974.1. (a) Notwithstanding any other provision of this part, a city or county that receives a complaint from an occupant of a homeless shelter, or an agent of an occupant, that alleges a homeless shelter is substandard pursuant to Section 17920.3 shall do all of the following:

(1) Inspect the homeless shelter or portion thereof intended for human occupancy that may be substandard pursuant to Section 17920.3.

(2) Identify whether the homeless shelter or any portion thereof intended for human occupancy is substandard pursuant to Section 17920.3, as applicable. The documentation shall be included in the inspection report described in subdivision (h).

(3) As applicable, advise the owner or operator of a homeless shelter of each violation and of each action that is required to be taken to remedy the violation. The city or county shall schedule a reinspection to verify correction of the violations.

(b) Notwithstanding any other provision of this part, and consistent with Section 17970, a city or county shall perform an annual inspection on every homeless shelter located in its jurisdiction to ensure that the homeless shelter is compliant with this part. A city or county conducting an inspection pursuant to this subdivision shall comply with this section, to the extent those provisions are applicable.

(c) (1) If, upon inspection, the city or county determines that a homeless shelter is substandard pursuant to Section 17920.3, the city or county shall promptly, but not later than 10 business days after the city or county completes the inspection, issue a notice to correct the violation to the owner or operator of the homeless shelter.

(2) In the event that the city or county determines that a violation constitutes an imminent threat to the health and safety of the occupants of the homeless shelter, the notice of violation shall be issued immediately and served on the owner or operator of the homeless shelter.

(3) In the event that the city or county determines that deficiencies, violations, or conditions exist at a homeless shelter that are dangerous, hazardous, imminently detrimental to life or health, or otherwise render the homeless shelter unfit for human habitation, the city or county may issue an emergency order directing the owner or operator to take immediate measures to rectify those deficiencies, violations, or conditions.

(d) An inspection conducted pursuant to this section may be announced or unannounced.

(e) The city or county shall maintain all records on file of each homeless shelter inspection. These records shall be made available to the public for inspection.

(f) A city or county shall perform an inspection conducted pursuant to subdivision (a) at least as promptly as that city or county conducts an inspection in response to a request for final inspection pursuant to Section 110 of Part 2 of Division 2 of Chapter 1 of the California Building Code (Part 2 of Title 24 of the California Code of Regulations).

(g) Notwithstanding subdivision (a), a city or county is not required to conduct an inspection in response to either of the following:

(1) A complaint that does not allege one or more substandard conditions.

(2) A complaint submitted by a tenant, resident, or occupant who, within the past 180 days, submitted a complaint about the same property that the chief building inspector or their designee reasonably determined, after inspection, was frivolous or unfounded.

(h) A city or county shall provide free, certified copies of an inspection report and citations issued pursuant to this section, if any, to the complaining occupant or their agent. If the inspection reveals a condition potentially affecting multiple occupants, including, but not limited to, conditions relating to the premises, common areas, or structural features, then the city or county shall provide free copies of the inspection report and citations issued to all potentially affected occupants or their agents.

(i) A city or county shall not unreasonably refuse to communicate with an occupant or the agent of an occupant regarding any matter covered by this article.

(j) A city or county shall conduct an inspection pursuant to this section based on the location of the homeless shelter, in accordance with the following:

(1) A city shall conduct an inspection for shelters within the city's jurisdiction.

(2) A county shall conduct an inspection for shelters within the county's jurisdiction.

(3) A city with a population under 100,000 may partner with its county to conduct an inspection pursuant to this section.

(Amended by Stats. 2025, Ch. 22, Sec. 33. (AB 130) Effective June 30, 2025.)

State of California

HEALTH AND SAFETY CODE

Section 17974.5

17974.5. (a) Each city and each county shall submit a report annually to the department and the state agency by April 1 of each year that includes all of the following information:

(1) The number of complaints received by the city or county, pursuant to Section 17920.3, including if the city or county did not receive any complaints.

(2) Any pending uncorrected violations determined by the city or county, pursuant to Section 17974.1.

(3) Any determinations by the city or county that conditions exist or existed that make or made the homeless shelter dangerous, hazardous, imminently detrimental to life or health, or otherwise render the homeless shelter unfit for human habitation.

(4) A list of any emergency orders issued pursuant to paragraph (3) of subdivision (c) of Section 17974.1.

(5) A list of any owners or operators who received three or more violations within any six-month period.

(6) Any corrected violations from the prior year.

(b) The report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(c) If a city or county applies for state funding to support the ongoing operations of a homeless shelter, the city or county shall disclose to the state agency that administers the state funding the status of any unresolved violations pursuant to this article and the names of the homeless shelter owner or operator.

(d) The department or the state agency, may, pursuant to the reported information in subdivision (b), deem an owner or operator of a shelter ineligible for state funding for shelter operations.

(e) The department shall withhold state funding from a city or county that fails to comply with the reporting requirements in this section or fails to take action to correct a violation of this article by a homeless shelter pursuant to Section 17974.4.

(Amended by Stats. 2025, Ch. 22, Sec. 36. (AB 130) Effective June 30, 2025.)

KeyCite Yellow Flag - Negative Treatment
Declined to Follow by Connell v. Superior Court, Cal.App. 3 Dist., November 20, 1997

190 Cal.App.3d 521, 234 Cal.Rptr. 795

CARMEL VALLEY FIRE PROTECTION DISTRICT et al., Plaintiffs and Respondents,
v.
THE STATE OF CALIFORNIA et al., Defendants and Appellants.
RINCON DEL DIABLO MUNICIPAL WATER DISTRICT et al., Plaintiffs and Respondents,
v.
THE STATE OF CALIFORNIA et al., Defendants and Appellants.
COUNTY OF LOS ANGELES, Plaintiff and Respondent,
v.
THE STATE OF CALIFORNIA et al., Defendants and Appellants.

No. B006078., No. B011941., No. B011942.
Court of Appeal, Second District, Division 5, California.
Feb 19, 1987.

SUMMARY

The trial court, in separate proceedings brought by three counties against the state for reimbursement of funds expended by the counties in complying with a state order to provide protective clothing and equipment for county fire fighters, issued writs of mandate compelling the state to reimburse the counties. Previously, the counties had filed test claims with the State Board of Control for reimbursement of similar expenses. The board determined that there was a state mandate and the counties should be reimbursed. The state did not seek judicial review of the board's decision. Thereafter, a local government claims bill, Sen. Bill No. 1261 (Stats. 1981, ch. 1090, p. 4191) was introduced to provide appropriations to pay some of the counties' claims for the state-mandated costs. After various amendments, the legislation was enacted into law without the appropriations. The counties then sought reimbursement by filing petitions for writs of mandate and complaints for declaratory relief. (Superior Court of Los Angeles County, No. C437471, Norman L. Epstein, Judge; No. C514623 and No. C515319, Jack T. Ryburn, Judge.) ***522**

In a consolidated appeal, the Court of Appeal affirmed with certain modifications. It held that, by failing to seek judicial review of the board's decision, the state had waived its right to contest the board's finding that the counties' expenditures were state mandated. Similarly, it held that the state was collaterally estopped from attacking the board's findings. It also held that the executive orders requiring the expenditures constituted the type of "program" that is subject to the constitutional imperative of subvention under Cal. Const., art. XIII B, § 6. The court also held that the trial courts had not ordered an appropriation in violation of the separation of powers doctrine, and that the trial courts correctly determined that certain legislative disclaimers, findings, and budget control language did not exonerate the state from its constitutionally and statutorily imposed obligation to reimburse the counties' state-mandated costs. Further, the court held that the trial courts properly authorized the counties to satisfy their claims by offsetting fines and forfeitures due to the state, and that the counties were entitled to interest. (Opinion by Eagleson, J., with Ashby, Acting P. J., and Hastings, J., concurring.)

HEADNOTES

Classified to California Digest of Official Reports

(1a, 1b)
Estoppel and Waiver § 23--Waiver--Trial and Appeal--Failure to Seek Judicial Review of Administrative Decision--Waiver of Right to Contest Findings.
In a proceeding by a county for a writ of mandate to compel reimbursement by the state for funds expended in complying with a state order to provide protective clothing and equipment to county fire fighters, the state waived its right to contest findings made by the State Board of Control in a previous proceeding. The board found that the costs were state-mandated and that the county was entitled to reimbursement. The state failed to seek judicial review of the board's decision, and the statute of limitations applicable to such review had passed. Moreover, the state, through its agents, had acquiesced in the board's findings by seeking an appropriation to satisfy the validated claims, which, however, was rebuffed by the Legislature.

(2)
Estoppel and Waiver § 19--Waiver--Requisites.

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Waiver occurs where there is an existing right; actual or constructive knowledge of its existence; and either an actual intention to relinquish it, or conduct so inconsistent with an intent to enforce the right as to induce a reasonable ***523** belief that it has been waived. A right that is waived is lost forever. The doctrine of waiver applies to rights and privileges afforded by statute.

[See **Cal.Jur.3d,** Estoppel and Waiver § 21; **Am.Jur.2d,** Estoppel and Waiver § 154.]

(3a, 3b, 3c, 3d)
Judgments § 81--Res Judicata--Collateral Estoppel--County's Action for Reimbursement of State-mandated Costs--Findings of State Board of Control.
In a proceeding brought by a county for a writ of mandate to compel reimbursement by the state for funds expended in complying with a state order to provide protective clothing and equipment to county fire fighters, the state was collaterally estopped from attacking the findings made, in a previous proceeding, by the State Board of Control that the costs were state-mandated and that the county was entitled to reimbursement. The issues were fully litigated before the board. Similarly, although the state was not a party to the board hearings, it was in privity with those state agencies which did participate. Moreover, a determination of conclusiveness would not work an injustice.

(4)
Judgments § 81--Res Judicata--Collateral Estoppel--Elements.
In order for the doctrine of collateral estoppel to apply, the issues in the two proceedings must be the same, the prior proceeding must have resulted in a final judgment on the merits, and the parties or their privies must be involved.

(5)
Judgments § 84--Res Judicata--Collateral Estoppel--Identity of Parties--Privity--Governmental Agents.
The agents of the same government are in privity with each other for purposes of collateral estoppel, since they represent not their own rights but the right of the government.

(6)
Judgments § 96--Res Judicata--Collateral Estoppel--Matters Concluded-- Questions of Law.
A prior judgment on a question of law decided by a court is conclusive in a subsequent action between the same parties where both causes involved arose out of the same subject matter or transaction, and where holding the judgment to be conclusive will not result in an injustice.

(7)
State of California § 11--Fiscal Matters--Reimbursement to County for State-mandated Costs--New Programs.
A "new program," for purposes of determining whether the program is subject to the constitutional imperative of subvention under Cal. Const., art. XIII B, § 6, is one which carries out the governmental function of providing services ***524** to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.

(8)
State of California § 7--Actions--Reimbursement of County Funds for State-mandated Costs--New Programs.
In an action brought by a county for a writ of mandate to compel reimbursement by the state for funds expended in complying with state executive orders to provide protective clothing and equipment to county fire fighters, the trial court properly determined that the executive orders constituted the type of "new program" that was subject to the constitutional imperative of subvention under Cal. Const., art. XIII B, § 6. Fire protection is a peculiarly governmental function. Also, the executive orders manifest a state policy to provide updated equipment to all fire fighters, impose unique requirements on local governments, and do not apply generally to all residents and entities in the state, but only to those involved in fire fighting.

(9)
Constitutional Law § 37--Doctrine of Separation of Powers--Violations of Doctrine--Judicial Order of Appropriation.
In a proceeding brought by a county for a writ of mandate to compel reimbursement by the state for funds expended in complying with a state order to provide protective clothing and equipment to county fire fighters, the trial court's judgment granting the writ was not in violation of the separation of powers doctrine. The court order did not directly compel the Legislature to appropriate funds or to pay funds not yet appropriated, but merely affected an existing appropriation.

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(10)
Constitutional Law § 40--Distribution of Governmental Powers--Between Branches of Government--Judicial Power and Its Limits--Order Directing Treasurer to Pay on Already Appropriated Funds.
Once funds have been appropriated by legislative action, a court transgresses no constitutional principle when it orders the State Controller or other similar official to make appropriate expenditures from such funds. Thus, a judgment which ordered the State Controller to draw warrants and directed the State Treasurer to pay on already-appropriated funds permissibly compelled performance of a ministerial duty.

(11)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to County for State-mandated Costs.
Appropriations affected by a court order need not specifically refer to the particular expenditure in question in order to be available. Thus, in a proceeding brought by a county for a writ of mandate to compel reimbursement ***525** by the state for funds expended in complying with a state order to provide protective clothing and equipment to county fire fighters, the funds appropriated for the Department of Industrial Relations for the prevention of industrial injuries and deaths of state workers were available for reimbursement, despite the fact that the funds were not specifically appropriated for reimbursement. The funds were generally related to the nature of costs incurred by the county.

(12a, 12b)
Fires and Fire Districts § 2--Statutes and Ordinances--County Compliance With State Executive Order to Provide Protective Equipment--Federal Mandate.
A county's purchase of protective clothing and equipment for its fire fighters was not the result of a federally mandated program so as to relieve the state of its obligation (Cal. Const., art. XIII B, § 6) to reimburse the county for the cost of the purchases. The county had made the purchase in compliance with a state executive order. The federal government does not have jurisdiction over local fire departments and there are no applicable federal standards for local government structural fire fighting clothing and equipment. Hence, the county's obedience to the state executive orders was not federally mandated.

(13)
Statutes § 20--Construction--Judicial Function--Legislative Declarations.
The interpretation of statutory language is purely a judicial function. Legislative declarations are not binding on the courts and are particularly suspect when they are the product of an attempt to avoid financial responsibility.

(14a, 14b)
Statutes § 10--Title and Subject Matter--Single Subject Rule.
In a proceeding brought by a county for a writ of mandate to compel reimbursement by the state for funds expended in complying with a state order to provide protective clothing and equipment to county fire fighters (Cal. Admin. Code, tit. 8, §§ 3401-3409), the trial court properly invalidated, as violating the single subject rule, the budget control language of Stats. 1981, ch. 1090, § 3. The express purpose of ch. 1090 was to increase funds available for reimbursing certain claims. The budget control language, on the other hand, purported to make the reimbursement provisions of Rev. & Tax. Code, § 2207, and former Rev. & Tax. Code, § 2231, unavailable to the county. Because the budget control language did not reasonably relate to the bill's stated purpose, it was invalid.

(15)
Statutes § 10--Title and Subject Matter--Single Subject Rule.
The single subject rule essentially requires that a statute have only one subject matter and that the subject be clearly expressed in a statute's ***526** title. The rule's primary purpose is to prevent "logrolling" in the enactment of laws, which occurs where a provision unrelated to a bill's main subject matter and title is included in it with the hope that the provision will remain unnoticed and unchallenged. By invalidating these unrelated clauses, the single subject rule prevents the passage of laws which might otherwise not have passed had the legislative mind been directed to them. However, in order to minimize judicial interference in the Legislature's activities, the single subject rule is to be construed liberally. A provision violates the rule only if it does not promote the main purpose of the act or does not have a necessary and natural connection with that purpose.

(16)
Statutes § 5--Operation and Effect--Retroactivity--Reimbursement to County for State-mandated Costs.
The budget control language of Stats. 1981, ch. 1090, § 3, which purported to make the reimbursement provisions of

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Rev. & Tax. Code, § 2207 and former Rev. & Tax. Code, § 2231, unavailable to a county seeking reimbursement (Cal. Const., art. XIII B, § 6) for expenditures made in purchasing state-required protective clothing and equipment for county fire fighters (Cal. Admin. Code, tit. 8, §§ 3401-3409), was invalid as a retroactive disclaimer of the county's right to reimbursement for debts incurred in prior years.

(17)
State of California § 13--Fiscal Matters--Limitations on Disposal-- Reimbursement to Counties for State-mandated Costs.
The budget control language of § 28.40 of the 1981 Budget Act and § 26.00 of the 1983 and 1984 Budget Acts did not exonerate the state from its constitutional and statutory obligations to reimburse a county for the expenses incurred in complying with a state mandate to purchase protective clothing and equipment for county fire fighters. The language was invalid in that it violated the single subject rule, attempted to amend existing statutory law, and was unrelated to the Budget Acts' main purpose of appropriating funds to support the annual budget.

(18)
Constitutional Law § 4--Legislative Power to Create Workers' Compensation System--Effect on County's Right to Reimbursement.
Cal. Const., art. XIV, § 4, which vests the Legislature with unlimited plenary power to create and enforce a complete workers' compensation system, does not affect a county's right to state reimbursement for costs incurred in complying with state-mandated safety orders.

(19)
Constitutional Law § 7--Mandatory, Directory, and Self-executing Provisions--Subvention Provisions--County Reimbursement for State-mandated Costs.
The subvention provisions of Cal. Const., art. XIII B, § 6, operate so as to require the state to reimburse counties for ***527** state-mandated costs incurred between January 1, 1975, and June 30, 1980. The amendment, which became effective on July 1, 1980, provided that the Legislature "may, but need not," provide reimbursement for mandates enacted before January 1, 1975. Nevertheless, the Legislature must reimburse mandates passed after that date, even though the state did not have to begin reimbursement until the effective date of the amendment.

(20)
Mandamus and Prohibition § 5--Mandamus--Conditions Affecting Issuance--Exhaustion of Administrative Remedies--County Reimbursement for State-mandated Costs.
A county's right of action in traditional mandamus to compel reimbursement for state-mandated costs did not accrue until the county had exhausted its administrative remedies. The exhaustion of remedies occurred when it became unmistakably clear that the legislative process was complete and that the state had breached its duty to reimburse the county.

(21)
Mandamus and Prohibition § 13--Mandamus--Conditions Affecting Issuance--Existence and Adequacy of Other Remedy.
A party seeking relief by mandamus is not required to exhaust a remedy that was not in existence at the time the action was filed.

(22a, 22b)
State of California § 7--Actions--Reimbursement to County for State-mandated Costs--County's Right to Offset Fines and Forfeitures Due to State.
In a proceeding by a county for a writ of mandate to compel reimbursement by the state for funds expended in complying with a state order to provide protective clothing and equipment for county fire fighters, the trial court did not err in authorizing the county to satisfy its claims by offsetting fines and forfeitures due to the state. The order did not impinge upon the Legislature's exclusive power to appropriate funds or control budget matters.

(23)
Equity § 5--Scope and Types of Relief--Offset.
The right to offset is a long-established principle of equity. Either party to a transaction involving mutual debits and credits can strike or balance, holding himself owing or entitled only to the net difference. Although this doctrine exists independent of statute, its governing principle has been partially codified in Code Civ. Proc., § 431.70 (limited to cross-demands for money).

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(24)
State of California § 7--Actions--Reimbursement to County for State-mandated Costs--State's Use of Statutory Offset Authority.
In a proceeding brought by a county for a writ of mandate to compel reimbursement by the state for funds expended in complying with a state ***528** order to provide protective clothing and equipment to county fire fighters, the trial court did not err in enjoining the exercise of the state's statutory offset authority (Gov. Code, § 12419.5) until the county was fully reimbursed. In view of the state's manifest reluctance to reimburse, and its otherwise unencumbered statutory right of offset, the trial court was well within its authority to prevent this method of frustrating the county's collection efforts from occurring.

(25)
State of California § 7--Actions--Reimbursement to County for State-mandated Costs--State's Right to Revert or Dissipate Undistributed Appropriations.
In a proceeding brought by a county for a writ of mandate to compel reimbursement by the state for funds expended in complying with a state order to provide protective clothing and equipment to county fire fighters, the trial court properly enjoined, and was not precluded by Gov. Code, § 16304.1, from enjoining, the state from directly or indirectly reverting the reimbursement award sum from the general fund line item accounts, and from otherwise dissipating that sum in a manner that would make it unavailable to satisfy the court's judgment in favor of the county.

(26)
Parties § 2--Indispensable Parties--County Auditor Controller--County Action to Collect Reimbursement From State.
In an action brought by a county for a writ of mandate to compel reimbursement by the state for funds expended in complying with a state order to provide protective clothing and equipment to county fire fighters, the county auditor-controller was not an indispensable party whose absence would result in a loss of the trial court's jurisdiction. The auditor-controller was an officer of the county and was subject to the direction and control of the county board of supervisors. He was indirectly represented in the proceedings because his principal, the county, was the party litigant. Additionally, he claimed no personal interest in the action and his pro forma absence in no way impeded complete relief

(27)
Parties § 2--Indispensable Parties--Fines and Forfeitures--County Action to Collect Reimbursement From State.
In an action brought by a county for a writ of mandate to compel reimbursement by the state for costs expended in complying with a state order to provide protective clothing and equipment to county fire fighters, the funds created by the collected fines and forfeitures which the county was allowed to offset to satisfy its claims against the state were not "indispensable parties" to the litigation. The action was not an in rem proceeding, and the ownership of a particular stake was not in dispute. Complete relief could be afforded without including the specified funds as a party.

(28)
Interest § 4--Interest on Judgments--County Action for Reimbursement of State-mandated Costs--State Reliance on Invalid Statute.
An ***529** invalid statute voluntarily enacted and promulgated by the state is not a defense to its obligation to pay interest on damages under Civ. Code, § 3287, subd. (a). Thus, in an action brought by a county for writ of mandate to compel reimbursement by the state for funds expended in complying with a state order to provide protective clothing and equipment to county fire fighters, the state could not avoid its obligation to pay interest on the funds by relying on invalid budget control language which purported to restrict payment on reimbursement claims.

(29)
Appellate Review § 127--Review--Scope and Extent--Interpretation of Statutes.
An appellate court is not limited by the interpretation of statutes given by the trial court.

(30)
Appellate Review § 162--Determination of Disposition of Cause-- Modification--Action Against State--Appropriation.
In an action against the state, an appellate court is empowered to add a directive that the trial court order be modified to include charging orders against funds appropriated by subsequent budget acts.

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EAGLESON, J.

These consolidated appeals arise from three separate trial court proceedings concerning the heretofore unsuccessful efforts of various local agencies to secure reimbursement of state-mandated costs.

Case No. 2d Civ. B006078 (Carmel Valley et al. case) was the first matter decided by the trial court. The memorandum of decision in that case was judicially noticed by the trial court which heard the consolidated matters in 2d Civ. B011941 (Rincon et al. case) and 2d Civ. B011942 (County of Los Angeles case). Issues common to all three cases will be discussed together ***530** under the County of Los Angeles appeal, while issues unique to the other two appeals will be considered separately.

We identify the parties to the various proceedings in footnote 1.[1] For literary convenience, however, we will refer to all appellants as the State and all respondents as the County unless otherwise indicated.

Appeal In Case No. 2 Civil B011942

(County of Los Angeles Case)

Facts and Procedural History

County employs fire fighters for whom it purchased protective clothing and equipment, as required by title 8, California Administrative Code, sections 3401-3409, enacted in 1978 (executive orders). County argues that it is entitled to State reimbursement for these expenditures because they constitute a state-mandated "new program" or "higher level of service." County relies on Revenue and Taxation Code section 2207[2] and former ***531** section 2231,[3] and California Constitution, article XIII B, section 6[4] to support its claim.

County filed a test claim with the State Board of Control (Board) for these costs incurred during fiscal years 1978-1979 and 1979-1980.[5] After hearings were held on the matter, the Board determined on November 20, 1979, that there was a state mandate and that County should be reimbursed. State did not seek judicial review of this quasi-judicial decision of the Board.

Thereafter, a local government claims bill, Senate Bill Number 1261 (Stats. 1981, ch. 1090, p. 4191) (S.B. 1261) was introduced to provide appropriations to pay some of County's claims for these state-mandated costs. This bill was amended by the Legislature to delete all appropriations for the payment of these claims. Other claims of County not provided for in S.B. 1261 were contained in another local government claims bill, Assembly Bill Number 171 (Stats. 1982, ch. 28, p. 51) (A.B. 171). The appropriations in this bill were deleted by the Governor. Both pieces of legislation, sans appropriations, were enacted into law.[6]

On September 21, 1984, following these legislative rebuffs, County sought reimbursement by filing a petition for writ of mandate (Code Civ. Proc., § 1085) and complaint for declaratory relief. After appropriate responses were filed and a hearing was held, the court executed a judgment on February 6, 1985, granting a peremptory writ of mandate. A writ of mandate was issued and other findings and orders made. It is from this judgment of ***532** February 6, 1985, that State appeals. The relevant portions of the judgment are set forth verbatim below.[7] ***533**

Contentions

State advances two basic contentions. It first asserts that the costs incurred by County are not state mandated because they are not the result of a "new program," and do not provide a "higher level of service." Either or both of these requirements are the sine qua non of reimbursement. Second, assuming a "new program" or "higher level of service" exists, portions of the trial court order aimed at assisting the reimbursement process were made in excess of the court's jurisdiction.

These contentions are without merit. We modify and affirm all three judgments.

Discussion

I

Issue of State Mandate

The threshold question is whether County's expenditures are state mandated. The right to reimbursement is triggered when the local agency incurs "costs mandated by the state"

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in either complying with a "new program" or providing "an increased level of service of an existing program."[8] State advances many theories as to why the Board erred in concluding that these expenditures are state-mandated costs. One of these arguments is whether the executive orders are a "new program" as that phrase has been recently defined by our Supreme Court in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46 [233 Cal.Rptr. 38, 729 P.2d 202]. ***534**

As we shall explain, State has waived its right to challenge the Board's findings and is also collaterally estopped from doing so. Additionally, although State is not similarly precluded from raising issues presented by the *State of California* case, we conclude that the executive orders are a "new program" within the meaning of article XIII B, section 6.

A. *Waiver*

(1a)We initially conclude that State has waived its right to contest the Board's findings. (2)Waiver occurs where there is an existing right; actual or constructive knowledge of its existence; and either an actual intention to relinquish it, or conduct so inconsistent with an intent to enforce the right as to induce a reasonable belief that it has has been waived. (*Medico-Dental etc. Co. v. Horton & Converse* (1942) 21 Cal.2d 411, 432 [132 P.2d 457]; *Loughan v. Harger-Haldeman* (1960) 184 Cal.App.2d 495, 502-503 [7 Cal.Rptr. 581].) A right that is waived is lost forever. (*L.A. City Sch. Dist. v. Landier Inv. Co*. (1960) 177 Cal.App.2d 744, 752 [2 Cal.Rptr. 662].) The doctrine of waiver applies to rights and privileges afforded by statute. (*People v. Murphy* (1962) 207 Cal.App.2d 885, 888 [24 Cal.Rptr. 803].)

(1b)State now contends to be an aggrieved party and seeks to dispute the Board's findings. However it failed to seek judicial review of that November 20, 1979 decision (Code Civ. Proc., § 1094.5) as authorized by former Revenue and Taxation Code section 2253.5. The three-year statute of limitations applicable to such review has long since passed. (*Green v. Obledo* (1981) 29 Cal.3d 126, 141, fn. 10 [172 Cal.Rptr. 206, 624 P.2d 256]; Code Civ. Proc., § 338, subd. 1.)

In addition, State, through its agents, acquiesced in the Board's findings by seeking an appropriation to satisfy the validated claims. (Former Rev. & Tax. Code, § 2255, subd. (a).) On September 30, 1981, S.B. 1261 became law. On February 12, 1982, A.B. 171 was enacted. Appropriations had been stripped from each bill. State did not then seek review of the Board determinations even though time remained before the three-year statutory period expired. This inaction is clearly inconsistent with any intent to contest the validity of the Board's decision and results in a waiver.

B. *Administrative Collateral Estoppel*

(3a)We next conclude that State is collaterally estopped from attacking the Board's findings. (4)Traditionally, collateral estoppel has been applied to bar relitigation of an issue decided in a prior court proceeding. In order for the doctrine to apply, the issues in the two proceedings must ***535** be the same, the prior proceeding must have resulted in a final judgment on the merits, and the same parties or their privies must be involved. (*People v. Sims* (1982) 32 Cal.3d 468, 484 [186 Cal.Rptr. 77, 651 P.2d 321].)

The doctrine was extended in *Sims* to apply to a final adjudication of an administrative agency of statutory creation so as to preclude relitigation of the same issues in a subsequent criminal case. Our Supreme Court held that collateral estoppel applies to such prior adjudications where three requirements are met: (1) the administrative agency acted in a judicial capacity; (2) it resolved disputed issues properly before it; and (3) all parties were provided with the opportunity to fully and fairly litigate their claims. (*Id.* at p. 479.) All of the elements of administrative collateral estoppel are present here.

(3b)The Board was created by the state Legislature to exercise quasi-judicial powers in adjudging the validity of claims against the State. (*County of Sacramento v. Loeb* (1984) 160 Cal.App.3d 446, 452 [206 Cal.Rptr. 626].) At the time of the hearings, the Board proceedings were the sole administrative remedy available to local agencies seeking reimbursement for state-mandated costs. (Former Rev. & Tax. Code, § 2250.) Board examiners had the power to administer oaths, examine witnesses, issue subpoenas, and receive evidence. (Gov. Code, § 13911.) The hearings were adversarial in nature and allowed for the presentation of evidence by the claimant, the Department of Finance, and any other affected agency. (Former Rev. & Tax. Code, § 2252.)

The record indicates that the state mandate issues in this case were fully litigated before the Board. A representative

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of the state Division of Occupational Safety and Health and the Department of Industrial Relations testified as to why County's costs were not state mandated. Representatives of the various claimant fire districts in turn offered testimony contradicting that view. The proceedings culminated in a verbatim transcript and a written statement of the basis for the Board's decision.

State complains, however, that some of the traditional elements of the collateral estoppel doctrine are missing. In particular, State argues that it was not a party to the Board hearings and was not in privity with those state agencies which did participate.

(5)"[T]he courts have held that the agents of the same government are in privity with each other, since they represent not their own rights but the right of the government. [Fn. omitted.]" (*Lerner v. Los Angeles City Board of Education* (1963) 59 Cal.2d 382, 398 [29 Cal.Rptr. 657, 380 P.2d 97].) As we stated in our introduction of the parties in this case, the party ***536** known as "State" is merely a shorthand reference to the various state agencies and officials named as defendants below. Each of these defendants is an agent of the State of California and had a mutual interest in the Board proceedings. They are thus in privity with those state agencies which did participate below (e.g., Occupational Safety and Health Division).

It is also clear that even though the question of whether a cost is state mandated is one of law (*City of Merced v. State of California* (1984) 153 Cal.App.3d 777, 781 [200 Cal.Rptr. 642]), subsequent litigation on that issue is foreclosed here. (6)A prior judgment on a question of law decided by a court is conclusive in a subsequent action between the same parties where both causes involved arose out of the same subject matter or transaction, and where holding the judgment to be conclusive will not result in an injustice. (*City of Los Angeles v. City of San Fernando* (1975) 14 Cal.3d 199, 230 [123 Cal.Rptr. 1, 537 P.2d 1250]; *Beverly Hills Nat. Bank v. Glynn* (1971) 16 Cal.App.3d 274, 286-287 [93 Cal.Rptr. 907]; Rest.2d Judgments, § 28, p. 273.) [9]

(3d)Here, the basic issues of state mandate and the amount of reimbursement arose out of County's required compliance with the executive orders. In either forum—Board or court—the claims and the evidentiary and legal determination of their validity would be considered in similar fashion.

Furthermore, a determination of conclusiveness would not work an injustice. As we have noted, the Board was statutorily created to consider the validity of the various claims now being litigated. Processing of reimbursement claims in this manner was the only administrative remedy available to County. If we were to grant State's request and review the Board's determination de novo, we would, in any event, adhere to the well-settled principle of affording "great weight" to "the contemporaneous administrative construction of the enactment by those charged with its enforcement ...." (*Coca-Cola Co. v. State Bd. of Equalization* (1945) 25 Cal.2d 918, 921 [156 P.2d 1].)

There is no policy reason to limit the application of the collateral estoppel doctrine to successive court proceedings. In *City and County of San Francisco v. Ang* (1979) 97 Cal.App.3d 673, 679 [159 Cal.Rptr. 56], the doctrine was applied to bar relitigation in a subsequent civil proceeding of a zoning issue previously decided by a city board of permit appeals. We similarly hold that the questions of law decided by the Board are binding in all of the subsequent civil proceedings presented here. State therefore is collaterally ***537** estopped to raise the issues of state mandate and amount of reimbursement in this appeal.

C. *Executive Orders—A "New Program" Under Article XIII B, Section 6*

(7)The recent decision by our Supreme Court in *County of Los Angeles v. State of California*, *supra.*, 43 Cal.3d at p. 49 presents a new issue not previously considered by the Board or the trial court. That question is whether the executive orders constitute the type of "program" that is subject to the constitutional imperative of subvention under article XIII B, section 6. [10] We conclude that they are.

In *State of California*, the Court concluded that the term "program" has two alternative meanings: "programs that carry out the governmental function of providing services to the public, *or* laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state." (*Id.* at p. 56, italics added.) Although only one of these findings is necessary to trigger reimbursement, both are present here.

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(8)First, fire protection is a peculiarly governmental function. (*County of Sacramento v. Superior Court* (1972) 8 Cal.3d 479, 481 [105 Cal.Rptr. 374, 503 P.2d 1382].) "Police and fire protection are two of the most essential and basic functions of local government." (*Verreos v. City and County of San Francisco* (1976) 63 Cal.App.3d 86, 107 [133 Cal.Rptr. 649].) This classification is not weakened by State's assertion that there are private sector fire fighters who are also subject to the executive orders. Our record on this point is incomplete because the issue was not presented below. Nonetheless, we have no difficulty in concluding as a matter of judicial notice that the overwhelming number of fire fighters discharge a classical governmental function. [11] ***538**

The second, and alternative, prong of the *State of California* definition is also satisfied. The executive orders manifest a state policy to provide updated equipment to all fire fighters. Indeed, compliance with the executive orders is compulsory. The requirements imposed on local governments are also unique because fire fighting is overwhelmingly engaged in by local agencies. Finally, the orders do not apply generally to all residents and entities in the State but only to those involved in fire fighting.

These facts are distinguishable from those presented in *State of California*. There, the court held that a state-mandated increase in workers' compensation benefits did not require state subvention because the costs incurred by local agencies were only an incidental impact of laws that applied generally to all state residents and entities (i.e., to all workers and all governmental and nongovernmental employers). Governmental employers in that setting were indistinguishable from private employers who were obligated through insurance or direct payment to pay the statutory increases.

State of California only defined the scope of the word "program" as used in California Constitution, article XIII B, section 6. We apply the same interpretation to former Revenue and Taxation Code section 2231 even though the statute was enacted much earlier. The pertinent language in the statute is identical to that found in the constitutional provision and no reason has been advanced to suggest that it should be construed differently. In any event, a different interpretation must fall before a constitutional provision of similar import. (*County of Los Angeles v. Payne* (1937) 8 Cal.2d 563, 574 [66 P.2d 658].)

II

Issue of Whether Court Orders Exceeded Its Jurisdiction

A. *The Court Has Not Ordered an Appropriation in Violation of the Separation of Powers Doctrine*

(9)State begins its general attack on the judgment by citing the longstanding principle that a court order which directly compels the Legislature to appropriate funds or to pay funds not yet appropriated violates the separation of powers doctrine. (Cal. Const., art. III, § 3; art. XVI, § 7; *Mandel v. Myers* (1981) 29 Cal.3d 531, 540 [174 Cal.Rptr. 841, 629 P.2d 935].) [12] State ***539** observes (and correctly so) that the relevant constitutional (art. XIII B, § 6) and statutory (Rev. & Tax. Code, § 2207 & former § 2231) provisions are not appropriations measures. (See *City of Sacramento v. California State Legislature* (1986) 187 Cal.App.3d 393, 398 [231 Cal.Rptr. 686].) Since State otherwise discerns no manifest legislative intent to appropriate funds to pay County's claims (*City & County of S. F. v. Kuchel* (1948) 32 Cal.2d 364, 366 [196 P.2d 545]), it concludes that the judgment unconstitutionally compels performance of a legislative act.

State further argues that the judiciary's ability to reach an existing agency-support appropriation (State Department of Industrial Relations) (fn. 7, ¶ 1, *ante*) has been approved in only two contexts. First, the court can order payment from an existing appropriation, the expenditure of which has been legislatively prohibited by an unconstitutional or unlawful restriction. (*Committee to Defend Reproductive Rights v. Cory* (1982) 132 Cal.App.3d 852, 856 [183 Cal.Rptr. 475].) Second, once an adjudication has finally determined the rights of the parties, the court may compel satisfaction of the judgment from a current unexpended, unencumbered appropriation which administrative agencies routinely have used for the purpose in question. (*Mandel v. Myers*, *supra.*, 29 Cal.3d at p. 544.) State insists that these facts are not present here.

County rejoins that a writ of traditional mandate (Code Civ. Proc., § 1085) is the correct method of compelling State to

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perform a clear and present ministerial legal obligation. (*County of Sacramento v. Loeb*, *supra.*, 160 Cal.App.3d at pp. 451-452.) The ministerial obligation here is contained in California Constitution, article XIII B, section 6 and in Revenue and Taxation Code section 2207 and former section 2231. These provisions require State to reimburse local agencies for state-mandated costs.

We reject State's general characterization of the judgment by noting that it only affects an existing appropriation. It declares (fn. 7, ¶ 1, *ante*) that only funds already "*appropriated* by the Legislature for the State Department of Industrial Relations for the Prevention of Industrial Injuries and Deaths of California Workers within the Department's General Fund" shall be spent for reimbursement of County's state-mandated costs. (Italics added.) There is absolutely no language purporting to require the Legislature to enact appropriations or perform any other act that might violate separation of powers principles. (10)By simply ordering the State Controller to draw warrants and directing the State Treasurer to pay on already appropriated funds (fn. 7, ¶ 2, *ante*), the judgment permissibly compels performance of a ministerial duty: "[O]nce funds have already been appropriated by legislative action, a court transgresses no constitutional principle when it orders the State Controller or other similar official to make appropriate expenditures ***540** from such funds. [Citations.]" (*Mandel v. Myers*, *supra.*, 29 Cal.3d at p. 540.)

As we will discuss in further detail below, the subject funds (fn. 7, ¶ 1, *ante*)*ante*) were saddled with an unconstitutional restriction (fn. 7, ¶ 7, *ante*). However, *Mandel* establishes that such a restriction does not necessarily infect the entire appropriation. There, the Legislature had improperly prohibited the use of budget funds to pay a court-ordered and administratively approved attorney's fees award. The court reasoned that as long as appropriated funds were "reasonably available for the expenditures in question, the separation of powers doctrine poses no barrier to a judicial order directing the payment of such funds." (*Id.* at p. 542.) The court went on to find that money in a general "operating expenses and equipment" fund was, by both the Budget Act's terms and prior administrative practice, reasonably available to pay the attorney's fees award.

Contrary to State's argument, *Mandel* does not require that past administrative practice support a judgment for reimbursement from an otherwise available appropriation. Although there was evidence of a prior administrative practice of paying counsel fees from funds in the "operating expenses and equipment" budget, this fact was not the main predicate of the court's holding. Rather, the decisive factor was that the budget item in question functioned as a "catchall" appropriation in which funds were still reasonably available to satisfy the State's adjudicated debt. (*Id.* at pp. 543-544.)

Another illustration of this principle is found in *Serrano v. Priest* (1982) 131 Cal.App.3d 188 [182 Cal.Rptr. 387]. Plaintiffs in that case secured a judgment against the State of California for $800,000 in attorney's fees. The judgment was not paid, and subsequent proceedings were brought against State to satisfy the judgment. The trial court directed the State Controller to pay the $800,000 award, plus interest, from funds appropriated by the Legislature for "operating expenses and equipment" of the Department of Education, Superintendent of Public Instruction and State Board of Education. (*Id.* at p. 192.) This court affirmed that order even though there was no evidence that the agencies involved had ever paid court-ordered attorney's fees from that portion of the budget. Relying on *Mandel*, we concluded that funds were reasonably available from appropriations enacted in the Budget Act in effect at the time of the court's order, as well as from similar appropriations in subsequent budget acts.

(11)State also incorrectly asserts that the appropriations affected by the court's order must specifically refer to the particular expenditure in question in order to be available. This notion was summarily dismissed in *Mandel v. Myers*, *supra.*, 29 Cal.3d at pp. 543-544. Likewise, in *Committee to Defend* ***541** *Reproductive Rights v. Cory*, *supra.*, 132 Cal.App.3d at pp. 857-858, the court decreed that payments for Medi-Cal abortions could properly be ordered from monies appropriated for other Medi-Cal services, even though this use had been specifically prohibited by the Legislature.

Applying these various principles here, we note that the judgment (fn. 7, ¶ 2, *ante*)*ante*) identified funds in account numbers 8350-001-001, 8350-001-452, 8350-001-453 and 8350-001-890 as being available for reimbursement. Within these 1984-1985 account appropriations for the Department of Industrial Relations were monies for Program 40, the Prevention of Industrial Injuries and Deaths of California Workers. The evidence clearly showed that the remaining balances on hand would cover the cost of reimbursement. Since it is conceded that the fire fighting protective clothing and equipment in this case was purchased to

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prevent deaths and injuries to fire fighters, these funds, although not specifically appropriated for the reimbursement in question, were generally related to the nature of costs incurred by County and are therefore reasonably available for reimbursement.

B. *Legislative Disclaimers, Findings and Budget Control Language Are No Defense to Reimbursement*

As a general defense against the order to reimburse, State insists that the Legislature has itself concluded that the claimed costs are not reimbursable. This determination took the combined form of disclaimers, findings and budget control language. State interprets this self-serving legislation, as well as the legislative and gubernatorial deletions, as forever sweeping away State's obligation to reimburse the state-mandated costs at issue. Consequently, any order that ignores these restrictions on payment would amount to a court-ordered appropriation. As we shall conclude, these efforts are merely transparent attempts to do indirectly that which cannot lawfully be done directly.

The seminal legislation that gave rise to the 1978 executive orders was enacted by Statutes 1973, chapter 993, and is labeled the California Occupational Safety and Health Act (Cal/OSHA). It is modeled after federal law and is designed to assure safe working conditions for all California workers. A legislative disclaimer appearing in section 106 of that bill reads: "No appropriation is made by this act ... for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on ...." The stated reason for this decision not to appropriate was that the cost of implementing the act was "minimal on a statewide basis in relation to the effect on local tax rates." (Stats. 1973, ch. 993, § 106, p. 1954.)

***542**

Again, in 1974, the Legislature stated: "Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section, nor shall there be an appropriation made by this act, because the Legislature finds that this act and any executive regulations or safety orders issued pursuant thereto merely implement federal law and regulations." (Stats. 1974, ch. 1284, § 106, p. 2787.) This statute amended section 106 of Statutes 1973, chapter 993, and was a post facto change in the stated legislative rationale for not providing reimbursement.

Presumably because of the large number of reimbursement claims being filed, the Legislature subsequently used budget control language to confirm that compliance with the executive orders should not trigger reimbursement. Some of this legislation was effective September 30, 1981, as part of a local agency and school district reimbursement bill. The control language provided that "[t]he Board of Control shall not accept, or submit to the Legislature, any more claims pursuant to ... Sections 3401 to 3409, inclusive, of Title 8 of the California Administrative Code." (Stats. 1981, ch. 1090, § 3, p. 4193.) [13]

Further control language was inserted in the 1981, 1983 and 1984 Budget Acts. (Stats. 1981, ch. 99, § 28.40, p. 606; Stats. 1983, ch. 324, § 26.00, p. 1504; Stats. 1984, ch. 258, § 26.00.) This language prohibits encumbering appropriations to reimburse costs incurred under the executive orders, except under certain limited circumstances.

(12a)State first challenges the trial court's finding that expenditures mandated by the executive orders were not the result of a federally mandated program (fn. 7, ¶ 8, *ante*), despite the legislative finding in Statutes 1974, chapter 1284, section 106. We agree with the court's decision that there was no federal mandate.

The significance of this no-federal-mandate finding is revealed by examining past changes in the statutory definition of state-mandated costs. As thoroughly discussed in *City of Sacramento v. State of California* (1984) 156 Cal.App.3d 182, 196-197 [203 Cal.Rptr. 258] disapproved on other grounds in *County of Los Angeles v. State of California*, *supra.*, 43 Cal.3d at p. 58, fn. 10, the concept of federally mandated costs has provided local agencies with a financial escape valve ever since passage of the "Property Tax Relief Act of 1972." (Stats. 1972, ch. 1406, § 1, p. 2931.) That act limited local governments' power to levy property taxes, while requiring that they be reimbursed by the State for providing compulsory increased levels of service or ***543** new programs. However, under Revenue and Taxation Code section 2271, "costs mandated by the federal government" were not subject to reimbursement and local governments were permitted to levy taxes in addition to the maximum property tax rate to pay such costs.

On November 6, 1979, the limitation on local government's ability to raise property taxes, and the duty of the State to reimburse for state-mandated costs, became a part of the

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California Constitution through the initiative process. Article XIII B, section 6, enacted at that time, directs state subvention similar in nature to that required by the preexisting provisions of Revenue and Taxation Code section 2207 and former section 2231. As a defense against this duty to reimburse local agencies, the Legislature began to insert disclaimers in bills which mandated costs on local agencies. It also amended Revenue and Taxation Code section 2206 to expand the definition of nonreimbursable "costs mandated by the federal government" to include the following: "costs resulting from enactment of a state law or regulation where failure to enact such law or regulation to meet specific federal program or service requirements would result in substantial monetary penalties or loss of funds to public or private persons in the state."

In applying this definition here, State offers nothing more than the bare legislative finding contained in Statutes 1974, chapter 1284, section 106. State contends that a federally mandated cost cannot, by definition, be a state-mandated cost. Therefore, if the cost is federally mandated, local agency reimbursement is not required. (13)**(See fn. 14.)** Although State's argument is correct in the abstract, neither the facts nor federal law supports the underlying assumption that there is a federal mandate. [14]

(12b)Both the Board and the court had in evidence a letter from a responsible official of the federal Occupational Safety and Health Administration (OSHA). The letter emphasizes the independence of state and federal OSHA standards: "OSHA does not have jurisdiction over the fire departments of any political subdivision of a state whether the state has elected to have its own state plan under the OSHA act or not .... [¶] More specifically, in 1978, the State of California promulgated standards applicable to fire departments in California. Therefore, California standards, rather than ***544** federal OSHA standards, are applicable to fire departments in that state ...." This theme is also reflected in a section of OSHA which expressly disclaims jurisdiction over local agencies such as County. (29 U.S.C. § 652(5).) Accordingly, as a matter of law, there are no federal standards for local government structural fire fighting clothing and equipment.

In short, while the Legislature's enactment of Cal/OSHA to comply with federal OSHA standards is commendable, it certainly was not compelled. Consequently, County's obedience to the 1978 executive orders is not federally mandated.

(14a)The trial court also properly invalidated the budget control language in Statutes 1981, chapter 1090, section 3 (fn. 7, ¶ 7, *ante*) because it violated the single subject rule. [15] This legislative restriction purported to make the reimbursement provisions of Revenue and Taxation Code section 2207 and former section 2231 unavailable to County.

(15)The single subject rule essentially requires that a statute have only one subject matter and that the subject be clearly expressed in the statute's title. The rule's primary purpose is to prevent "log-rolling" in the enactment of laws. This disfavored practice occurs where a provision unrelated to a bill's main subject matter and title is included in it with the hope that the provision will remain unnoticed and unchallenged. By invalidating these unrelated clauses, the single subject rule prevents the passage of laws which otherwise might not have passed had the legislative mind been directed to them. (*Planned Parenthood Affiliates v. Swoap* (1985) 173 Cal.App.3d 1187, 1196 [219 Cal.Rptr. 664].) However, in order to minimize judicial interference in the Legislature's activities, the single subject rule is to be construed liberally. A provision violates the rule only if it does not promote the main purpose of the act or does not have a necessary and natural connection with that purpose. (*Metropolitan Water Dist. v. Marquardt* (1963) 59 Cal.2d 159, 172-173 [28 Cal.Rptr. 724, 379 P.2d 28].)

(14b)The stated purpose of chapter 1090 is to increase funds available for reimbursing certain claims. It describes itself as an "act making an appropriation to pay claims of local agencies and school districts for additional reimbursement for specified state-mandated local costs, awarded by the State Board of Control, and declaring the urgency thereof, to take effect immediately." (Stats. 1981, ch. 1090, p. 4191.) There is nothing in this introduction ***545** alerting the reader to the fact that the bill prohibits the Board from entertaining claims pursuant to the Cal/OSHA executive orders. The control language does not modify or repeal these orders, nor does it abrogate the necessity for County's continuing compliance therewith. It simply places County's claims reimbursement process in limbo.

This special appropriations bill is similar in kind to appropriations in an annual budget act. Observations that have

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been made in connection with the enactment of a budget bill are appropriate here. "[T]he annual budget bill is particularly susceptible to abuse of [the single subject] rule. 'History tells us that the general appropriation bill presents a special temptation for the attachment of riders. It is a necessary and often popular bill which is certain of passage. If a rider can be attached to it, the rider can be adopted on the merits of the general appropriation bill without having to depend on its own merits for adoption.' [Citation.]" (*Planned Parenthood Affiliates v. Swoap*, *supra.*, 173 Cal.App.3d at p. 1198.) Therefore, the annual budget bill must only concern the subject of appropriations to support the annual budget and may not constitutionally be used to substantively amend or change existing statutory law. (*Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 394 [211 Cal.Rptr. 758, 696 P.2d 150].) We see no reason to apply a less stringent standard to a special appropriations bill. Because the language in chapter 1090 prohibiting the Board from processing claims does not reasonably relate to the bill's stated purpose, it is invalid.

(16)The budget control language in chapter 1090 is also invalid as a retroactive disclaimer of County's right to reimbursement for debts incurred in prior years. This legislative technique was condemned in *County of Sacramento v. Loeb*, *supra.*, 160 Cal.App.3d at p. 446. There, the Legislature had enacted a Government Code section which prohibited using appropriations for any purpose which had been denied by any formal action of the Legislature. The State attempted to use this code section to uphold a special appropriations bill which had deleted County's Board-approved claims for costs which were incurred prior to the enactment of the code section. The court held that the code section did not apply retroactively to defeat County's claims: "A retroactive statute is one which relates back to a previous transaction and gives that transaction a legal effect different from that which it had under the law when it occurred ... 'Absent some clear policy requiring the contrary, statutes modifying liability in civil cases are not to be construed retroactively.'" (*Id.* at p. 459, quoting *Robinson v. Pediatric Affiliates Medical Group, Inc.* (1979) 98 Cal.App.3d 907, 912 [159 Cal.Rptr. 791].) Similarly, the control language in chapter 1090 does not apply retroactively to County's prior, Board-approved claims. ***546**

(17)Finally, the control language in section 28.40 of the 1981 Budget Act and section 26.00 [16] of the 1983 and 1984 Budget Acts does not work to defeat County's claims. (Stats. 1981, ch. 99, § 28.40, p. 606; Stats. 1983, ch. 324, § 26.00, p. 1504; Stats. 1984, ch. 258, § 26.00.) This section is comprised of both substantive and procedural provisions. We are concerned primarily with those portions that purport to exonerate State from its constitutionally and statutorily imposed obligation to reimburse County's state-mandated costs.

The writ of mandate directed compliance with the procedural provisions of these sections and is not a point of dispute on appeal. Subsection (a) affords the Legislature one last opportunity to appropriate funds which are to be encumbered for the purpose of paying state-mandated costs, an invitation repeatedly rejected. Subsection (b) directs that the Department of Finance notify the chairpersons of the appropriate committees in each house and chairperson of the Joint Legislative Budget Committee of the need to encumber funds. Presumably, the objective of this procedure is to give the Legislature another opportunity to amend or repeal substantive legislation requiring local agencies to incur state-mandated costs. Again, the Legislature declined to act. Legislative action pursuant to subsection (b) could arguably ameliorate the plight of local agencies prospectively, but would be of no practical assistance to a local agency creditor seeking reimbursement for costs already incurred.

The first portion of each section, however, imposes a budgetary restriction on encumbering appropriated funds to reimburse for state-mandated costs arising out of compliance with the executive orders, absent a specific appropriation pursuant to subparagraph (b). For the reasons stated above, this substantive language is invalid under the single subject rule. It attempts to amend existing statutory law and is unrelated to the Budget Acts' main purpose of appropriating funds to support the annual budget. (*Association for Retarded Citizens v. Department of Developmental Services*, *supra.*, 38 Cal.3d at p. 394.) Now unfettered by invalid restrictions, the appropriations involved in this case are reasonably available for reimbursement. ***547**

C. *The Legislature's Plenary Power to Regulate Worker Safety Does Not Affect the Right to Reimbursement*

(18)State contends that article XIV, section 4 of the California Constitution vests the Legislature with unlimited plenary power to create and enforce a complete workers'

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compensation system. It postulates that the Legislature may determine that the interest in worker safety and health is furthered by requiring local agencies to bear the costs of safety devices. This non sequitur is advanced without citation of authority.

Article XIV, section 4 concerns the power to enact workers' compensation statutes and regulations. It does not focus on the issue of reimbursement for state-mandated costs, which is covered by Revenue and Taxation Code section 2207 and former section 2231, and article XIII B, section 6. Since these latter provisions do not effect a pro tanto repeal of the Legislature's plenary power over workers' compensation law (see *County of Los Angeles v. State of California*, *supra.*, 43 Cal.3d 46), they do not conflict with article XIV, section 4.

Moreover, even though the reimbursement issue has come before the Legislature repeatedly since 1972, no law has been enacted to exempt compliance with workers' compensation executive orders from the mandatory reimbursement provisions of Revenue and Taxation Code section 2207 and former section 2231. Likewise, article XIII B, section 6 does not provide an exception to the obligation to reimburse local agencies for compliance with these safety orders.

D. *Pre-1980 Claims Are Reimbursable Under Article XIII B, Section 6, Effective July 1, 1980*

(19)State further argues that to the extent County's claims for fiscal years 1978-1979 and 1979-1980 are predicated on the subvention provisions of article XIII B, section 6, they fall within a "window period" of nonreimbursement. This assertion emanates from section 6, subdivision (c), which states that the Legislature "[m]ay, but need not," provide reimbursement for mandates enacted before January 1, 1975. State reasons that because the constitutional amendment did not become effective until July 1, 1980, claims for costs incurred between January 1, 1975 and June 30, 1980, need not be reimbursed.

This notion was rejected in *City of Sacramento v. State of California*, *supra.*, 156 Cal.App.3d at p. 182 on behalf of local agencies seeking reimbursement of unemployment insurance costs mandated by a 1978 statute. Basing its decision on well-settled principles of constitutional interpretation ***548** and upon a prior published opinion of the Attorney General, the court interpreted section 6, subdivision (c) as follows: "[T]he Legislature *may* reimburse mandates enacted prior to January 1, 1975, and *must* reimburse mandates passed after that date, but does not have to begin such reimbursement until the effective date of article XIII B (July 1, 1980)." (*Id.* at p. 191, italics in original.) In other words, the amendment operates on "window period" mandates even though the reimbursement process may not actually commence until later.

We agree with this reasoning and find costs incurred by County under the 1978 executive orders subject to reimbursement under the Constitution.

E. *Claims Under Revenue and Taxation Code Section 2207 and Former Section 2231 Are Not Time-barred*

(20)State collaterally asserts that to the extent County bases its claims on Revenue and Taxation Code section 2207 and former section 2231, they are barred by Code of Civil Procedure sections 335 and 338, subdivision 1. This omnibus challenge to the order directing payment has no merit.

Code of Civil Procedure section 335 is a general introductory section to the statute of limitations for all matters except recovery of real property. Code of Civil Procedure section 338, subdivision 1 requires "[a]n action upon a liability created by statute" to be commenced within three years.

A claimant does not exhaust its administrative remedies and cannot come under the court's jurisdiction until the legislative process is complete. (*County of Contra Costa v. State of California* (1986) 177 Cal.App.3d 62, 77 [222 Cal.Rptr. 750].) Here, County pursued its remedy before the Board and prevailed. Thereafter, as required by law, appropriate legislation was introduced. Both the Board hearings and the subsequent efforts to secure legislative appropriations were part of the legislative process. (Former Rev. & Tax. Code, § 2255, subd. (a).) It was not until the legislation was enacted sans appropriations on September 30, 1981 (S.B. 1261) and February 12, 1982 (A.B. 171) that it became unmistakably clear that this process had ended and State had breached its duty to reimburse. At these respective moments of breach, County's right of action in traditional mandamus accrued. County's petition was filed on September 21, 1984, within the three-year statutory period. [17] (*Lerner v. Los Angeles City Board of Education*, *supra.*, 59 Cal.2d at p. 398.) ***549**

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F. *Government Code Section 17612*'s Remedy for Unfunded Mandates Does Not Supplant the Court's Order

State continues its general attack on the order directing payment by arguing that the Legislature has "defined" the remedy available to a local agency if a mandate is unfunded. That remedy is found in Government Code section 17612, subdivision (b) and reads: "If the Legislature deletes from a local government claims bill funding for a mandate, the local agency ... *may* file in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement." (Italics added.) (See also former Rev. & Tax. Code, § 2255, subd. (c), eff. Oct. 1, 1982.)

State hints that this procedure is the only remedy available to a local agency if funding is not provided. At oral argument, State admitted that this declaration of enforceability and injunction against enforcement would be prospective only. This remedy would provide no relief to local agencies which have complied with the executive orders.

We conclude that Government Code section 17612, subdivision (b) is inapplicable here because it did not become operative until January 1, 1985. It was not in place when the Board rendered its decision on November 20, 1979; when funding was deleted from S.B. 1261 (Sept. 30, 1981) and A.B. 171 (Feb. 12, 1982); or when this litigation commenced on September 21, 1984. (21)A party is not required to exhaust a remedy that was not in existence at the time the action was filed. (*Ross v. Superior Court* (1977) 19 Cal.3d 899, 912, fn. 9 [141 Cal.Rptr. 133, 569 P.2d 727].) To abide by this post facto legislation now would condone legislative interference in a specific controversy already assigned to the judicial branch for resolution. (*Serrano v. Priest*, *supra.*, 131 Cal.App.3d at p. 201.)

Also, this remedy is purely a discretionary course of action. By using the permissive word "may," the Legislature did not intend to override article XIII B, section 6 and Revenue and Taxation Code section 2207 and former section 2231. These constitutional and statutory imprimaturs each impose upon the State an obligation to reimburse for state-mandated costs. Once that determination is finally made, the State is under a clear and present ministerial duty to reimburse. In the absence of compliance, traditional mandamus lies. (Code Civ. Proc., § 1085.) [18] ***550**

G. *The Court's Order Properly Allows County the Right of Offset*

(22a)As the first in a series of objections to portions of the judgment which assist in the reimbursement process, State argues that the court has improperly authorized County to satisfy its claims by offsetting fines and forfeitures due to State. (Fn. 7, ¶ 5, *ante.ante*.) The fines and forfeitures are those found in Penal Code sections 1463.02, 1463.03, 1463.5a and 1464; Government Code sections 13967, 26822.3 and 72056; Fish and Game Code section 13100; Health and Safety Code section 11502; and Vehicle Code sections 1660.7, 42004 and 41103.5. [19]

Broadly speaking, these statutes require County to periodically transfer all or part of the fines and forfeitures collected by it for specified law violations to the State Treasury. They are to be held there "to the credit" of various state agencies, or for payment into specific funds. State contends that since these statutes require mandatory, regular transfers and do not expressly permit diversion for other purposes, the court had no power to allow County to offset. State cites no authority for this contention.

(23)The right to offset is a long-established principle of equity. Either party to a transaction involving mutual debits and credits can strike a balance, holding himself owing or entitled only to the net difference. (*Kruger v. Wells Fargo Bank* (1974) 11 Cal.3d 352, 362 [113 Cal.Rptr. 449, 521 P.2d 441, 65 A.L.R.3d 1266].) Although this doctrine exists independent of statute, its governing principle has been partially codified (Code Civ. Proc., § 431.70) (limited to cross-demands for money).

The doctrine has been applied in favor of a local agency against the State. In *County of Sacramento v. Lackner* (1979) 97 Cal.App.3d 576[159 Cal.Rptr.1], for example, the court of appeal upheld a trial court's decision to grant a writ of mandate that ordered funds awarded the County under a favorable judgment to be offset against its current liabilities to the State under the Medi-Cal program. The court stated that such an order does not interfere with the "Legislature's control over the 'submission, approval and enforcement of

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budgets....'" (*Id.* at p. 592, quoting Cal. Const., art. IV, § 12, subd. (e).)

(22b)The order herein likewise does not impinge upon the Legislature's exclusive power to appropriate funds or control budget matters. The identified ***551** fines and forfeitures are collected by the County for statutory law violations. Some of these funds remain with the County, while others are transferred to the State. State's portions are uncertain as to amount and date of transfer. State does not come into actual possession of these funds until they are transferred. State's holding of these funds "to the credit" of a particular agency, or for payment to a specific fund, does not commence until their receipt. Until that time, they are unencumbered, unrestricted and subject to offset.

H. *State's Use of its Statutory Offset Authority Was Properly Enjoined*

(24)State further contends that the trial court exceeded its jurisdiction by enjoining the exercise of State's statutory offset authority until County is fully reimbursed. (Fn. 7, ¶ 11, *ante*.)[20] This order complemented that portion of the order discussed, *infra.*, which allowed County to temporarily offset fines and forfeitures as an aid in the reimbursement process.

State correctly observes that it has not unlawfully used its offset authority during the course of this dispute. However, State has not needed to do so because it has adopted other means of avoiding payment on County's claims. In view of State's manifest reluctance to reimburse, and its otherwise unencumbered statutory right of offset, the trial court was well within its authority to prevent this method of frustrating County's collection efforts from occurring. (See *County of Los Angeles v. State of California* (1984) 153 Cal.App.3d 568 [200 Cal.Rptr. 394].)

I. *The Injunction Against Reversion or Dissipation of Undisbursed Appropriations Is Proper*

(25)State continues that the order (fn. 7, ¶ 4, *ante*)*ante*) enjoining it from directly or indirectly reverting the reimbursement award sum from the general fund line item accounts, and from otherwise dissipating that sum in a manner that would make it unavailable to satisfy this court's judgment, violates Government Code section 16304.1.[21] This section reverts undisbursed ***552** balances in any appropriation to the fund from which the appropriation was made. No authority is cited for State's proposition. To the contrary, *County of Sacramento v. Loeb*, *supra.*, 160 Cal.App.3d at pp. 456-457 expressly confirms this type of ancillary remedy as a legitimate exercise of the court's authority to assist in collecting on an adjudicated debt, the payment of which has been delayed all too long.

That portion of the order restraining reversion is particularly innocuous because it only affects undisbursed balances in an appropriation. At the time of reversion, it is crystal clear that these remaining funds are unneeded for the primary purpose for which appropriated; otherwise, they would not exist. Moreover, that portion of the order restraining dissipation of the reimbursement award sum in a manner that would make it unavailable to satisfy a court's judgment is similarly a proper exercise of the court's authority. By not reimbursing County for the state-mandated costs, State would be contravening its constitutional and statutory obligations to subvent. To the extent it is not reimbursed, County would be compelled, contrary to law, to bear the cost of complying with a state-imposed obligation.

J. *The Auditor Controller and the Specified Funds Are Not Indispensable Parties*

(26, 27)State next contends that the Auditor Controller of Los Angeles County and the "specified" fines and forfeitures County was allowed to offset are indispensable parties. Failure to join them in the action or to serve them with process purportedly renders the trial court's order void as in excess of its jurisdiction.[22] State cites only the general statutory definition of an indispensable party (Code Civ. Proc., § 389) to support this assertion.

The Auditor Controller is an officer of the County and is subject to the ***553** direction and control of the County board of supervisors. (Gov. Code, § 24000, subds. (d), (e), 26880; L.A. County Code, § 2.10.010.) He is indirectly represented in these proceedings because his principal, the County, is the party litigant. Additionally, he claims no personal interest in the fines and forfeitures and his pro forma absence in no way impedes complete relief.

The funds created by the collected fines and forfeitures also are not indispensable parties. This is not an in rem proceeding, and the ownership of a particular stake is not in dispute. Rather, this is an action to compel a ministerial obligation imposed by law. Complete relief may be afforded without including the specified funds as a party.

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K. *County is Entitled to Interest*

(28)State insists that an award of interest to County unfairly penalizes State for not paying claims which it was prohibited by law from paying under Statutes 1981, chapter 1090, section 3. This argument is unavailing.

Civil Code section 3287, subdivision (a) allows interest to any person "entitled to recover damages certain, or capable of being made certain by calculation...." Interest begins on the day that the right to recover vests in the claimant. By its own terms, this section applies to any judgment debtor, "including the state...or any political subdivision of the state."

The judgment orders interest at the legal rate from September 30, 1981, for reimbursement funds originally contained in S.B. 1261, and from February 12, 1982, for the funds originally contained in A.B. 171. These are the respective dates that the bills were enacted without appropriations. As we concluded earlier, County's cause of action did not arise and its right to recover did not vest until this legislative process was complete. County offers no authority to suggest that any other vesting date is appropriate.

Furthermore, State cannot avoid its obligation to pay interest by relying on the invalid budget control language in Statutes 1981, chapter 1090, section 3. "An invalid statute voluntarily enacted and promulgated by the state is not a defense to its obligation to pay interest under Civil Code section 3287, subdivision (a)." (*Olson v. Cory* (1983) 35 Cal.3d 390, 404 [197 Cal.Rptr. 843, 673 P.2d 720].)

Appeal in Case No. 2 Civil B011941

(Rincon et al. Case)

The procedural history and legal issues raised in the *Rincon et al*. appeal are essentially similar to those discussed in the County of Los Angeles matter. ***554**

County, although not a party to this underlying trial court proceeding, filed a test claim with the Board. All parties agree that County represented the interests of the named respondents here.

The Board action resulted in a finding of state-mandated costs. It further found that Rincon et al. were entitled to reimbursement in the amount of $39,432. After the Legislature and the Governor, respectively, deleted the funding from the two appropriations bills, S.B. 1261 and A.B. 171, Rincon et al. filed a petition for writ of mandate and declaratory relief. This action was consolidated for hearing in the trial court with the action in B011942 (County of Los Angeles matter). The within judgment was also signed, filed and entered on February 6, 1985. The reimbursement order was directed against the 1984-1985 budget appropriations. State appeals from that judgment.

The court here included a judicial determination that the Board, or its successors, hear and approve the claims of certain other respondents for costs incurred in connection with the state-mandated program. (Fn. 7, ¶ 9, *ante*.) This special directive was necessary because the claims of these respondents (petitioners below) have not yet been determined.[23] Since we have ruled that State is barred by the doctrines of waiver and administrative collateral estoppel from raising the state mandate issue, the validity of these claims becomes a question of law susceptible to but one conclusion, and mandamus properly lies. (*County of Sacramento v. Loeb*, *supra.*, 160 Cal.App.3d at p. 453.) This portion of the order also underscores, for the Board's edification, the determination that the statutory restriction on the Board authority to proceed is invalid.[24]

Once again, our determinations and conclusions in the County of Los Angeles matter are equally applicable here.

Appeal in Case No. 2 Civil B006078

(Carmel Valley et al.)

Again, the procedural history and legal issues raised in this appeal are essentially similar to those discussed in the County of Los Angeles matter.

County filed a test claim with the Board. All parties agree that the County represented the interests of the named respondents here. ***555**

On December 17, 1980, the Board found that a state mandate existed and that specific amounts of reimbursement were due several respondents totalling $159,663.80. Following the refusal of the Legislature to appropriate funds for reimbursement, Carmel Valley et al. filed a petition for writ of mandate and declaratory relief on January 3, 1983. Judgment

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was entered on May 23, 1984. The reimbursement order was directed against 1983-1984 budget appropriations.

The judgment differs from the other two because it does not decree a specific reimbursement amount. The trial court determined that even though the Board had approved the claims, the State was not precluded from contesting that determination. The court's reasons were that the State, in its answer, had denied that the money claimed was actually spent, and that Board approval had not been implemented by subsequent legislation. The court concluded that the reimbursement process, of which the Board action was an intrinsic part, was "aborted."

We disagree with this portion of the court's analysis. The moment S.B. 1261 and A.B. 171 were enacted into law without appropriations, Carmel Valley et al. had exhausted their administrative remedies and were entitled to seek a writ of mandate. At the time of trial, State was barred by the doctrines of waiver and administrative collateral estoppel from contesting the state mandate issue or the amount of reimbursement. The trial court therefore should have rendered a judgment for the amount of reimbursement. Having failed to do so, this fact-finding responsibility falls upon this court. Although we ordinarily are not equipped to handle this function, the writ of mandate in this case identifies the amount of the approved claims as $159,663.80. We accordingly will amend the judgment to reflect that amount.

The trial court also predicated its judgment for Carmel Valley et al. solely on the basis of Revenue and Taxation Code section 2207 and former section 2231. In doing so, the court did not have the benefit of the decision in *City of Sacramento v. State of California*, *supra.*, 156 Cal.App.3d at p. 182.[25] That case held that mandates passed after January 1, 1975, must be reimbursed pursuant to article XIII B, section 6 of the California Constitution, but that reimbursement need not commence until July 1, 1980. In light of this rule, we conclude that the trial court's decision ordering reimbursement is also supported by article XIII B, section 6. ***556**

State raises another point specific to this particular appeal. In its answer to the writ petition, State admitted that the local agency expenditures were state mandated. Consequently, the issue was not contested at the trial court level. However, State vigorously contends here that it is not bound by its trial court admissions because the state mandate issue is purely a question of law.

(29)State is correct in contending that an appellate court is not limited by the interpretation of statutes given by the trial court. (*City of Merced v. State of California*, *supra.*, 153 Cal.App.3d at p. 781.) However, State's victory on this point is Pyrrhic. Regardless of how the issue is characterized, State is precluded from contesting the Board findings on appeal because of the independent application of the doctrines of waiver and administrative collateral estoppel. These doctrines would also have applied at the trial court level if State's answer had raised the issue of state mandate in the first instance.

We also reject State's argument, advanced for the first time on appeal, that the executive orders of 1978 initially implement legislation enacted prior to January 1, 1975, and that state reimbursement is therefore discretionary. (Cal. Const., art. XIII B, § 6, subd. (c).) Again, State is barred by the doctrines of waiver and administrative collateral estoppel from arguing that costs incurred under the executive orders are not subject to reimbursement.

State continues that the *Carmel Valley* judgment against the Department of Industrial Relations is erroneous. Since the department was never made a party in the suit, nor served with process, the resulting judgment reflects a denial of due process and is in excess of the court's jurisdiction. (See Code Civ. Proc., § 389; fn. 22, *ante*.)

This assertion is but a variant of the same argument advanced in the County of Los Angeles case, *supra.*, which we rejected as meritless. The department is part of the State of California. (Lab. Code, § 50.) State extensively argued the department's position and even offered into evidence a declaration from the chief of fiscal accounting of the department. As stated earlier, agents of the same government are in privity with each other. (*People v. Sims*, *supra.*, 32 Cal.3d at p. 487.)

Ross v. Superior Court, *supra.*, 19 Cal.3d at p. 899 demonstrates how, through the notion of privity, a government agent can be held in contempt for knowingly violating a court order issued against another agent of the same government. There, a court in an earlier proceeding had decided that defendant Department of Health and Welfare must pay unlawfully withheld welfare benefits to qualified recipients. The County Board of Supervisors, ***557** who

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were not parties to this action, knew about the court's order but refused to comply. The Supreme Court affirmed a trial court decision holding the Board in contempt for violating the order directing payment. The court reasoned that, as an agent of the Department of Health and Welfare, the Board did not collectively or individually need to be named as a party in order to be bound by a court order of which they had actual knowledge.

The determinations and conclusions in the County of Los Angeles case are likewise applicable here.

Modification of Judgments in All Three Appeals

The trial court judgments ordering reimbursement from specific account appropriations were entered many months ago. We will affirm these judgments and thereby validate the trial courts' determination that funds already appropriated for the State Department of Industrial Relations were reasonably available for payment at the time of the courts' orders.

Due to the passage of time, we requested State at oral argument to confirm whether the appropriations designated in the respective judgments are still available for encumbrance. State's counsel responded by rearguing that the weight of the evidence did not support the trial courts' findings that specific funds were reasonably available for reimbursement. Counsel further hinted that the funds may not actually be available.

We hope that counsel for the State is mistaken. But in order to emphasize our strong and unequivocal determination that the local agency petitioners be promptly reimbursed, we will take judicial notice of the enactment of the 1985-1986 Budget Act (Stats. 1985, ch. 111) and the 1986-1987 Budget Act (Stats. 1986, ch. 186). (*Serrano v. Priest*, *supra.*, 131 Cal.App.3d at p. 197.) Both acts appropriate money for the State Department of Industrial Relations and fund the identical account numbers referred to in the trial courts' judgments. They are:

Account Numbers	1985-1986 Budget Act	1986-1987 Budget Act
8350-001-001	$94,673,000	$106,153,000
8350-001-452	2,295,000	2,514,000
8350-001-453	2,859,000	2,935,000
8350-001-890	16,753,000	17,864,000

(30)An appellate court is empowered to add a directive that the trial court order be modified to include charging orders against funds appropriated by subsequent budget acts. (*Serrano v. Priest*, *supra.*, 131 Cal.App.3d at pp. 198, 201.) We do so here with respect to all three judgments. ***558**

Disposition

2d Civ. B011942 (*County of Los Angeles Case*)

The judgment is modified as follows:

(1) The following sentence is added to paragraph 2: “If the hereinabove described funds are not available for reimbursement, the warrants shall be drawn against funds in the same account numbers enacted in the 1985-86 and 1986-87 Budget Acts.”

(2) The words “Fish and Game Code Section 13100” are deleted from paragraph 5.

(3) The peremptory writ of mandate is modified to command the Controller to draw warrants, if necessary, against the same account numbers identified in the judgment as appropriated by the 1985-1986 and 1986-1987 Budget Acts.

As modified, the judgment is affirmed. Respondents to recover costs on appeal.

***2d Civ. B011941* (*Rincon et al. Case*)**

The judgment is modified as follows:

(1) The following sentence is added to paragraph 2: “If the hereinabove described funds are not available for reimbursement, the warrants shall be drawn against funds in the same account numbers enacted in the 1985-86 and 1986-87 Budget Acts.”

(2) The peremptory writ of mandate is modified to command the Controller to draw warrants, if necessary, against the same

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account numbers identified in the judgment as appropriated by the 1985-1986 and 1986-1987 Budget Acts.

As modified, the judgment is affirmed. Respondents to recover costs on appeal.

***2d Civ. B006078* (*Carmel Valley et al. Case*)**

The judgment is modified as follows: ***559**

(1) The following sentences are added to paragraph 2: "The reimbursement amounts total $159,663.80. If the hereinabove described funds are not available for reimbursement, the warrants shall be drawn against funds in the same account numbers enacted in the 1985-86 and 1986-87 Budget Acts."

(2) The peremptory writ of mandate is modified to command the Controller to draw warrants, if necessary, against the same account numbers identified in the judgment as appropriated by the 1985-1986 and 1986-1987 Budget Acts.

As modified, the judgment is affirmed. Respondents to recover costs on appeal.

Ashby, Acting P. J., and Hastings, J., concurred.

A petition for a rehearing was denied March 17, 1987, and appellant's petition for review by the Supreme Court was denied May 14, 1987. Eagleson, J., did not participate therein. ***560**

Footnotes

1 *2d Civ. B006078*: The petitioners below and respondents on appeal are Carmel Valley Fire Protection District, City of Anaheim, Aptos Fire Protection District, Citrus Heights Fire Protection District, Fair Haven Fire Protection District, City of Glendale, City of San Luis Obispo, County of Santa Barbara and Ventura County Fire Protection District.

The respondents below and appellants here are State of California, Kenneth Cory and Jesse Marvin Unruh.

2d Civ. B011941: The petitioners below and respondents on appeal are Rincon Del Diablo Municipal Water District, Twenty-Nine Palms Water District, Alpine Fire Protection District, Bonita-Sunnyside Fire Protection District, Encinitas Fire Protection District, Fallbrook Fire Protection District, City of San Luis Obispo, Montgomery Fire Protection District, San Marcos Fire Protection District, Spring Valley Fire Protection District, Vista Fire Protection District and City of Coronado.

Respondents below and appellants here are State of California, State Department of Finance, State Department of Industrial Relations, State Board of Control, Kenneth Cory, State Controller, Jesse Marvin Unruh, State Treasurer, and Mark H. Bloodgood, Auditor-Controller, County of Los Angeles.

2d Civ. B011942: The County of Los Angeles is the petitioner below and respondent on appeal. Respondents below and appellants here are State of California, State Department of Finance, State Department of Industrial Relations, Kenneth Cory, and Jesse Marvin Unruh.

All respondents on appeal are conceded to be "local agencies," as defined in Revenue and Taxation Code section 2211.

2 The pertinent parts of Revenue and Taxation Code section 2207 provide: " 'Costs mandated by the state' means any incureased costs which a local agency is required to incur as a result of the following" [¶] (a) Any law enacted after January 1, 1973, which mandates a new program or a n incureased level of service of an existing program: [¶] (b) Any executive order issued after January 1, 1973, which mandates a new program; [¶] (c) Any executive order isued after January 1, 1973, which (i) implements or interprets a state statute

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and (ii), by such implementation or interpretation, increases program levels above the levels required prior to January 1, 1973 ...“

3 The pertinent parts of former Revenue and Taxation Code section 2231, subdivision (a) provide: ”The state shall reimburse each local agency for all 'costs mandated by the state', as defined in Section 2207.“ This section was repealed (Stats. 1986, ch. 879, § 23), and replaced by Government Code section 17561. We will refer to the earlier code section.

4 The pertinent parts of section 6, article XIII B of the California Constitution, enacted by initiative measure, provide: ”Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates: [¶] ... [¶¶] (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.“ This constitutional amendment became effective July 1, 1980.

5 County filed its test claim pursuant to former Revenue and Taxation Code section 2218, which was repealed by Statutes 1986, chapter 879, section 19.

Additionally, the Board is no longer in existence. The Commission on State Mandates has succeeded to these functions. (Gov. Code, §§ 17525, 17630.)

6 The final legislation did include appropriations for other local agencies on other types of approved claims.

7 ”1. The Court adjudges and declares that funds appropriated by the Legislature for the State Department of Industrial Relations for the Prevention of Industrial Injuries and Deaths of California Workers within the Department's General Fund may properly be and should be spent for the reimbursement of state-mandated costs incurred by Petitioner as established in this action.

“2. A peremptory writ of mandamus shall issue under the seal of this Court, commanding Respondent State of California, through its Department of Finance, to give notification in writing as specified in Section 26.00 of the Budget Act of 1984 (Chapter 258, Statutes of 1984) of the necessity to encumber funds in conformity [with]this order and, unless the Legislature approves a bill that would enact a general law, within 30 days of said notification that would obviate the necessity of such payment, Respondent Kenn[e]th Cory, the State Controller of the State of California, or his successors in office, if any, shall draw warrants on funds appropriated for the State Department of Industrial Relations for the 1984-85 Budget Year in account numbers 8350-001-001, 8350-001-452, 8350-001-453, and 8350-001-890 as implemented in Chapter 258 Statutes of 1984, sufficient to satisfy the claims of Petitioner, plus interest, as set forth in the motion and accompanying writ of mandamus. Said writ shall also issue against Jessie [*sic*] Marvin Unruh, the State Treasurer of the State of California, and his successors in office, if any, commanding him to make payment on the warrants drawn by Respondent Kenneth Cory.

“3. Pending the final disposition of this proceeding, or the payment of the applicable reimbursement claims and interest as set forth herein, Respondents, and each of of [*sic*] them, their successors in office, agents, servants and employees and all persons acting in concert [or] participation with them, are hereby enjoined and restrained from directly or indirectly expending from the 1984-85 General Fund Budget of the State Department of Industrial Relations as is more particularly described in paragraph number 2 hereinabove, any sums greater than that which would leave in said budget at the conclusion of the 1984-85 fiscal year an amount less than the reimbursement amounts on the aggregate amount of $307,685 in this case, together

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with interest at the legal rate through payment of said reimbursement amounts. Said amounts are hereinafter referred to collectively as the 'reimbursement award sum'.

"4. Pending the final disposition of this proceeding or the payment of the reimbursement award sum at issue herein, Respondents, and each of them, their successors in office, agents, servants and employees, and all persons acting in concert or participation with them, are hereby enjoined and restrained from directly or indirectly reverting the reimbursement award sum from the General Fund line-item accounts of the Department of Industrial Relations to the General Funds of the State of California and from otherwise dissipating the reimbursement award sum in a manner that would make it unavailable to satisfy this Court's judgment.

"5. In addition to the foregoing relief, Petitioner is entitled to offset amounts sufficient to satisfy the claims of Petitioner, plus interest, against funds held by Petitioner as fines and forfeitures which are collected by the local Courts, transferred to the Petitioner and remitted to Respondents on a monthly basis. Those fines and forfeitures are levied, and their distribution provided, as set forth in Penal Code Sections 1463.02, 1463.03, 14[6] 3.5[a], and 1464; Government Code Sections 13967, 26822.3 and 72056, Fish and Game Code Section 13100; Health and Safety Code Section 11502 and Vehicle Code Sections 1660.7, 42004, and 41103.5.

"6. The Court adjudges and declares that the State has a continuing obligation to reimburse Petitioner for costs incurred in fiscal years subsequent to its claim for expenditures in the 1978-79 and 1979-80 fiscal years as set forth in the petition and the accompanying motion for the issuance of a writ of mandate.

"7. The Court adjudges and declares that deletion of funding and prohibition against accepting claims for expenditures incurred as a result of the state-mandated program of Title 8, California Administrative Code Sections 3401 through 3409 as contained in Section 3 of Chapter 109[0], Statutes of 1981 were invalid and unconstitutional.

"8. The Court adjudges and declares that the expenditures incurred by Petitioner as a result of the state-mandated program of Title 8, California Administrative Code Sections 3401 through 3409 were not the result of any federally mandated program.

"9. A peremptory writ of mandamus shall issue under the seal of this Court commanding Respondent State Board of Control, or its successor-in-interest, to hear and approve the claims of Petitioner for costs incurred in complying with the state-mandated program of Title 8, California Administrative Code Sections 3401 through 3409 subsequent to fiscal year 1979-80.

. . . . ."

"11. The Court adju[d]ges and declares that the State Respondents are prohibited from offsetting, or attempting to implement an offset against moneys due and owing Petitioner until Petitioner is completely reimbursed for all of its costs in complying with the state mandate of Title 8, California Administrative Code Sections 3401 through 3409."

8 This language is taken from Revenue and Taxation Code section 2207 and former section 2231. Article XIII B, section 6 refers to "higher" level of service rather than "increased" level of service. We perceive the intent of the two provisions to be identical. The parties also use these words interchangeably.

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9 As it happened, the entire Board determination involved a question of law since the dollar amount of the claimed reimbursement was not disputed.

10 State is not precluded from raising this new issue on appeal. Questions of law decided by an administrative agency invoke the collateral estoppel doctrine only when a determination of conclusiveness will not work an injustice. Likewise, the doctrine of waiver is inapplicable if a litigant has no actual or constructive knowledge of his rights. Since the *State of California* rule had not been announced at the time of the Board or trial court proceedings herein, the doctrines of waiver and collateral estoppel are inapplicable to State on this particular issue. Both parties have been afforded additional time to brief the matter.

11 County suggests that to the extent private fire brigades exist, they are customarily part-time individuals who perform the function on a part-time basis. As such, they are excluded by the balance of the definitional term in title 8, California Administrative Code section 3402, which provides, in pertinent part: "... The term [fire fighter] does not apply to emergency pick-up labor or other persons who may perform first-aid fire extinguishment as collateral to their regular duties."

12 Article III, section 3 of the California Constitution provides: "The powers of state government are legislative, executive, and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution."

Article XVI, section 7 of the California Constitution provides: "Money may be drawn from the Treasury only through an appropriation made by law and upon a Controller's duly drawn warrant."

13 When Governor Brown deleted the appropriations from A.B. 171, he stated that he was relying on the pronouncements in Statutes 1974, chapter 1284 and Statutes 1981, chapter 1090.

14 We address this subject only because the trial court found that the costs were not federally mandated. Actually, State cannot raise this issue on appeal because of the waiver and administrative collateral estoppel doctrines. We note, however, where there is a quasi-judicial finding that a cost is state mandated, there is an implied finding that the cost is not federally mandated; the two concepts are mutually exclusive.

Moreover, our task is aided by the fact that interpretation of statutory language is purely a judicial function. Legislative declarations are not binding on the courts and are particularly suspect when they are the product of an attempt to avoid financial responsibility. (*City of Sacramento v. State of California*, *supra.*, 156 Cal.App.3d at pp. 196-197.)

15 Article IV, section 9 of the California Constitution reads: "A statute shall embrace but one subject, which shall be expressed in its title. If a statute embraces a subject not expressed in its title, only the part not expressed is void. A statute may not be amended by reference to its title. A section of a statute may not be amended unless the section is re-enacted as amended."

16 Each of these sections contains the following language: "No funds appropriated by this act shall be encumbered for the purpose of funding any increased state costs or local governmental costs, or both such costs, arising from the issuance of an executive order as defined in section 2209 of the Revenue and Taxation Code or subject to the provisions of section 2231 of the Revenue and Taxation Code, unless (a) such funds to be encumbered are appropriated for such purpose, or (b) notification in writing of the necessity of the encumbrance of funds available to the state agency, department, board, bureau, office, or commission is given by the Department of Finance, at least 30 days before such encumbrance is made, to the chairperson of the committee in each house which considers appropriations and the Chairperson of the

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Joint Legislative Budget Committee, or such lesser time as the chairperson of the committee, or his or her designee, determines."

17 Technically, Statute has waived the statute of limitations defense because it was not raised in its answer. (*Ventura County Employees' Retirement Association v. Pope* (1978) 87 Cal.App.3d 938, 956 [151 Cal.Rptr. 695].)

18 We leave undecided the question of whether this type of legislation could ever be held to override California Constitution, article XIII B, section 6. The Constitution of the State is supreme. Any statute in conflict therewith is invalid. (*County of Los Angeles v. Payne*, *supra.*, 8 Cal.2d at p. 574.)

Similarly, former Revenue and Taxation Code section 2255, subdivision (c) cannot abrogate the constitutional directive to reimburse.

19 At oral argument, County conceded that the order authorizing offset of Fish and Game Code section 13100 fines and forfeitures is inappropriate. These collected funds must be spent exclusively for protection, conservation, propagation or preservation of fish, game, mollusks, or crustaceans, and for administration and enforcement of laws relating thereto, or for any such purpose. (Cal. Const., art. XVI, § 9; 20 Ops. Cal. Atty. Gen. 110 (1952).)

20 Government Code section 12419.5 provides: "The Controller may, in his discretion, offset any amount due a state agency from a person or entity, against any amount owing such person or entity by any state agency. The Controller may deduct from the claim, and draw his warrants for the amounts offset in favor of the respective state agencies to which due, and, for any balance, in favor of the claimant.... The amount due any person or entity from the state or any agency thereof is the net amount otherwise owing such person or entity after any offset as in this section provided." (See also *Tyler v. State of California* (1982) 134 Cal.App.3d 973, 975-976 [185 Cal.Rptr. 49].)

21 Government Code section 16304.1 provides: "Disbursements in liquidation of encumbrances may be made before or during the two years following the last day an appropriation is available for encumbrance.... Whenever, during [such two-year period], the Director of Finance determines that the project for which the appropriation was made is completed and that a portion of the appropriation is not necessary for disbursements, such portion shall, upon order of the Director of Finance, revert to and become a part of the fund from which the appropriation was made. Upon the expiration of two years...following the last day of the period of its availability, the undisbursed balance in any appropriation shall revert to and become a part of the fund from which the appropriation was made...."

22 Code of Civil Procedure section 389, subdivision (a) provides: "A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if (1) in his absence complete relief cannot be accorded among those already parties or (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest. If he has not been so joined, the court shall order that he be made a party."

23 Responding to the budget control language directing it to refuse to process these claims, the Board declined to hear these matters.

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24 Because certain claims have not yet been processed, we assume that the issue of the amount of reimbursement may still be at large. Our record is not clear on this point.

25 The decision in *City of Sacramento*, *supra.*, was filed just one day before the trial court signed the written order in this case. The Revenue and Taxation Code sections on which the court relied were operational before the costs claimed in this case were incurred.

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43 Cal.3d 46, 729 P.2d 202, 233 Cal.Rptr. 38
Supreme Court of California

COUNTY OF LOS ANGELES
et al., Plaintiffs and Appellants,
v.
THE STATE OF CALIFORNIA et
al., Defendants and Respondents.
CITY OF SONOMA et al., Plaintiffs and Appellants,
v.
THE STATE OF CALIFORNIA
et al., Defendants and Respondents

L.A. No. 32106.
Jan 2, 1987.

SUMMARY

The trial court denied a petition for writ of mandate to compel the State Board of Control to approve reimbursement claims of local government entities, for costs incurred in providing an increased level of service mandated by the state for workers' compensation benefits. The trial court found that Cal. Const., art. XIII B, § 6, requiring reimbursement when the state mandates a new program or a higher level of service, is subject to an implied exception for the rate of inflation. In another action, the trial court, on similar claims, granted partial relief and ordered the board to set aside its ruling denying the claims. The trial court, in this second action, found that reimbursement was not required if the increases in benefits were only cost of living increases not imposing a higher or increased level of service on an existing program. Thus, the second matter was remanded due to insubstantial evidence and legally inadequate findings. (Superior Court of Los Angeles County, Nos. C 424301 and C 464829, Leon Savitch and John L. Cole, Judges.) The Court of Appeal, Second Dist., Div. Five, Nos. B001713 and B003561 affirmed the first action; the second action was reversed and remanded to the State Board of Control for further and adequate findings.

The Supreme Court reversed the judgment of the Court of Appeal, holding that the petitions lacked merit and should have been denied by the trial court without the necessity of further proceedings before the board. The court held that when the voters adopted art. XIII B, § 6, their intent was not to require the state to provide subvention whenever a newly enacted statute results incidentally in some cost to local agencies, but only to require subvention for the expense or increased cost of programs administered locally, and for expenses occasioned by laws that impose unique requirements on local governments and do not apply generally to all state residents or entities. Thus, the court held, reimbursement was not required by art. XIII B, § 6. Finally, the court held that no pro tanto repeal of Cal. Const., art. XIV, § 4 (workers' compensation), was intended or made necessary by ***47** the adoption of art. XIII B, § 6. (Opinion by Grodin, J., with Bird, C. J., Broussard, Reynoso, Lucas and Panelli, JJ., concurring. Separate concurring opinion by Mosk, J.)

HEADNOTES

Classified to California Digest of Official Reports

(1)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to Local Governments--Costs to Be Reimbursed.
When the voters adopted Cal. Const., art. XIII B, § 6 (reimbursement to local agencies for new programs and services), their intent was not to require the state to provide subvention whenever a newly enacted statute resulted incidentally in some cost to local agencies. Rather, the drafters and the electorate had in mind subvention for the expense or increased cost of programs administered locally, and for expenses occasioned by laws that impose unique requirements on local governments and do not apply generally to all state residents or entities.

(2)
Statutes § 18--Repeal--Effect--"Increased Level of Service."
The statutory definition of the phrase "increased level of service," within the meaning of Rev. & Tax. Code, § 2207, subd. (a) (programs resulting in increased costs which local agency is required to incur), did not continue after it was specifically repealed, even though the Legislature, in enacting the statute, explained that the definition was declaratory of existing law. It is ordinarily presumed that the Legislature,

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by deleting an express provision of a statute, intended a substantial change in the law.

[See **Am.Jur.2d,** Statutes, § 384.]

(3)
Constitutional Law § 13--Construction of Constitutions--Language of Enactment.
In construing the meaning of an initiative constitutional provision, a reviewing court's inquiry is focused on what the voters meant when they adopted the provision. To determine this intent, courts must look to the language of the provision itself.

(4)
Constitutional Law § 13--Construction of Constitutions--Language of Enactment--"Program."
The word "program," as used in Cal. Const., art. XIII B, § 6 (reimbursement to local agencies for new programs and services), refers to programs that carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on ***48** local governments and do not apply generally to all residents and entities in the state.

(5)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to Local Governments--Increases in Workers' Compensation Benefits.
The provisions of Cal. Const., art. XIII B, § 6 (reimbursement to local agencies for new programs and services), have no application to, and the state need not provide subvention for, the costs incurred by local agencies in providing to their employees the same increase in workers' compensation benefits that employees of private individuals or organizations receive. Although the state requires that employers provide workers' compensation for nonexempt categories of employees, increases in the cost of providing this employee benefit are not subject to reimbursement as state- mandated programs or higher levels of service within the meaning of art. XIII B, § 6. Accordingly, the State Board of Control properly denied reimbursement to local governmental entities for costs incurred in providing state-mandated increases in workers' compensation benefits. (Disapproving *City of Sacramento v. State of California* (1984) 156 Cal.App.3d 182 [203 Cal.Rptr. 258], to the extent it reached a different conclusion with respect to expenses incurred by local entities as the result of a newly enacted law requiring that all public employees be covered by unemployment insurance.)

[See **Cal.Jur.3d,** State of California, § 78.]

(6)
Constitutional Law § 14--Construction of Constitutions--Reconcilable and Irreconcilable Conflicts.
Controlling principles of construction require that in the absence of irreconcilable conflict among their various parts, constitutional provisions must be harmonized and construed to give effect to all parts.

(7)
Constitutional Law § 14--Construction of Constitutions--Reconcilable and Irreconcilable Conflicts--Pro Tanto Repeal of Constitutional Provision.
The goals of Cal. Const., art. XIII B, § 6 (reimbursement to local agencies for new programs and services), were to protect residents from excessive taxation and government spending, and to preclude a shift of financial responsibility for governmental functions from the state to local agencies. Since these goals can be achieved in the absence of state subvention for the expense of increases in workers' compensation benefit levels for local agency employees, the adoption of art. XIII B, § 6, did not effect a pro tanto repeal of Cal. Const., art. XIV, § 4, which gives the Legislature plenary power over workers' compensation. ***49**

COUNSEL
De Witt W. Clinton, County Counsel, Paula A. Snyder, Senior Deputy County Counsel, Edward G. Pozorski, Deputy County Counsel, John W. Witt, City Attorney, Kenneth K. Y. So, Deputy City Attorney, William D. Ross, Diana P. Scott, Ross & Scott and Rogers & Wells for Plaintiffs and Appellants.
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John K. Van de Kamp, Attorney General, N. Eugene Hill, Assistant Attorney General, Henry G. Ullerich and Martin H. Milas, Deputy Attorneys General, for Defendants and Respondents.
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Rothenberg & Tunney and Clare Bronowski as Amici Curiae on behalf of Defendants and Respondents.

GRODIN, J.

We are asked in this proceeding to determine whether legislation enacted in 1980 and 1982 increasing certain workers' compensation benefit payments is subject to the command of article XIII B of the California Constitution that local government costs mandated by the state must be funded by the state. The County of Los Angeles and the City of Sonoma sought review by this court of a decision of the Court of Appeal which held that state-mandated increases in workers' compensation benefits that do not exceed the rise in the cost of living are not costs which must be borne by the state under article XIII B, an initiative constitutional provision, and legislative implementing statutes.

Although we agree that the State Board of Control properly denied plaintiffs' claims, our conclusion rests on grounds other than those relied upon by the Court of Appeal, and requires that its judgment be reversed. (1) We conclude that when the voters adopted article XIII B, section 6, their intent was not to require the state to provide subvention whenever a newly enacted statute resulted incidentally in some cost to local agencies. Rather, the drafters and the electorate had in mind subvention for the expense or ***50** increased cost of programs administered locally and for expenses occasioned by laws that impose unique requirements on local governments and do not apply generally to all state residents or entities. In using the word "programs" they had in mind the commonly understood meaning of the term, programs which carry out the governmental function of providing services to the public. Reimbursement for the cost or increased cost of providing workers' compensation benefits to employees of local agencies is not, therefore, required by section 6.

We recognize also the potential conflict between article XIII B and the grant of plenary power over workers' compensation bestowed upon the Legislature by section 4 of article XIV, but in accord with established rules of construction our construction of article XIII B, section 6, harmonizes these constitutional provisions.

I

On November 6, 1979, the voters approved an initiative measure which added article XIII B to the California Constitution. That article imposed spending limits on the state and local governments and provided in section 6 (hereafter section 6): "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates: [¶] (a) Legislative mandates requested by the local agency affected; [¶] (b) Legislation defining a new crime or changing an existing definition of a crime; or [¶] (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975." No definition of the phrase "higher level of service" was included in article XIII B, and the ballot materials did not explain its meaning. [1]

The genesis of this action was the enactment in 1980 and 1982, after article XIII B had been adopted, of laws increasing the amounts which ***51** employers, including local governments, must pay in workers' compensation benefits to injured employees and families of deceased employees.

The first of these statutes, Assembly, Bill No. 2750 (Stats. 1980, ch. 1042, p. 3328), amended several sections of the Labor Code related to workers' compensation. The amendments of Labor Code sections 4453, 4453.1 and 4460 increased the maximum weekly wage upon which temporary and permanent disability indemnity is computed from $231 per week to $262.50 per week. The amendment of section 4702 of the Labor Code increased certain death benefits from $55,000 to $75,000. No appropriation for increased state-mandated costs was made in this legislation. [2]

Test claims seeking reimbursement for the increased expenditure mandated by these changes were filed with the State Board of Control in 1981 by the County of San Bernardino and the City of Los Angeles. The board rejected the claims, after hearing, stating that the increased maximum workers' compensation benefit levels did not change the terms or conditions under which benefits were to be awarded, and therefore did not, by increasing the dollar amount of the benefits, create an increased level of service. The first of these consolidated actions was then filed by the County of Los Angeles, the County of San Bernardino, and the City of San Diego, seeking a writ of mandate to compel the board to approve the reimbursement claims for costs incurred in

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providing an increased level of service mandated by the state pursuant to Revenue and Taxation Code section 2207. [3] They also sought a declaration that because the State of California and the board were obliged by article XIII B to reimburse them, they were not obligated to pay the increased benefits until the state provided reimbursement.

The superior court denied relief in that action. The court recognized that although increased benefits reflecting cost of living raises were not expressly ***52** excepted from the requirement of state reimbursement in section 6 the intent of article XIII B to limit governmental expenditures to the prior year's level allowed local governments to make adjustment for changes in the cost of living, by increasing their own appropriations. Because the Assembly Bill No. 2750 changes did not exceed cost of living changes, they did not, in the view of the trial court, create an "increased level of service " in the existing workers' compensation program.

The second piece of legislation (Assem. Bill No. 684), enacted in 1982 (Stats. 1982, ch. 922. p. 3363), again changed the benefit levels for workers' compensation by increasing the maximum weekly wage upon which benefits were to be computed, and made other changes among which were: The bill increased minimum weekly earnings for temporary and permanent total disability from $73.50 to $168, and the maximum from $262.50 to $336. For permanent partial disability the weekly wage was raised from a minimum of $45 to $105, and from a maximum of $105 to $210, in each case for injuries occurring on or after January 1, 1984. (Lab. Code, § 4453.) A $10,000 limit on additional compensation for injuries resulting from serious and willful employer misconduct was removed (Lab. Code, § 4553), and the maximum death benefit was raised from $75,000 to $85,000 for deaths in 1983, and to $95,000 for deaths on or after January 1, 1984. (Lab. Code, § 4702.)

Again the statute included no appropriation and this time the statute expressly acknowledged that the omission was made "[n]otwithstanding section 6 of Article XIIIB of the California Constitution and section 2231 ... of the Revenue and Taxation Code." (Stats. 1982, ch. 922, § 17, p. 3372.) [4]

Once again test claims were presented to the State Board of Control, this time by the City of Sonoma, the County of Los Angeles, and the City of San Diego. Again the claims were denied on grounds that the statute made no change in the terms and conditions under which workers' compensation benefits were to be awarded, and the increased costs incurred as a result of higher benefit levels did not create an increased level of service as defined in Revenue and Taxation Code section 2207, subdivision (a).

The three claimants then filed the second action asking that the board be compelled by writ of mandate to approve the claims and the state to pay them, and that chapter 922 be declared unconstitutional because it was not adopted in conformity with requirements of the Revenue and Taxation Code or ***53** section 6. The trial court granted partial relief and ordered the board to set aside its ruling. The court held that the board's decision was not supported by substantial evidence and legally adequate findings on the presence of a state-mandated cost. The basis for this ruling was the failure of the board to make adequate findings on the possible impact of changes in the burden of proof in some workers' compensation proceedings (Lab. Code, § 3202.5); a limitation on an injured worker's right to sue his employer under the "dual capacity" exception to the exclusive remedy doctrine (Lab. Code, §§ 3601-3602); and changes in death and disability benefits and in liability in serious and wilful misconduct cases. (Lab. Code, § 4551.)

The court also held: "[T]he changes made by chapter 922, Statutes of 1982 may be excluded from state-mandated costs if that change effects a cost of living increase which does not impose a higher or increased level of service on an existing program." The City of Sonoma, the County of Los Angeles, and the City of San Diego appeal from this latter portion of the judgment only.

II

The Court of Appeal consolidated the appeals. The court identified the dispositive issue as whether legislatively mandated increases in workers' compensation benefits constitute a "higher level of service" within the meaning of section 6, or are an "increased level of service" [5] described in subdivision (a) of Revenue and Taxation Code section 2207. The parties did not question the proposition that higher benefit payments might constitute a higher level of "service." The dispute centered on whether higher benefit payments which do not exceed increases in the cost of living constitute a higher level of service. Appellants maintained that the reimbursement requirement of section 6 is absolute and permits no implied or judicially created exception for increased costs that do not exceed the inflation rate. The

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Court of Appeal addressed the problem as one of defining "increased level of service."

The court rejected appellants' argument that a definition of "increased level of service" that once had been included in section 2231, subdivision (e) of the Revenue and Taxation Code should be applied. That definition brought any law that imposed "additional costs" within the scope of "increased level of service." The court concluded that the repeal of section 2231 in 1975 (Stats. 1975, ch. 486, § 7, pp. 999-1000) and the failure of the Legislature by statute or the electorate in article XIII B to readopt the ***54** definition must be treated as reflecting an intent to change the law. (*Eu v. Chacon* (1976) 16 Cal.3d 465, 470 [128 Cal.Rptr. 1, 546 P.2d 289].) [6] On that basis the court concluded that increased costs were no longer tantamount to an increased level of service.

The court nonetheless assumed that an increase in costs mandated by the Legislature did constitute an increased level of service if the increase exceeds that in the cost of living. The judgment in the second, or "Sonoma " case was affirmed. The judgment in the first, or "Los Angeles" case, however, was reversed and the matter "remanded" to the board for more adequate findings, with directions. [7]

III

The Court of Appeal did not articulate the basis for its conclusion that costs in excess of the increased cost of living do constitute a reimbursable increased level of service within the meaning of section 6. Our task in ascertaining the meaning of the phrase is aided somewhat by one explanatory reference to this part of section 6 in the ballot materials.

A statutory requirement of state reimbursement was in effect when section 6 was adopted. That provision used the same "increased level of service " phraseology but it also failed to include a definition of "increased level of service," providing only: "Costs mandated by the state' means any increased costs which a local agency is required to incur as a result of the following: [¶] (a) Any law ... which mandates a new program or an increased level of service of an existing program." (Rev. & Tax. Code § 2207.) As noted, however, the definition of that term which had been ***55** included in Revenue and Taxation Code section 2164.3 as part of the Property Tax Relief Act of 1972 (Stats. 1972, ch. 1406, § 14.7, p. 2961), had been repealed in 1975 when Revenue and Taxation Code section 2231, which had replaced section 2164.3 in 1973, was repealed and a new section 2231 enacted. (Stats. 1975. ch. 486, §§ 6 & 7, p. 999.) [8] Prior to repeal, Revenue and Taxation Code section 2164.3, and later section 2231, after providing in subdivision (a) for state reimbursement, explained in subdivision (e) that " "Increased level of service' means any requirement mandated by state law or executive regulation ... which makes necessary expanded or additional costs to a county, city and county, city, or special district." (Stats. 1972, ch. 1406, § 14.7, p. 2963.)

(2) Appellants contend that despite its repeal, the definition is still valid, relying on the fact that the Legislature, in enacting section 2207, explained that the provision was "declaratory of existing law." (Stats. 1975, ch. 486, § 18.6, p. 1006.) We concur with the Court of Appeal in rejecting this argument. "[I]t is ordinarily to be presumed that the Legislature by deleting an express provision of a statute intended a substantial change in the law." (*Lake Forest Community Assn. v. County of Orange* (1978) 86 Cal.App.3d 394, 402 [150 Cal.Rptr. 286]; see also *Eu* v. *Chacon, supra*, 16 Cal.3d 465, 470.) Here, the revision was not minor: a whole subdivision was deleted. As the Court of Appeal noted, "A change must have been intended; otherwise deletion of the preexisting definition makes no sense."

Acceptance of appellants' argument leads to an unreasonable interpretation of section 2207. If the Legislature had intended to continue to equate "increased level of service" with "additional costs," then the provision would be circular: "costs mandated by the state" are defined as "increased costs" due to an "increased level of service," which, in turn, would be defined as "additional costs." We decline to accept such an interpretation. Under the repealed provision, "additional costs" may have been deemed tantamount to an "increased level of service," but not under the post-1975 statutory scheme. Since that definition has been repealed, an act of which the drafters of section 6 and the electorate are presumed to have been ***56** aware, we may not conclude that an intent existed to incorporate the repealed definition into section 6.

(3) In construing the meaning of the constitutional provision, our inquiry is not focussed on what the Legislature intended in adopting the former statutory reimbursement scheme, but rather on what the voters meant when they adopted article XIII B in 1979. To determine this intent, we must

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look to the language of the provision itself. (*ITT World Communications, Inc. v. City and County of San Francisco* (1985) 37 Cal.3d 859, 866 [210 Cal.Rptr. 226, 693 P.2d 811].) In section 6, the electorate commands that the state reimburse local agencies for the cost of any "new program or higher level of service." Because workers' compensation is not a new program, the parties have focussed on whether providing higher benefit payments constitutes provision of a higher level of service. As we have observed, however, the former statutory definition of that term has been incorporated into neither section 6 nor the current statutory reimbursement scheme.

(4) Looking at the language of section 6 then, it seems clear that by itself the term "higher level of service" is meaningless. It must be read in conjunction with the predecessor phrase "new program" to give it meaning. Thus read, it is apparent that the subvention requirement for increased or higher level of service is directed to state mandated increases in the services provided by local agencies in existing "programs." But the term "program" itself is not defined in article XIII B. What programs then did the electorate have in mind when section 6 was adopted? We conclude that the drafters and the electorate had in mind the commonly understood meanings of the term—programs that carry out the governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.

The concern which prompted the inclusion of section 6 in article XIII B was the perceived attempt by the state to enact legislation or adopt administrative orders creating programs to be administered by local agencies, thereby transferring to those agencies the fiscal responsibility for providing services which the state believed should be extended to the public. In their ballot arguments, the proponents of article XIII B explained section 6 to the voters: "Additionally, this measure: (1) Will not allow the state government to *force programs* on local governments without the state paying for them." (Ballot Pamp., Proposed Amend. to Cal. Const. with arguments to voters, Spec. Statewide Elec. (Nov. 6, 1979) p. 18. Italics added.) In this context the phrase "to force programs on local governments" confirms that the intent underlying section 6 was to require reimbursement to local agencies for the costs involved in carrying out functions peculiar to government, not ***57** for expenses incurred by local agencies as an incidental impact of laws that apply generally to all state residents and entities. Laws of general application are not passed by the Legislature to "force" programs on localities.

The language of section 6 is far too vague to support an inference that it was intended that each time the Legislature passes a law of general application it must discern the likely effect on local governments and provide an appropriation to pay for any incidental increase in local costs. We believe that if the electorate had intended such a far-reaching construction of section 6, the language would have explicitly indicated that the word "program" was being used in such a unique fashion. (Cf. *Fuentes v. Workers' Comp. Appeals Bd.* (1976) 16 Cal.3d 1, 7 [128 Cal.Rptr. 673, 547 P.2d 449]; *Big Sur Properties v. Mott* (1976) 63 Cal.App.3d 99, 105 [132 Cal.Rptr. 835].) Nothing in the history of article XIII B that we have discovered, or that has been called to our attention by the parties, suggests that the electorate had in mind either this construction or the additional indirect, but substantial impact it would have on the legislative process.

Were section 6 construed to require state subvention for the incidental cost to local governments of general laws, the result would be far-reaching indeed. Although such laws may be passed by simple majority vote of each house of the Legislature (art. IV, § 8, subd. (b)), the revenue measures necessary to make them effective may not. A bill which will impose costs subject to subvention of local agencies must be accompanied by a revenue measure providing the subvention required by article XIII B. (Rev. & Tax. Code, §§ 2255, subd. (c).) Revenue bills must be passed by two-thirds vote of each house of the Legislature. (Art. IV, § 12, subd. (d).) Thus, were we to construe section 6 as applicable to general legislation whenever it might have an incidental effect on local agency costs, such legislation could become effective only if passed by a supermajority vote.[9] Certainly no such intent is reflected in the language or history of article XIII B or section 6.

(5) We conclude therefore that section 6 has no application to, and the state need not provide subvention for, the costs incurred by local agencies in providing to their employees the same increase in workers' compensation ***58** benefits that employees of private individuals or organizations receive.[10] Workers' compensation is not a program administered by local agencies to provide service to the public. Although local agencies must provide benefits to their employees either through insurance or direct payment, they are

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indistinguishable in this respect from private employers. In no sense can employers, public or private, be considered to be administrators of a program of workers' compensation or to be providing services incidental to administration of the program. Workers' compensation is administered by the state through the Division of Industrial Accidents and the Workers' Compensation Appeals Board. (See Lab. Code, § 3201 et seq.) Therefore, although the state requires that employers provide workers' compensation for nonexempt categories of employees, increases in the cost of providing this employee benefit are not subject to reimbursement as state-mandated programs or higher levels of service within the meaning of section 6.

IV

(6) Our construction of section 6 is further supported by the fact that it comports with controlling principles of construction which "require that in the absence of irreconcilable conflict among their various parts, [constitutional provisions] must be harmonized and construed to give effect to all parts. (*Clean Air Constituency* v. *California State Air Resources Bd.* (1974) 1 Cal.3d 801, 813-814 [114 Cal.Rptr. 577, 523 P.2d 617]; *Serrano v. Priest* (1971) 5 Cal.3d 584, 596 [96 Cal.Rptr. 601, 487 P.2d 1241, 41 A.L.R.3d 1187]; *Select Base Materials v. Board of Equal.* (1959) 51 Cal.2d 640, 645 [335 P.2d 672].)" (*Legislature* v. *Deukmejian* (1983) 34 Cal.3d 658, 676 [194 Cal.Rptr. 781, 669 P.2d 17].)

Our concern over potential conflict arises because article XIV, section 4,[11] gives the Legislature "plenary power, unlimited by any provision of ***59** this Constitution" over workers' compensation. Although seemingly unrelated to workers' compensation, section 6, as we have shown, would have an indirect, but substantial impact on the ability of the Legislature to make future changes in the existing workers' compensation scheme. Any changes in the system which would increase benefit levels, provide new services, or extend current service might also increase local agencies' costs. Therefore, even though workers' compensation is a program which is intended to provide benefits to all injured or deceased employees and their families, because the change might have some incidental impact on local government costs, the change could be made only if it commanded a supermajority vote of two-thirds of the members of each house of the Legislature.

The potential conflict between section 6 and the plenary power over workers' compensation granted to the Legislature by article XIV, section 4 is apparent.

The County of Los Angeles, while recognizing the impact of section 6 on the Legislature's power over workers' compensation, argues that the "plenary power" granted by article XIV, section 4, is power over the substance of workers' compensation legislation, and that this power would be unaffected by article XIII B if the latter is construed to compel reimbursement. The subvention requirement, it is argued, is analogous to other procedural ***60** limitations on the Legislature, such as the "single subject rule" (art. IV, § 9), as to which article XIV, section 4, has no application. We do not agree. A constitutional requirement that legislation either exclude employees of local governmental agencies or be adopted by a supermajority vote would do more than simply establish a format or procedure by which legislation is to be enacted. It would place workers' compensation legislation in a special classification of substantive legislation and thereby curtail the power of a majority to enact substantive changes by any procedural means. If section 6 were applicable, therefore, article XIII B would restrict the power of the Legislature over workers' compensation.

The City of Sonoma concedes that so construed article XIII B *would* restrict the plenary power of the Legislature, and reasons that the provision therefore either effected a pro tanto repeal of article XIV, section 4, or must be accepted as a limitation on the power of the Legislature. We need not accept that conclusion, however, because our construction of section 6 permits the constitutional provisions to be reconciled.

Construing a recently enacted constitutional provision such as section 6 to avoid conflict with, and thus pro tanto repeal of, an earlier provision is also consistent with and reflects the principle applied by this court in *Hustedt v. Workers' Comp. Appeals Bd.* (1981) 30 Cal.3d 329 [178 Cal.Rptr. 801, 636 P.2d 1139]. There, by coincidence, article XIV, section 4, was the later provision. A statute, enacted pursuant to the plenary power of the Legislature over workers' compensation, gave the Workers' Compensation Appeals Board authority to discipline attorneys who appeared before it. If construed to include a transfer of the authority to discipline attorneys from the Supreme Court to the Legislature, or to delegate that power to the board, article

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XIV, section 4, would have conflicted with the constitutional power of this court over attorney discipline and might have violated the separation of powers doctrine. (Art. III, § 3.) The court was thus called upon to determine whether the adoption of article XIV, section 4, granting the Legislature plenary power over workers' compensation effected a pro tanto repeal of the preexisting, exclusive jurisdiction of the Supreme Court over attorneys.

We concluded that there had been no pro tanto repeal because article XIV, section 4, did not give the Legislature the authority to enact the statute. Article XIV, section 4, did not expressly give the Legislature power over attorney discipline, and that power was not integral to or necessary to the establishment of a complete system of workers' compensation. In those circumstances the presumption against implied repeal controlled. "It is well established that the adoption of article XIV, section 4 'effected a repeal *pro tanto*' of any state constitutional provisions which conflicted with that ***61** amendment. (*Subsequent Etc. Fund. v. Ind. Acc. Com.* (1952) 39 Cal.2d 83, 88 [244 P.2d 889]; *Western Indemnity Co.* v. *Pillsbury* (1915) 170 Cal. 686, 695, [151 P. 398].) A *pro tanto* repeal of conflicting state constitutional provisions removes 'insofar as necessary' any restrictions which would prohibit the realization of the objectives of the new article. (*Methodist Hosp. of Sacramento* v. *Saylor* (1971) 5 Cal.3d 685, 691-692 [97 Cal.Rptr. 1, 488 P.2d 161]; cf. *City and County of San Francisco v. Workers' Comp. Appeals Bd.* (1978) 22 Cal.3d 103, 115-117 [148 Cal.Rptr. 626, 583 P.2d 151].) Thus the question becomes whether the board must have the power to discipline attorneys if the objectives of article XIV, section 4 are to be effectuated. In other words, does the achievement of those objectives compel the modification of a power—the disciplining of attorneys—that otherwise rests exclusively with this court?" (*Hustedt v. Workers' Comp. Appeals Bd., supra*, 30 Cal.3d 329, 343.) We concluded that the ability to discipline attorneys appearing before it was not necessary to the expeditious resolution of workers' claims or the efficient administration of the agency. Thus, the absence of disciplinary power over attorneys would not preclude the board from achieving the objectives of article XIV, section 4, and no pro tanto repeal need be found.

(7) A similar analysis leads to the conclusion here that no pro tanto repeal of article XIV, section 4, was intended or made necessary here by the adoption of section 6. The goals of article XIII B, of which section 6 is a part, were to protect residents from excessive taxation and government spending. (*Huntington Park Redevelopment Agency* v. *Martin* (1985) 38 Cal.3d 100, 109-110 [211 Cal.Rptr. 133, 695 P.2d 220].) Section 6 had the additional purpose of precluding a shift of financial responsibility for carrying out governmental functions from the state to local agencies which had had their taxing powers restricted by the enactment of article XIII A in the preceding year and were ill equipped to take responsibility for any new programs. Neither of these goals is frustrated by requiring local agencies to provide the same protections to their employees as do private employers. Bearing the costs of salaries, unemployment insurance, and workers' compensation coverage—costs which all employers must bear—neither threatens excessive taxation or governmental spending, nor shifts from the state to a local agency the expense of providing governmental services.

Therefore, since the objectives of article XIII B and section 6 can be achieved in the absence of state subvention for the expense of increases in workers' compensation benefit levels for local agency employees, section 6 did not effect a pro tanto repeal of the Legislature's otherwise plenary power over workers' compensation, a power that does not contemplate that the Legislature rather than the employer must fund the cost or increases in ***62** benefits paid to employees of local agencies, or that a statute affecting those benefits must garner a supermajority vote.

Because we conclude that section 6 has no application to legislation that is applicable to employees generally, whether public or private, and affects local agencies only incidentally as employers, we need not reach the question that was the focus of the decision of the Court of Appeal—whether the state must reimburse localities for state-mandated cost increases which merely reflect adjustments for cost-of-living in existing programs.

V

It follows from our conclusions above, that in each of these cases the plaintiffs' reimbursement claims were properly denied by the State Board of Control. Their petitions for writs of mandate seeking to compel the board to approve the claims

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lacked merit and should have been denied by the superior court without the necessity of further proceedings before the board.

In B001713, the Los Angeles case, the Court of Appeal reversed the judgment of the superior court denying the petition. In the B003561, the Sonoma case, the superior court granted partial relief, ordering further proceedings before the board, and the Court of Appeal affirmed that judgment.

The judgment of the Court of Appeal is reversed. Each side shall bear its own costs.

Bird, C. J., Broussard, J., Reynoso, J., Lucas, J., and Panelli, J., concurred.

MOSK, J.

I concur in the result reached by the majority, but I prefer the rationale of the Court of Appeal, i.e., that neither article XIII B, section 6, of the Constitution nor Revenue and Taxation Code sections 2207 and 2231 require state subvention for increased workers' compensation benefits provided by chapter 1042, Statutes of 1980, and chapter 922, Statutes of 1982, but only if the increases do not exceed applicable cost-of-living adjustments because such payments do not result in an increased level of service.

Under the majority theory, the state can order unlimited financial burdens on local units of government without providing the funds to meet those burdens. This may have serious implications in the future, and does violence to the requirement of section 2231, subdivision (a), that the state reimburse local government for "all costs mandated by the state."

In this instance it is clear from legislative history that the Legislature did not intend to mandate additional burdens, but merely to provide a cost-of-living ***63** adjustment. I agree with the Court of Appeal that this was permissible.

Appellants' petition for a rehearing was denied February 26, 1987. ***64**

Footnotes

1 The analysis by the Legislative Analyst advised that the state would be required to "reimburse local governments for the cost of complying with 'state mandates.' 'State mandates' are requirements imposed on local governments by legislation or executive orders." Elsewhere the analysis repeats: "[T]he initiative would establish a requirement that the state provide funds to reimburse local agencies for the cost of complying with state mandates. ...

The one ballot argument which made reference to section 6, referred only to the "new program" provision, stating, "Additionally, this measure [¶] (1) will not allow the state government to force programs on local governments without the state paying for them."

2 The bill was approved by the Governor and filed with the Secretary of State on September 22, 1980. Prior to this, the Assembly gave unanimous consent to a request by the bill's author that his letter to the Speaker stating the intent of the Legislation be printed in the Assembly Journal. The letter stated: (1) that the Assembly Ways and Means Committee had recommended approval without appropriation on grounds that the increases were a result of changes in the cost of living that were not reimbursable under either Revenue and Taxation Code section 2231, or article XIII B; (2) the Senate Finance Committee had rejected a motion to add an appropriation and had approved a motion to concur in amendments of the Conference Committee deleting any appropriation.

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Legislative history confirms only that the final version of Assembly Bill No. 2750, as amended in the Assembly on April 16, 1986, contained no appropriation. As introduced on March 4, 1980, with a higher minimum salary of $510 on which to base benefits, an unspecified appropriation was included.

3 The superior court consolidated another action by the County of Butte, Novato Fire Protection District, and the Galt Unified School District with that action. Neither those plaintiffs nor the County of San Bernardino are parties to the appeal.

4 The same section "recognized," however, that a local agency "may pursue any remedies to obtain reimbursement available to it" under the statutes governing reimbursement for state-mandated costs in chapter 3 of the Revenue and Taxation Code, commencing with section 2201.

5 The court concluded that there was no legal or semantic difference in the meaning of the terms and considered the intent or purpose of the two provisions to be identical.

6 The Court of Appeal also considered the expression of legislative intent reflected in the letter by the author of Assembly Bill No. 2750 (see fn. 2, *ante*). While consideration of that expression of intent may have been proper in construing Assembly Bill No. 2750, we question its relevance to the proper construction of either section 6, adopted by the electorate in the prior year, or of Revenue and Taxation Code section 2207, subdivision (a) enacted in 1975. (Cf. *California Employment Stabilization Co.* v. *Payne* (1947) 31 Cal.2d 210, 213-214 [187 P.2d 702].) There is no assurance that the Assembly understood that its approval of printing a statement of intent as to the later bill was also to be read as a statement of intent regarding the earlier statute, and it was not relevant to the intent of the electorate in adopting section 6.

The Court of Appeal also recognized that the history of Assembly Bill No. 2750 and Statutes 1982, chapter 922, which demonstrated the clear intent of the Legislature to omit any appropriation for reimbursement of local government expenditures to pay the higher benefits precluded reliance on reimbursement provisions included in benefit-increase bills passed in earlier years. (See e.g., Stats. 1973, chs. 1021 and 1023.)

7 We infer that the intent of the Court of Appeal was to reverse the order denying the petition for writ of mandate and to order the superior court to grant the petition and remand the matter to the board with directions to set aside its order and reconsider the claim after making the additional findings. (See Code Civ. Proc. § 1094.5, subd. (f).)

8 Pursuant to the 1972 and successor 1973 property tax relief statutes the Legislature had included appropriations in measures which, in the opinion of the Legislature, mandated new programs or increased levels of service in existing programs (see, e.g., Stats. 1973, ch. 1021, § 4, p. 2026; ch. 1022, § 2, p. 2027; Stats. 1976, ch. 1017, § 9, p. 4597) and reimbursement claims filed with the State Board of Control pursuant to Revenue and Taxation Code sections 2218-2218.54 had been honored. When the Legislature fails to include such appropriations there is no judicially enforceable remedy for the statutory violation notwithstanding the command of Revenue and Taxation Code section 2231, subdivision (a) that "[t]he state shall reimburse each local agency for all 'costs mandated by the state,' as defined in Section 2207" and the additional command of subdivision (b) that any statute imposing such costs "provide an appropriation therefor." (*County of Orange v. Flournoy* (1974) 42 Cal.App.3d 908, 913 [117 Cal.Rptr. 224].)

9 Whether a constitutional provision which requires a supermajority vote to enact substantive legislation, as opposed to funding the program, may be validly enacted as a Constitutional amendment rather than through

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revision of the Constitution is an open question. (See *Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 228 [149 Cal.Rptr. 239, 583 P.2d 1281].)

10 The Court of Appeal reached a different conclusion in *City of Sacramento v. State of California* (1984) 156 Cal.App.3d 182 [203 Cal.Rptr. 258], with respect to a newly enacted law requiring that all public employees be covered by unemployment insurance. Approaching the question as to whether the expense was a "state mandated cost," rather than as whether the provision of an employee benefit was a "program or service" within the meaning of the Constitution, the court concluded that reimbursement was required. To the extent that this decision is inconsistent with our conclusion here, it is disapproved.

11 Section 4: "The Legislature is hereby *expressly vested with plenary power, unlimited by any provision of this Constitution*, to create, and enforce a complete system of workers' compensation, by appropriate legislation, and in that behalf to create and enforce a liability on the part of any or all persons to compensate any or all of their workers for injury or disability, and their dependents for death incurred or sustained by the said workers in the course of their employment, irrespective of the fault of any party. A complete system of workers' compensation includes adequate provisions for the comfort, health and safety and general welfare of any and all workers and those dependent upon them for support to the extent of relieving from the consequences of any injury or death incurred or sustained by workers in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment; full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury; full provision for adequate insurance coverage against liability to pay or furnish compensation; full provision for regulating such insurance coverage in all its aspects, including the establishment and management of a State compensation insurance fund; full provision for otherwise securing the payment of compensation and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any dispute or matter arising under such legislation, to the end that the administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without encumbrance of any character; all of which matters are expressly declared to be the social public policy of this State, binding upon all departments of the State government.

"The Legislature is vested with plenary powers, to provide for the settlement of any disputes arising under such legislation by arbitration, or by an industrial accident commission, by the courts, or by either, any, or all of these agencies, either separately or in combination, and may fix and control the method and manner of trial of any such dispute, the rules of evidence and the manner of review of decisions rendered by the tribunal or tribunals designated by it; provided, that all decisions of any such tribunal shall be subject to review by the appellate courts of this State. The Legislature may combine in one statute all the provisions for a complete system of workers' compensation, as herein defined.

"The Legislature shall have power to provide for the payment of an award to the state in the case of the death, arising out of and in the course of the employment, of an employee without dependents, and such awards may be used for the payment of extra compensation for subsequent injuries beyond the liability of a single employer for awards to employees of the employer.

"Nothing contained herein shall be taken or construed to impair or render ineffectual in any measure the creation and existence of the industrial accident commission of this State or the State compensation insurance fund, the creation and existence of which, with all the functions vested in them, are hereby ratified and confirmed." (Italics added.)

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729 P.2d 202, 233 Cal.Rptr. 38

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15 Cal.4th 68, 931 P.2d 312, 61 Cal.Rptr.2d 134, Med & Med GD (CCH) P 45,112, 97 Cal. Daily Op. Serv. 1555, 97 Daily Journal D.A.R. 2296
Supreme Court of California

COUNTY OF SAN DIEGO, Cross-complainant and Respondent,
v.
THE STATE OF CALIFORNIA et al., Cross-defendants and Appellants.

No. S046843.
Mar 3, 1997.

SUMMARY

After a county's unsuccessful administrative attempts to obtain reimbursement from the state for expenses incurred through its County Medical Services (CMS) program, and after a class action was filed on behalf of CMS program beneficiaries seeking to enjoin termination of the program, the county filed a cross-complaint and petition for a writ of mandate (Code Civ. Proc., § 1085) against the state, the Commission on State Mandates, and various state officers, to determine the county's rights under Cal. Const., art. XIII B, § 6 (reimbursement to local government for state-mandated new program or higher level of service). The county alleged that the Legislature's 1982 transfer to counties of responsibility for providing health care for medically indigent adults mandated a reimbursable new program. The trial court found that the state had an obligation to fund the county's CMS program. (Superior Court of San Diego County, No. 634931, Michael I. Greer, * Harrison R. Hollywood, and Judith D. McConnell, Judges.) The Court of Appeal, Fourth Dist., Div. One, No. D018634, affirmed the judgment of the trial court insofar as it provided that Cal. Const., art. XIII B, § 6, required the state to fund the CMS program. The Court of Appeal also affirmed the trial court's finding that the state had required the county to spend at least $41 million on the CMS program in fiscal years 1989-1990 and 1990-1991. However, the Court of Appeal reversed those portions of the judgment determining the final reimbursement amount and specifying the state funds from which the state was to satisfy the judgment. The Court of Appeal remanded to the commission to determine the reimbursement amount and appropriate statutory remedies.

The Supreme Court affirmed the judgment of the Court of Appeal insofar as it held that the exclusion of medically indigent adults from Medi-Cal imposed a mandate on the county within the meaning of Cal. Const., art. XIII B, § 6. The Supreme Court reversed the judgment insofar as it held that the state required the county to spend at least $41 million on the CMS ***69** program in fiscal years 1989-1990 and 1990-1991, and remanded the matter to the commission to determine whether, and by what amount, the statutory standards of care (e.g., Health & Saf. Code, § 1442.5, former subd. (c), Welf. & Inst. Code, §§ 10000, 17000) forced the county to incur costs in excess of the funds provided by the state, and to determine the statutory remedies to which the county was entitled. The court held that the trial court had jurisdiction to adjudicate the county's mandate claim, notwithstanding that a test claim was pending in an action by a different county. The trial court should not have proceeded while the other action was pending, since one purpose of the test claim procedure is to avoid multiple proceedings addressing the same claim. However, the error was not jurisdictional; the governing statutes simply vest primary jurisdiction in the court hearing the test claim. The court also held that the Legislature's 1982 transfer to counties of responsibility for providing health care for medically indigent adults mandated a reimbursable new program. The state asserted the source of the county's obligation to provide such care was Welf. & Inst. Code, § 17000, enacted in 1965, rather than the 1982 legislation, and since Cal. Const., art. XIII B, § 6, did not apply to "mandates enacted prior to January 1, 1975," there was no reimbursable mandate. However, Welf. & Inst. Code, § 17000, requires a county to support indigent persons only in the event they are not assisted by other sources. The court further held that there was a reimbursable new program, despite the state's assertion that the county had discretion to refuse to provide the medical care. While Welf. & Inst. Code, § 17001, confers discretion on counties to provide general assistance, there are limits to this discretion. The standards must meet the objectives of Welf. & Inst. Code, § 17000, or be struck down as void by the courts. The court also held that the Court of Appeal, in reversing the damages portion of the trial court's judgment and remanding to the commission to determine the amount of any reimbursement due, erred in finding the county had a minimum required expenditure on its CMS program. (Opinion by Chin, J., with

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George, C. J., Mosk, and Baxter, JJ., Anderson, J.,* and Aldrich, J.,† concurring. Dissenting opinion by Kennard, J.)

HEADNOTES

Classified to California Digest of Official Reports

(1)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to Local Government for State-mandated Program.
***70** Cal. Const., art. XIII A, and art. XIII B, work in tandem, together restricting California governments' power both to levy and to spend for public purposes. Their goals are to protect residents from excessive taxation and government spending. The purpose of Cal. Const., art. XIII B, § 6 (reimbursement to local government for state-mandated new program or higher level of service), is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ill equipped to assume increased financial responsibilities because of the taxing and spending limitations that Cal. Const., arts. XIII A and XIII B, impose. With certain exceptions, Cal. Const., art. XIII B, § 6, essentially requires the state to pay for any new governmental programs, or for higher levels of service under existing programs, that it imposes upon local governmental agencies.

(2a, 2b)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to Local Government for State-mandated Program--County's Reimbursement for Cost of Health Care to Indigent Adults--Jurisdiction--With Pending Test Claim.
The trial court had jurisdiction to adjudicate a county's mandate claim asserting the Legislature's transfer to counties of the responsibility for providing health care for medically indigent adults constituted a new program or higher level of service that required state funding under Cal. Const., art. XIII B, § 6 (reimbursement to local government for costs of new state-mandated program), notwithstanding that a test claim was pending in an action by a different county. The trial court should not have proceeded while the other action was pending, since one purpose of the test claim procedure is to avoid multiple proceedings addressing the same claim. However, the error was not jurisdictional; the governing statutes simply vest primary jurisdiction in the court hearing the test claim. The trial court's failure to defer to the primary jurisdiction of the other court did not prejudice the state. The trial court did not usurp the Commission on State Mandates' authority, since the commission had exercised its authority in the pending action. Since the pending action was settled, no multiple decisions resulted. Nor did lack of an administrative record prejudice the state, since determining whether a statute imposes a state mandate is an issue of law. Also, attempts to seek relief from the commission would have been futile, thus triggering the futility exception to the exhaustion requirement, given that the commission rejected the other county's claim.

(3)
Administrative Law § 99--Judicial Review and Relief--Administrative Mandamus--Jurisdiction--As Derived From Constitution.
The power of superior courts to perform mandamus review of administrative decisions derives in part from Cal. Const., art. VI, § 10. ***71** That section gives the Supreme Court, Courts of Appeal, and superior courts "original jurisdiction in proceedings for extraordinary relief in the nature of mandamus." The jurisdiction thus vested may not lightly be deemed to have been destroyed. While the courts are subject to reasonable statutory regulation of procedure and other matters, they will maintain their constitutional powers in order effectively to function as a separate department of government. Consequently an intent to defeat the exercise of the court's jurisdiction will not be supplied by implication.

(4)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to Local Government for State-mandated Program--County's Reimbursement for Cost of Health Care to Indigent Adults--Existence of Mandate.
In a county's action against the state to determine the county's rights under Cal. Const., art. XIII B, § 6 (reimbursement to local government for state-mandated new program or higher level of service), the Legislature's 1982 transfer to counties of responsibility for providing health care for medically indigent adults mandated a reimbursable new program. The state asserted the source of the county's obligation to provide such care was Welf. & Inst. Code, § 17000, enacted in 1965, rather than the 1982 legislation, and since Cal. Const., art. XIII B, § 6, did not apply to "mandates enacted prior to January 1, 1975," there was no reimbursable mandate. However, Welf. & Inst. Code, § 17000, requires a county to support indigent persons only in the event they are not assisted by other sources. To the extent care was provided

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prior to the 1982 legislation, the county's obligation had been reduced. Also, the state's assumption of full funding responsibility prior to the 1982 legislation was not intended to be temporary. The 1978 legislation that assumed funding responsibility was limited to one year, but similar legislation in 1979 contained no such limiting language. Although the state asserted the health care program was never operated by the state, the Legislature, in adopting Medi-Cal, shifted responsibility for indigent medical care from counties to the state. Medi-Cal permitted county boards of supervisors to prescribe rules (Welf. & Inst. Code, § 14000.2), and Medi-Cal was administered by state departments and agencies.

[See 9 Witkin, Summary of Cal. Law (9th ed. 1989) Taxation, § 123.]

(5a, 5b)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to Local Government for State-mandated Program--County's Reimbursement for Cost of Health Care to Indigent Adults--Existence of Mandate--Discretion to Set Standards-- ***72** Eligibility.
In a county's action against the state to determine the county's rights under Cal. Const., art. XIII B, § 6 (reimbursement to local government for state-mandated new program or higher level of service), the Legislature's 1982 transfer to counties of responsibility for providing health care for medically indigent adults mandated a reimbursable new program, despite the state's assertion that the county had discretion to refuse to provide such care. While Welf. & Inst. Code, § 17001, confers discretion on counties to provide general assistance, there are limits to this discretion. The standards must meet the objectives of Welf. & Inst. Code, § 17000 (counties shall relieve and support "indigent persons"), or be struck down as void by the courts. As to eligibility standards, counties must provide care to all adult medically indigent persons (MIP's). Although Welf. & Inst. Code, § 17000, does not define "indigent persons," the 1982 legislation made clear that adult MIP's were within this category. The coverage history of Medi-Cal demonstrates the Legislature has always viewed all adult MIP's as "indigent persons" under Welf. & Inst. Code, § 17000. The Attorney General also opined that the 1971 inclusion of MIP's in Medi-Cal did not alter the duty of counties to provide care to indigents not eligible for Medi-Cal, and this opinion was entitled to considerable weight. Absent controlling authority, the opinion was persuasive since it was presumed the Legislature was cognizant of the Attorney General's construction and would have taken corrective action if it disagreed. (Disapproving *Bay General Community Hospital v. County of San Diego* (1984) 156 Cal.App.3d 944 [203 Cal.Rptr. 184] insofar as it holds that a county's responsibility under Welf. & Inst. Code, § 17000, extends only to indigents as defined by the county's board of supervisors, and suggests that a county may refuse to provide medical care to persons who are "indigent" within the meaning of Welf. & Inst. Code, § 17000, but do not qualify for Medi-Cal.)

(6)
Public Aid and Welfare § 4--County Assistance--Counties' Discretion.
Counties may exercise their discretion under Welf. & Inst. Code, § 17001 (county board of supervisors or authorized agency shall adopt standards of aid and care for indigent and dependent poor), only within fixed boundaries. In administering General Assistance relief the county acts as an agent of the state. When a statute confers upon a state agency the authority to adopt regulations to implement, interpret, make specific or otherwise carry out its provisions, the agency's regulations must be consistent, not in conflict with the statute, and reasonably necessary to effectuate its purpose (Gov. Code, § 11374). Despite the counties' statutory discretion, courts have consistently invalidated county welfare regulations that fail to meet statutory requirements. ***73**

(7)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to Local Government for State-mandated Program--County's Reimbursement for Cost of Health Care to Indigent Adults--Existence of Mandate--Discretion to Set Standards--Service.
In a county's action against the state to determine the county's rights under Cal. Const., art. XIII B, § 6 (reimbursement to local government for state-mandated new program or higher level of service), the Legislature's 1982 transfer to counties of responsibility for providing health care for medically indigent adults mandated a reimbursable new program, despite the state's assertion that the county had discretion to refuse to provide such care by setting its own service standards. Welf. & Inst. Code, § 17000, mandates that medical care be provided to indigents, and Welf. & Inst. Code, § 10000, requires that such care be provided promptly and humanely. There is no discretion concerning whether to provide such care. Courts construing Welf. & Inst. Code, § 17000, have

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held it imposes a mandatory duty upon counties to provide medically necessary care, not just emergency care, and it has been interpreted to impose a minimum standard of care. Until its repeal in 1992, Health & Saf. Code, § 1442.5, former subd. (c), also spoke to the level of services that counties had to provide under Welf. & Inst. Code, § 17000, requiring that the availability and quality of services provided to indigents directly by the county or alternatively be the same as that available to nonindigents in private facilities in that county. (Disapproving *Cooke v. Superior Court* (1989) 213 Cal.App.3d 401 [261 Cal.Rptr. 706] to the extent it held that Health & Saf. Code, § 1442.5, former subd. (c), was merely a limitation on a county's ability to close facilities or reduce services provided in those facilities, and was irrelevant absent a claim that a county facility was closed or that services in the county were reduced.)

(8)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to Local Government for State-mandated Program--County's Reimbursement for Cost of Health Care to Indigent Adults--Minimum Required Expenditure.
In a county's action against the state to determine the county's rights under Cal. Const., art. XIII B, § 6 (reimbursement to local government for state-mandated new program or higher level of service), in which the trial court found that the Legislature's 1982 transfer to counties of the responsibility for providing health care for medically indigent adults mandated a reimbursable new program entitling the county to reimbursement, the Court of Appeal, in reversing the damages portion of the trial court's judgment and remanding to the Commission on State Mandates to determine the amount of any reimbursement due, erred in finding the county ***74** had a minimum required expenditure on its County Medical Services (CMS) program. The Court of Appeal relied on Welf. & Inst. Code, former § 16990, subd. (a), which set forth the financial maintenance-of-effort requirement for counties that received California Healthcare for the Indigent Program (CHIP) funding. However, counties that chose to seek CHIP funds did so voluntarily. Thus, Welf. & Inst. Code, former § 16990, subd. (a), did not mandate a minimum funding requirement. Nor did Welf. & Inst. Code, former § 16991, subd. (a)(5), establish a minimum financial obligation. That statute required the state, for fiscal years 1989-1990 and 1990-1991, to reimburse a county if its allocation from various sources was less than the funding it received under Welf. & Inst. Code, § 16703, for 1988-1989. Nothing about this requirement imposed on the county a minimum funding requirement.

(9)
State of California § 12--Fiscal Matters--Appropriations--Reimbursement to Local Government for State-mandated Program--County's Reimbursement for Cost of Health Care to Indigent Adults--Proper Mandamus Proceeding:Mandamus and Prohibition § 23--Claim Against Commission on State Mandates.
In a county's action against the state to determine the county's rights under Cal. Const., art. XIII B, § 6 (reimbursement to local government for state-mandated new program or higher level of service), after the Commission on State Mandates indicated the Legislature's 1982 transfer to counties of the responsibility for providing health care for medically indigent adults did not mandate a reimbursable new program, a mandamus proceeding under Code Civ. Proc., § 1085, was not an improper vehicle for challenging the commission's position. Mandamus under Code Civ. Proc., § 1094.5, commonly denominated "administrative" mandamus, is mandamus still. The full panoply of rules applicable to ordinary mandamus applies to administrative mandamus proceedings, except where they are modified by statute. Where entitlement to mandamus relief is adequately alleged, a trial court may treat a proceeding under Code Civ. Proc., § 1085, as one brought under Code Civ. Proc., § 1094.5, and should overrule a demurrer asserting that the wrong mandamus statute has been invoked. In any event, the determination whether the statutes at issue established a mandate under Cal. Const., art. XIII B, § 6, was a question of law. Where a purely legal question is at issue, courts exercise independent judgment, no matter whether the issue arises by traditional or administrative mandate. ***75**

COUNSEL
Daniel E. Lungren, Attorney General, Charlton G. Holland III, Assistant Attorney General, John H. Sanders and Richard T. Waldow, Deputy Attorneys General, for Cross-defendants and Appellants.
Lloyd M. Harmon, Jr., County Counsel, John J. Sansone, Acting County Counsel, Diane Bardsley, Chief Deputy County Counsel, Valerie Tehan and Ian Fan, Deputy County Counsel, for Cross-complainant and Respondent.

CHIN, J.

Section 6 of article XIII B of the California Constitution (section 6) requires the State of California (state), subject

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to certain exceptions, to "provide a subvention of funds to reimburse" local governments "[w]henever the Legislature or any state agency mandates a new program or higher level of service ...." In this action, the County of San Diego (San Diego or the County) seeks reimbursement under section 6 from the state for the costs of providing health care services to certain adults who formerly received medical care under the California Medical Assistance Program (Medi-Cal) (see Welf. & Inst. Code, § 14063) [1] because they were medically indigent, i.e., they had insufficient financial resources to pay for their own medical care. In 1979, when the electorate adopted section 6, the state provided Medi-Cal coverage to these medically indigent adults without requiring financial contributions from counties. Effective January 1, 1983, the Legislature excluded this population from Medi-Cal. (Stats. 1982, ch. 328, §§ 6, 8.3, 8.5, pp. 1574-1576; Stats. 1982, ch. 1594, §§ 19, 86, pp. 6315, 6357.) Since that date, San Diego has provided medical care to these individuals with varying levels of state financial assistance.

To resolve San Diego's claim, we must determine whether the Legislature's exclusion of medically indigent adults from Medi-Cal "mandate[d] a new program or higher level of service" on San Diego within the meaning of section 6. The Commission on State Mandates (Commission), which the Legislature created to determine claims under section 6, has ruled that section 6 does not apply to the Legislature's action and has rejected reimbursement claims like San Diego's. (See *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 330, fn. 2 [285 Cal.Rptr. 66, 814 P.2d 1308] (*Kinlaw*).) The trial court and Court of Appeal in this case disagreed with the Commission, finding that San Diego was entitled to reimbursement. The state seeks ***76** reversal of this finding. It also argues that San Diego's failure to follow statutory procedures deprived the courts of jurisdiction to hear its claim. We reject the state's jurisdictional argument and affirm the finding that the Legislature's exclusion of medically indigent adults from Medi-Cal "mandate[d] a new program or higher level of service" within the meaning of section 6. Accordingly, we remand the matter to the Commission to determine the amount of reimbursement, if any, due San Diego under the governing statutes.

I. Funding of Indigent Medical Care

Before the start of Medi-Cal, "the indigent in California were provided health care services through a variety of different programs and institutions." (Assem. Com. on Public Health, Preliminary Rep. on Medi-Cal (Feb. 29, 1968) p. 3 (Preliminary Report).) County hospitals "provided a wide range of inpatient and outpatient hospital services to all persons who met county indigency requirements whether or not they were public assistance recipients. The major responsibility for supporting county hospitals rested upon the counties, financed primarily through property taxes, with minor contributions from" other sources. (*Id.* at p. 4.)

Medi-Cal, which began operating March 1, 1966, established "a program of basic and extended health care services for recipients of public assistance and for medically indigent persons." (*Morris v. Williams* (1967) 67 Cal.2d 733, 738 [63 Cal.Rptr. 689, 433 P.2d 697] (*Morris*); *id.* at p. 740; see also Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, p. 103.) It "represent[ed] California's implementation of the federal Medicaid program (42 U.S.C. §§ 1396-1396v), through which the federal government provide[d] financial assistance to states so that they [might] furnish medical care to qualified indigent persons. [Citation.]" (*Robert F. Kennedy Medical Center v. Belshé* (1996) 13 Cal.4th 748, 751 [55 Cal.Rptr.2d 107, 919 P.2d 721] (*Belshé*).) "[B]y meeting the requirements of federal law," Medi-Cal "qualif [ied] California for the receipt of federal funds made available under title XIX of the Social Security Act." (*Morris*, *supra*, 67 Cal.2d at p. 738.) "Title [XIX] permitted the combination of the major governmental health care systems which provided care for the indigent into a single system financed by the state and federal governments. By 1975, this system, at least as originally proposed, would provide a wide range of health care services for all those who [were] indigent regardless of whether they [were] public assistance recipients ...." (Preliminary Rep., *supra*, at p. 4; see also Act of July 30, 1965, Pub.L. No. 89-97, § 121(a), 79 Stat. 286, reprinted in 1965 U.S. Code ***77** Cong. & Admin. News, p. 378 [states must make effort to liberalize eligibility requirements "with a view toward furnishing by July 1, 1975, comprehensive care and services to substantially all individuals who meet the plan's eligibility standards with respect to income and resources"].) [2]

However, eligibility for Medi-Cal was initially limited only to persons linked to a federal categorical aid program by age (at least 65), blindness, disability, or membership in a family with dependent children within the meaning of the Aid to Families with Dependent Children program (AFDC). (See Legis. Analyst, Rep. to Joint Legis. Budget Com., Analysis of

1971-1972 Budget Bill, Sen. Bill No. 207 (1971 Reg. Sess.) pp. 548, 550 (1971 Legislative Analyst's Report).) Individuals possessing one of these characteristics (categorically linked persons) received full benefits if they actually received public assistance payments. (*Id.* at p. 550.) Lesser benefits were available to categorically linked persons who were only medically indigent, i.e., their income and resources, although rendering them ineligible for cash aid, were "not sufficient to meet the cost of health care." (*Morris*, *supra*, 67 Cal.2d at p. 750; see also 1971 Legis. Analyst's Rep., *supra*, at pp. 548, 550; Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, pp. 105-106.)

Individuals not linked to a federal categorical aid program (non-categorically linked persons) were ineligible for Medi-Cal, regardless of their means. Thus, "a group of citizens, not covered by Medi-Cal and yet unable to afford medical care, remained the responsibility of" the counties. (*County of Santa Clara v. Hall* (1972) 23 Cal.App.3d 1059, 1061 [100 Cal.Rptr. 629] (*Hall*).) In establishing Medi-Cal, the Legislature expressly recognized this fact by enacting former section 14108.5, which provided: "The Legislature hereby declares its concern with the problems which will be facing the counties with respect to the medical care of indigent persons who are not covered [by Medi-Cal] ... and ... whose medical care must be financed entirely by the counties in a time of heavily increasing medical costs." (Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, p. 116.) The Legislature directed the Health Review and Program Council "to study this problem and report its findings to the Legislature no later than March 1, 1967." (*Ibid.*)

Moreover, although it required counties to contribute to the costs of Medi-Cal, the Legislature established a method for determining the amount of their contributions that would "leave them with []sufficient funds to provide hospital care for those persons not eligible for Medi-Cal." (*Hall*, *supra*, 23 Cal.App.3d at p. 1061, fn. omitted.) Former section 14150.1, ***78** which was known as the "county option" or the "option plan," required a county "to pay the state a sum equal to 100 percent of the county's health care costs (which included both linked and nonlinked individuals) provided in the 1964-1965 fiscal year, with an adjustment for population increase; in return the state would pay the county's entire cost of medical care." [3] (*County of Sacramento v. Lackner* (1979) 97 Cal.App.3d 576, 581 [159 Cal.Rptr. 1] (*Lackner*).) Under the county option, "the state agreed to assume all county health care costs ... in excess of" the county's payment. (*Id.* at p. 586.) It "made no distinction between 'linked' and 'nonlinked' persons," and "simply guaranteed a medical cost ceiling to counties electing to come within the option plan." (*Ibid.*) "Any difference in actual operating costs and the limit set by the option provision [was] assumed entirely by the state." (Preliminary Rep., *supra*, at p. 10, fn. 2.) Thus, the county option "guarantee[d] state participation in the cost of care for medically indigent persons who [were] not otherwise covered by the basic Medi-Cal program or other repayment programs." [4] (1971 Legis. Analyst's Rep., *supra*, at p. 549.)

Primarily through the county option, Medi-Cal caused a "significant shift in financing of health care from the counties to the state and federal government.... During the first 28 months of the program the state ... paid approximately $76 million for care of non-Medi-Cal indigents in county hospitals." (Preliminary Rep., *supra*, at p. 31.) These state funds paid "costs that would otherwise have been borne by counties through increases in property taxes." (Legis. Analyst, Rep. to Joint Legis. Budget Com., Analysis of 1974-1975 Budget Bill, Sen. Bill No. 1525 (1973-1974 Reg. Sess.) p. 626 (1974 Legislative Analyst's Report).) "[F]aced with escalating Medi-Cal costs, the Legislature in 1967 imposed strict guidelines on reimbursing counties electing to come under the 'option' plan. ([Former] § 14150.2.) Pursuant to subdivision (c) of [former] section 14150.2, the state imposed a limit on its obligation to pay for medical services to nonlinked persons ***79** served by a county within the 'option' plan." (*Lackner*, *supra*, 97 Cal.App.3d at p. 589; see also Stats. 1967, ch. 104, § 3, p. 1019; Stats. 1969, ch. 21, § 57, pp. 106-107; 1974 Legis. Analyst's Rep., *supra*, at p. 626.)

In 1971, the Legislature substantially revised Medi-Cal. It extended coverage to certain noncategorically linked minors and adults "who [were] financially unable to pay for their medical care." (Legis. Counsel's Dig., Assem. Bill No. 949, 3 Stats. 1971 (Reg. Sess.) Summary Dig., p. 83; see Stats. 1971, ch. 577, §§ 12, 23, pp. 1110-1111, 1115.) These medically indigent individuals met "the income and resource requirements for aid under [AFDC] but [did] not otherwise qualify[] as a public assistance recipient." (56 Ops.Cal.Atty.Gen. 568, 569 (1973).) The Legislature anticipated that this eligibility expansion would bring "approximately 800,000 additional medically needy Californians" into Medi-Cal. (Stats. 1971, ch. 577, § 56, p. 1136.) The 1971 legislation referred to these individuals as " '[n]oncategorically related needy person [s].' " (Stats. 1971, ch. 577, § 23, p. 1115.) Subsequent legislation designated them as "medically indigent person[s]" (MIP's) and provided

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them coverage under former section 14005.4. (Stats. 1976, ch. 126, § 7, p. 200; *id.* at § 20, p. 204.)

The 1971 legislation also established a new method for determining each county's financial contribution to Medi-Cal. The Legislature eliminated the county option by repealing former section 14150.1 and enacting former section 14150. That section specified (by amount) each county's share of Medi-Cal costs for the 1972-1973 fiscal year and set forth a formula for increasing the share in subsequent years based on the taxable assessed value of certain property. (Stats. 1971, ch. 577, §§ 41, 42, pp. 1131-1133.)

For the 1978-1979 fiscal year, the state assumed each county's share of Medi-Cal costs under former section 14150. (Stats. 1978, ch. 292, § 33, p. 610.) In July 1979, the Legislature repealed former section 14150 altogether, thereby eliminating the counties' responsibility to share in Medi-Cal costs. (Stats. 1979, ch. 282, § 74, p. 1043.) Thus, in November 1979, when the electorate adopted section 6, "the state was funding Medi-Cal coverage for [MIP's] without requiring any county financial contribution." (*Kinlaw, supra*, 54 Cal.3d at p. 329.) The state continued to provide full funding for MIP medical care through 1982.

In 1982, the Legislature passed two Medi-Cal reform bills that, as of January 1, 1983, excluded from Medi-Cal most adults who had been eligible ***80** under the MIP category (adult MIP's or Medically Indigent Adults).[5] (Stats. 1982, ch. 328, §§ 6, 8.3, 8.5, pp. 1574-1576; Stats. 1982, ch. 1594, §§ 19, 86, pp. 6315, 6357; *Cooke v. Superior Court* (1989) 213 Cal.App.3d 401, 411 [261 Cal.Rptr. 706] (*Cooke*).) As part of excluding this population from Medi-Cal, the Legislature created the Medically Indigent Services Account (MISA) as a mechanism for "transfer[ing] [state] funds to the counties for the provision of health care services." (Stats. 1982, ch. 1594, § 86, p. 6357.) Through MISA, the state annually allocated funds to counties based on "the average amount expended" during the previous three fiscal years on Medi-Cal services for county residents who had been eligible as MIP's. (Stats. 1982, ch. 1594, § 69, p. 6345.) The Legislature directed that MISA funds "be consolidated with existing county health services funds in order to provide health services to low-income persons and other persons not eligible for the Medi-Cal program." (Stats. 1982, ch. 1594, § 86, p. 6357.) It further provided: "Any person whose income and resources meet the income and resource criteria for certification for [Medi-Cal] services pursuant to Section 14005.7 other than for the aged, blind, or disabled, shall not be excluded from eligibility for services to the extent that state funds are provided." (Stats. 1982, ch. 1594, § 70, p. 6346.)

After passage of the 1982 legislation, San Diego established a county medical services (CMS) program to provide medical care to adult MIP's. According to San Diego, between 1983 and June 1989, the state fully funded San Diego's CMS program through MISA. However, for fiscal years 1989-1990 and 1990-1991, the state only partially funded San Diego's CMS program. For example, San Diego asserts that, in fiscal year 1990-1991, it exhausted state-provided MISA funds by December 24, 1990. Faced with this shortfall, San Diego's board of supervisors voted in February 1991 to terminate the CMS program unless the state agreed by March 8 to provide full funding for the 1990-1991 fiscal year. After the state refused to provide additional funding, San Diego notified affected individuals and medical service providers that it would terminate the CMS program at midnight on March 19, 1991. The response to the County's notification ultimately resulted in the unfunded mandate claim now before us.

II. Unfunded Mandates

Through adoption of Proposition 13 in 1978, the voters added article XIII A to the California Constitution, which "imposes a limit on the power of state and local governments to adopt and levy taxes. [Citation.]" (*County of Fresno v. State of California* (1991) 53 Cal.3d 482, 486 [***81** 280 Cal.Rptr. 92, 808 P.2d 235] (*County of Fresno*).) The next year, the voters added article XIII B to the Constitution, which "impose[s] a complementary limit on the rate of growth in governmental spending." (*San Francisco Taxpayers Assn. v. Board of Supervisors* (1992) 2 Cal.4th 571, 574 [7 Cal.Rptr.2d 245, 828 P.2d 147].) (1) These two constitutional articles "work in tandem, together restricting California governments' power both to levy and to spend for public purposes." (*City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 59, fn. 1 [266 Cal.Rptr. 139, 785 P.2d 522].) Their goals are "to protect residents from excessive taxation and government spending. [Citation.]" (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 61 [233 Cal.Rptr. 38, 729 P.2d 202] (*County of Los Angeles*).)

California Constitution, article XIII B includes section 6, which is the constitutional provision at issue here. It

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provides in relevant part: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates: [¶] ... [¶] (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975." Section 6 recognizes that articles XIII A and XIII B severely restrict the taxing and spending powers of local governments. (*County of Fresno*, *supra*, 53 Cal.3d at p. 487.) Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are "ill equipped" to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose. (*County of Fresno*, *supra*, 53 Cal.3d at p. 487; *County of Los Angeles*, *supra*, 43 Cal.3d at p. 61.) With certain exceptions, section 6 "[e]ssentially" requires the state "to pay for any new governmental programs, or for higher levels of service under existing programs, that it imposes upon local governmental agencies. [Citation.]" (*Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1577 [15 Cal.Rptr.2d 547].)

In 1984, the Legislature created a statutory procedure for determining whether a statute imposes state-mandated costs on a local agency within the meaning of section 6. (Gov. Code, § 17500 et seq.). The local agency must file a test claim with the Commission, which, after a public hearing, decides whether the statute mandates a new program or increased level of service. (Gov. Code, §§ 17521, 17551, 17555.) If the Commission finds a claim to be reimbursable, it must determine the amount of reimbursement. (Gov. Code, § 17557.) The local agency must then follow certain statutory procedures to ***82** obtain reimbursement. (Gov. Code, § 17558 et seq.) If the Legislature refuses to appropriate money for a reimbursable mandate, the local agency may file "an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement." (Gov. Code, § 17612, subd. (c).) If the Commission finds no reimbursable mandate, the local agency may challenge this finding by administrative mandate proceedings under section 1094.5 of the Code of Civil Procedure. (Gov. Code, § 17559.) Government Code section 17552 declares that these provisions "provide the sole and exclusive procedure by which a local agency ... may claim reimbursement for costs mandated by the state as required by Section 6 ...."

III. Administrative and Judicial Proceedings

A. *The Los Angeles Action*

On November 23, 1987, the County of Los Angeles (Los Angeles) filed a claim (the Los Angeles action) with the Commission asserting that the exclusion of adult MIP's from Medi-Cal constituted a reimbursable mandate under section 6. (*Kinlaw*, *supra*, 54 Cal.3d at p. 330, fn. 2.) Alameda County subsequently filed a claim on November 30, 1987, but the Commission rejected it because of the pending Los Angeles action. (*Id.* at p. 331, fn. 4.) Los Angeles refused to permit Alameda County to join as a claimant, but permitted San Bernardino County to join. (*Ibid.*)

In April 1989, the Commission rejected the Los Angeles claim, finding no reimbursable mandate.[6] (*Kinlaw*, *supra*, 54 Cal.3d at p. 330, fn. 2.) It found that the 1982 legislation did not impose on counties a new program or a higher level of service for an existing program because counties had a "pre-existing duty" to provide medical care to the medically indigent under section 17000. That section provides in relevant part: "Every county ... shall relieve and support all incompetent, poor, indigent persons ... lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions." Section 17000 did not impose a reimbursable mandate under section 6, the Commission further reasoned, because it "was enacted prior to January 1, 1975 ...." Finally, the Commission found no mandate because the 1982 legislation "neither establish[ed] the level of care to be provided nor ... define[d] the class of persons determined to be eligible for medical care since these criteria were established by boards of supervisors" pursuant to section 17001.

On March 20, 1990, the Los Angeles Superior Court filed a judgment reversing the Commission's decision and directing issuance of a peremptory ***83** writ of mandate. On April 16, 1990, the Commission and the state filed an appeal in the Second District Court of Appeal. (*County of Los Angeles v. State of California*, No. B049625.)[7] In early 1992, the parties to the Los Angeles action agreed to settle their dispute and to seek dismissal. In April 1992, after learning of this

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agreement, San Diego sought to intervene. Explaining that it had been waiting for resolution of the action, San Diego requested that the Court of Appeal deny the dismissal request and add (or substitute in) the County as a party. The Court of Appeal did not respond. On December 15, 1992, the parties to the Los Angeles action entered into a settlement agreement that provided for vacation of the superior court judgment and dismissal of the appeal and superior court action. Consistent with the settlement agreement, on December 29, 1992, the Court of Appeal filed an order vacating the superior court judgment, dismissing the appeal, and instructing the superior court to dismiss the action without prejudice on remand. [8]

B. *The San Diego Action*

1. *Administrative Attempts to Obtain Reimbursement*

On March 13, 1991, San Diego submitted an invoice to the State Controller seeking reimbursement of its uncompensated expenditures on the CMS program for fiscal year 1989-1990. The Controller is a member of the Commission. (Gov. Code, § 17525.) On April 12, the Controller returned the invoice "without action," stating that "[n]o appropriation has been given to this office to allow for reimbursement" of medical costs for adult MIP's and noting that litigation was pending regarding the state's reimbursement obligation. On December 18, 1991, San Diego submitted a similar invoice for the 1990-1991 fiscal year. The state has not acted regarding this second invoice. ***84**

2. *Court Proceedings*

Responding to San Diego's notice of intent to terminate the CMS program, on March 11, 1991, the Legal Aid Society of San Diego filed a class action on behalf of CMS program beneficiaries seeking to enjoin termination of the program. The trial court later issued a preliminary injunction prohibiting San Diego "from taking any action to reduce or terminate" the CMS program.

On March 15, 1991, San Diego filed a cross-complaint and petition for writ of mandate under Code of Civil Procedure section 1085 against the state, the Commission, and various state officers. [9] The cross-complaint alleged that, by excluding adult MIP's from Medi-Cal and transferring responsibility for their medical care to counties, the state had mandated a new program and higher level of service within the meaning of section 6. The cross-complaint further alleged that the state therefore had a duty under section 6 to reimburse San Diego for the entire cost of its CMS program, and that the state had failed to perform its duty.

Proceeding from these initial allegations, the cross-complaint alleged causes of action for indemnification, declaratory and injunctive relief, reimbursement and damages, and writ of mandate. In its first declaratory relief claim, San Diego alleged (on information and belief) that the state contended the CMS program was a nonreimbursable, county obligation. In its claim for reimbursement, San Diego alleged (again on information and belief) that the Commission had "previously denied the claims of other counties, ruling that county medical care programs for [adult MIP's] are not state-mandated and, therefore, counties are not entitled to reimbursement from the State for the costs of such programs." "Under these circumstances," San Diego asserted, "denial of the County's claim by the Commission ... is virtually certain and further administrative pursuit of this claim would be a futile act."

For relief, San Diego requested a judgment declaring the following: (1) that the state must fully reimburse San Diego if it "is compelled to provide any CMS Program services to plaintiffs ... after March 19, 1991"; (2) that section 6 requires the state "to fully fund the CMS Program" (or, alternatively, that the CMS program is discretionary); (3) that the state must pay San Diego for all of its unreimbursed costs for the CMS program during the ***85** 1989-1990 and 1990-1991 fiscal years; and (4) that the state shall assume responsibility for operating any court-ordered continuation of the CMS program. San Diego also requested that the court issue a writ of mandamus requiring the state to fulfill its reimbursement obligation. Finally, San Diego requested issuance of preliminary and permanent injunctions to ensure that the state fulfilled its obligations to the County.

In April 1991, San Diego determined that it could continue operating the CMS program using previously unavailable general fund revenues. Accordingly, San Diego and plaintiffs settled their dispute, and plaintiffs dismissed their complaint.

The matter proceeded solely on San Diego's cross-complaint. The court issued a preliminary injunction and alternative writ in May 1991. At a hearing on June 25, 1991, the court found that the state had an obligation to fund San Diego's CMS program, granted San Diego's request for a writ of mandate, and scheduled an evidentiary hearing to determine damages and remedies. On July 1, 1991, it issued an order reflecting this ruling and granting a peremptory writ of mandate. The writ did not issue, however, because of the pending hearing

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to determine damages. In December 1992, after an extensive evidentiary hearing and posthearing proceedings on the claim for a peremptory writ of mandate, the court issued a judgment confirming its jurisdiction to determine San Diego's claim, finding that section 6 required the state to fund the entire cost of San Diego's CMS program, determining the amount that the state owed San Diego for fiscal years 1989-1990 and 1990-1991, identifying funds available to the state to satisfy the judgment, and ordering issuance of a peremptory writ of mandate. [10] The court also issued a peremptory writ of mandate directing the state and various state officers to comply with the judgment.

The Court of Appeal affirmed the judgment insofar as it provided that section 6 requires the state to fund the CMS program. The Court of Appeal also affirmed the trial court's finding that the state had required San Diego to spend at least $41 million on the CMS program in fiscal years 1989-1990 and 1990-1991. However, the Court of Appeal reversed those portions of the judgment determining the final reimbursement amount and specifying the state funds from which the state was to satisfy the judgment. It remanded the matter to the Commission to determine the reimbursement amount and appropriate statutory remedies. We then granted the state's petition for review.

IV. Superior Court Jurisdiction

(2a) Before reaching the merits of the appeal, we must address the state's assertion that the superior court lacked jurisdiction to hear San ***86** Diego's mandate claim. According to the state, in *Kinlaw*, *supra*, 54 Cal.3d 326, we "unequivocally held that the orderly determination of [unfunded] mandate questions demands that only one claim on any particular alleged mandate be entertained by the courts at any given time." Thus, if a test claim is pending, "other potential claims must be held in abeyance ...." Applying this principle, the state asserts that, since "the test claim litigation was pending" in the Los Angeles action when San Diego filed its cross-complaint seeking mandamus relief, "the superior court lacked jurisdiction from the outset, and the resulting judgment is a nullity. That defect cannot be cured by the settlement of the test claim, which occurred after judgment was entered herein."

In *Kinlaw*, we held that individual taxpayers and recipients of government benefits lack standing to enforce section 6 because the applicable administrative procedures, which "are the exclusive means" for determining and enforcing the state's section 6 obligations, "are available only to local agencies and school districts directly affected by a state mandate ...." (*Kinlaw*, *supra*, 54 Cal.3d at p. 328.) In reaching this conclusion, we explained that the reimbursement right under section 6 "is a right given by the Constitution to local agencies, not individuals either as taxpayers or recipients of government benefits and services." (*Id.* at p. 334.) We concluded that "[n]either public policy nor practical necessity compels creation of a judicial remedy by which individuals may enforce the right of the county to such revenues." (*Id.* at p. 335.)

In finding that individuals do not have standing to enforce the section 6 rights of local agencies, we made several observations in *Kinlaw* pertinent to operation of the statutory process as it applies to entities that do have standing. Citing Government Code section 17500, we explained that "the Legislature enacted comprehensive administrative procedures for resolution of claims arising out of section 6 ... because the absence of a uniform procedure had resulted in inconsistent rulings on the existence of state mandates, unnecessary litigation, reimbursement delays, and, apparently, resultant uncertainties in accommodating reimbursement requirements in the budgetary process." (*Kinlaw*, *supra*, 54 Cal.3d at p. 331.) Thus, the governing statutes "establish[] procedures which exist for the express purpose of avoiding multiple proceedings, judicial and administrative, addressing the same claim that a reimbursable state mandate has been created." (*Id.* at p. 333.) Specifically, "[t]he legislation establishes a test-claim procedure to expeditiously resolve disputes affecting multiple agencies ...." (*Id.* at p. 331.) Describing the Commission's application of the test-claim procedure to claims regarding exclusion of adult MIP's from Medi-Cal, we observed: "The test claim by the County of Los Angeles was filed prior to that ***87** proposed by Alameda County. The Alameda County claim was rejected for that reason. (See [Gov. Code,] § 17521.) Los Angeles County permitted San Bernardino County to join in its claim which the Commission accepted as a test claim intended to resolve the [adult MIP exclusion] issues .... Los Angeles County declined a request from Alameda County that it be included in the test claim ...." (*Id.* at p. 331, fn. 4.)

Consistent with our observations in *Kinlaw*, we here agree with the state that the trial court should not have proceeded to resolve San Diego's claim for reimbursement under section 6 while the Los Angeles action was pending. A contrary conclusion would undermine one of "the express purpose[s]"

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of the statutory procedure: to "avoid[] multiple proceedings ... addressing the same claim that a reimbursable state mandate has been created." (*Kinlaw*, *supra*, 54 Cal.3d at p. 333.)

(3) However, we reject the state's assertion that the error was jurisdictional. The power of superior courts to perform mandamus review of administrative decisions derives in part from article VI, section 10 of the California Constitution. (*Bixby v. Pierno* (1971) 4 Cal.3d 130, 138 [93 Cal.Rptr. 234, 481 P.2d 242]; *Lipari v. Department of Motor Vehicles* (1993) 16 Cal.App.4th 667, 672 [20 Cal.Rptr.2d 246].) That section gives "[t]he Supreme Court, courts of appeal, [and] superior courts ... original jurisdiction in proceedings for extraordinary relief in the nature of mandamus ...." (Cal. Const., art. VI, § 10.) "The jurisdiction thus vested may not lightly be deemed to have been destroyed." (*Garrison v. Rourke* (1948) 32 Cal.2d 430, 435 [196 P.2d 884], overruled on another ground in *Keane v. Smith* (1971) 4 Cal.3d 932, 939 [95 Cal.Rptr. 197, 485 P.2d 261].) "While the courts are subject to reasonable statutory regulation of procedure and other matters, they will maintain their constitutional powers in order effectively to function as a separate department of government. [Citations.] Consequently an intent to defeat the exercise of the court's jurisdiction will not be supplied by implication." (*Garrison*, *supra*, at p. 436.) (2b) Here, we find no statutory provision that either "expressly provide[s]" (*id.* at p. 435) or otherwise "clearly intend[s]" (*id.* at p. 436) that the Legislature intended to divest all courts other than the court hearing the test claim of their mandamus jurisdiction.

Rather, following *Dowdall v. Superior Court* (1920) 183 Cal. 348 [191 P. 685] (*Dowdall*), we interpret the governing statutes as simply vesting primary jurisdiction in the court hearing the test claim. In *Dowdall*, we determined the jurisdictional effect of Code of Civil Procedure former section 1699 on actions to settle the account of trustees of a testamentary trust. Code of Civil Procedure former section 1699 provided in part: "Where any trust ***88** has been created by or under any will to continue after distribution, the Superior Court shall not lose jurisdiction of the estate by final distribution, but shall retain jurisdiction thereof for the purpose of the settlement of accounts under the trust." (Stats. 1889, ch. 228, § 1, p. 337.) We explained that, under this section, "the superior court, sitting in probate upon the distribution of an estate wherein the will creates a trust, retain[ed] jurisdiction of the estate for the purpose of the settlement of the accounts under the trust." (*Dowdall*, *supra*, 183 Cal. at p. 353.) However, we further observed that "the superior court of each county in the state has general jurisdiction in equity to settle trustees' accounts and to entertain actions for injunctions. This jurisdiction is, in a sense, concurrent with that of the superior court, which, by virtue of the decree of distribution, has jurisdiction of a trust created by will. The latter, however, is the primary jurisdiction, and if a bill in equity is filed in any other superior court for the purpose of settling the account of such trustee, that court, upon being informed of the jurisdiction of the court in probate and that an account is to be or has been filed therein for settlement, should postpone the proceeding in its own case and allow the account to be settled by the court having primary jurisdiction thereof." (*Ibid.*)

Similarly, we conclude that, under the statutes governing determination of unfunded mandate claims, the court hearing the test claim has primary jurisdiction. Thus, if an action asserting the same unfunded mandate claim is filed in any other superior court, that court, upon being informed of the pending test claim, should postpone the proceeding before it and allow the court having primary jurisdiction to determine the test claim.

However, a court's erroneous refusal to stay further proceedings does not render those further proceedings void for lack of jurisdiction. As we explained in *Dowdall*, a court that refuses to defer to another court's primary jurisdiction "is not without jurisdiction." (*Dowdall*, *supra*, 183 Cal. at p. 353.) Accordingly, notwithstanding pendency of the Los Angeles action, the trial court here did not lack jurisdiction to determine San Diego's mandamus petition. (See *Collins v. Ramish* (1920) 182 Cal. 360, 366-369 [188 P. 550] [although trial court erred in refusing to abate action because of former action pending, new trial was not warranted on issues that the trial court correctly decided]; *People* ex rel. *Garamendi v. American Autoplan, Inc.* (1993) 20 Cal.App.4th 760, 772 [25 Cal.Rptr.2d 192] (*Garamendi*) ["rule of exclusive concurrent jurisdiction is not 'jurisdictional' in the sense that failure to comply renders subsequent proceedings void"]; *Stearns v. Los Angeles City School Dist.* (1966) 244 Cal.App.2d 696, 718 [53 Cal.Rptr. 482, 21 A.L.R.3d 164] [where trial court errs in failing to stay proceedings in ***89** deference

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to jurisdiction of another court, reversal would be frivolous absent errors regarding the merits].) [11]

The trial court's failure to defer to the primary jurisdiction of the court hearing the Los Angeles action did not prejudice the state. Contrary to the state's assertion, the trial court did not "usurp" the Commission's "authority to determine, in the first place, whether or not legislation creates a mandate." The Commission had already exercised that authority in the Los Angeles action. Moreover, given the settlement of the Los Angeles action, which included vacating the judgment in that action, the trial court's exercise of jurisdiction here did not result in one of the principal harms that the statutory procedure seeks to prevent: multiple decisions regarding an unfunded mandate question. Finally, the lack of an administrative record specifically relating to San Diego's claim did not prejudice the state because the threshold determination of whether a statute imposes a state mandate is an issue of law. (*County of Fresno v. Lehman* (1991) 229 Cal.App.3d 340, 347 [280 Cal.Rptr. 310].) To the extent that an administrative record was necessary, the record developed in the Los Angeles action could have been submitted to the trial court. [12] (See *Los Angeles Unified School Dist. v. State of California* (1988) 199 Cal.App.3d 686, 689 [245 Cal.Rptr. 140].)

We also find that, on the facts of this case, San Diego's failure to submit a test claim to the Commission before seeking judicial relief did not affect the superior court's jurisdiction. Ordinarily, counties seeking to pursue an unfunded mandate claim under section 6 must exhaust their administrative remedies. (*Central Delta Water Agency v. State Water Resources Control Bd.* (1993) 17 Cal.App.4th 621, 640 [21 Cal.Rptr.2d 453]; *County of Contra Costa v. State of California* (1986) 177 Cal.App.3d 62, 73-77 [222 Cal.Rptr. 750] (*County of Contra Costa*).) However, counties may pursue section 6 claims in superior court without first resorting to administrative remedies if they "can establish an exception to" the exhaustion requirement. (*County of Contra Costa*, *supra*, 177 Cal.App.3d at p. 77.) The futility exception to the exhaustion requirement applies if a county can "state with assurance that the [Commission] would rule adversely in its own particular case. [Citations.]" (*Lindeleaf v. Agricultural Labor Relations Bd.* (1986) 41 Cal.3d 861, 870 [226 Cal.Rptr. 119, 718 P.2d 106]; see also *County of Contra Costa*, *supra*, 177 Cal.App.3d at pp. 77-78.) ***90**

We agree with the trial court and the Court of Appeal that the futility exception applied in this case. As we have previously noted, San Diego invoked this exception by alleging in its cross-complaint that the Commission's denial of its claim was "virtually certain" because the Commission had "previously denied the claims of other counties, ruling that county medical care programs for [adult MIP's] are not state-mandated and, therefore, counties are not entitled to reimbursement ...." Given that the Commission rejected the Los Angeles claim (which alleged the same unfunded mandate claim that San Diego alleged) and appealed the judicial reversal of its decision, the trial court correctly determined that further attempts to seek relief from the Commission would have been futile. Therefore, we reject the state's jurisdictional argument and proceed to the merits of the appeal.

V. Existence of a Mandate Under Section 6

(4) In determining whether there is a mandate under section 6, we turn to our decision in *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830 [244 Cal.Rptr. 677, 750 P.2d 318] (*Lucia Mar*). There, we discussed section 6's application to Education Code section 59300, which "requires a school district to contribute part of the cost of educating pupils from the district at state schools for the severely handicapped." (*Lucia Mar*, *supra*, at p. 832.) Before 1979, the Legislature had statutorily required school districts "to contribute to the education of pupils from the districts at the state schools [citations] ...." (*Id.* at pp. 832-833.) The Legislature repealed the statutory requirements in 1979 and, on July 12, 1979, the state assumed full-funding responsibility. (*Id.* at p. 833.) On July 1, 1980, when section 6 became effective, the state still had full-funding responsibility. On June 28, 1981, Education Code section 59300 took effect. (*Lucia Mar*, *supra*, at p. 833.)

Various school districts filed a claim seeking reimbursement under section 6 for the payments that Education Code section 59300 requires. The Commission denied the claim, finding that the statute did not impose on the districts a new program or higher level of service. The trial court and Court of Appeal agreed, the latter "reasoning that a shift in the funding of an existing program is not a new program or a higher level of service" under section 6. (*Lucia Mar*, *supra*, 44 Cal.3d at p. 834.)

We reversed, finding that a contrary result would "violate the intent underlying section 6 ...." (*Lucia Mar*, *supra*, 44 Cal.3d at p. 835.) That section "was intended to preclude the state

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from shifting to local agencies the financial responsibility for providing public services in view of the [] ***91** restrictions on the taxing and spending power of the local entities" that articles XIII A and XIII B of the California Constitution imposed. (*Lucia Mar*, *supra*, at pp. 835-836.) "The intent of the section would plainly be violated if the state could, while retaining administrative control of programs it has supported with state tax money, simply shift the cost of the programs to local government on the theory that the shift does not violate section 6 ... because the programs are not 'new.' Whether the shifting of costs is accomplished by compelling local governments to pay the cost of entirely new programs created by the state, *or by compelling them to accept financial responsibility in whole or in part for a program which was funded entirely by the state before the advent of article XIII B*, the result seems equally violative of the fundamental purpose underlying section 6 ...." (*Id.* at p. 836, italics added, fn. omitted.) We thus concluded in *Lucia Mar* "that because [Education Code] section 59300 shifts partial financial responsibility for the support of students in the state-operated schools from the state to school districts —an obligation the school districts did not have at the time article XIII B was adopted—it calls for [the school districts] to support a 'new program' within the meaning of section 6." (*Ibid.*, fn. omitted.)

The similarities between *Lucia Mar* and the case before us "are striking. In *Lucia Mar*, prior to 1979 the state and county shared the cost of educating handicapped children in state schools; in the present case from 1971-197[8] the state and county shared the cost of caring for [adult MIP's] under the Medi-Cal program.... [F]ollowing enactment of [article XIII A], the state took full responsibility for both programs." (*Kinlaw*, *supra*, 54 Cal.3d at p. 353 (dis. opn. of Broussard, J.).) As to both programs, the Legislature cited adoption of article XIII A of the California Constitution, and specifically its effect on tax revenues, as the basis for the state's assumption of full funding responsibility. (Stats. 1979, ch. 237, § 10, p. 493; Stats. 1979, ch. 282, § 106, p. 1059.) "Then in 1981 (for handicapped children) and 1982 (for [adult MIP's]), the state sought to shift some of the burden back to the counties." (*Kinlaw*, *supra*, 54 Cal.3d at p. 353 (dis. opn. of Broussard, J.).)

Adopting the Commission's analysis in the Los Angeles action, the state nevertheless argues that *Lucia Mar* "is inapposite." The school program at issue in *Lucia Mar* "had been wholly operated, administered and financed by the state" and "was unquestionably a 'state program.' " " 'In contrast,' " the state argues, " 'the program here has never been operated or administered by the State of California. The counties have always borne legal and financial responsibility for' " it under section 17000 and its predecessors.[13] The courts have interpreted section 17000 as "impos[ing] upon counties a duty to ***92** provide hospital and medical services to indigent residents. [Citations.]" (*Board of Supervisors v. Superior Court* (1989) 207 Cal.App.3d 552, 557 [254 Cal.Rptr. 905].) Thus, the state argues, the source of San Diego's obligation to provide medical care to adult MIP's is section 17000, not the 1982 legislation. Moreover, because the Legislature enacted section 17000 in 1965, and section 6 does not apply to "mandates enacted prior to January 1, 1975," there is no reimbursable mandate. Finally, the state argues that, because section 17001 give counties "complete discretion" in setting eligibility and service standards under section 17000, there is no mandate. A contrary conclusion, the state asserts, "would erroneously expand the definition of what constitutes a 'new program' under" section 6. As we explain, we reject these arguments.

A. *The Source and Existence of San Diego's Obligation*

1. *The Residual Nature of the Counties' Duty Under Section 17000*

The state's argument that San Diego's obligation to provide medical care to adult MIP's predates the 1982 legislation contains numerous errors. First, the state misunderstands San Diego's obligation under section 17000. That section creates "the *residual* fund" to sustain indigents "who cannot qualify ... under any specialized aid programs." (*Mooney*, *supra*, 4 Cal.3d at p. 681, italics added; see also *Board of Supervisors v. Superior Court*, *supra*, 207 Cal.App.3d at p. 562; *Boehm v. Superior Court* (1986) 178 Cal.App.3d 494, 499 [223 Cal.Rptr. 716] [general assistance "is a program of last resort"].) By its express terms, the statute requires a county to relieve and support indigent persons *only* "when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions." (§ 17000.)[14] "Consequently, to the extent that the state or federal governments provide[d] care for [adult MIP's], the [C]ounty's obligation to do so [was] reduced ...." (*Kinlaw*, *supra*, 54 Cal.3d at p. 354, fn. 14 (dis. opn. of Broussard, J.).)[15]

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As we have explained, the state began providing adult MIP's with medical care under Medi-Cal in 1971. Although it initially required counties to ***93** contribute generally to the costs of Medi-Cal, it did not set forth a specific amount for coverage of MIP's. The state was primarily responsible for the costs of the program, and the counties were simply required to contribute funds to defray the state's costs. Beginning with the 1978-1979 fiscal year, the state paid all costs of the Medi-Cal program, including the cost of medical care for adult MIP's. Thus, when section 6 was adopted in November 1979, to the extent that Medi-Cal provided medical care to adult MIP's, San Diego bore no financial responsibility for these health care costs. [16]

The California Attorney General has expressed a similar understanding of Medi-Cal's effect on the counties' medical care responsibility under section 17000. After the 1971 extension of Medi-Cal coverage to MIP's, Fresno County sought an opinion regarding the scope of its duty to provide medical care under section 17000. It asserted that the 1971 repeal of former section 14108.5, which declared the Legislature's concern with the counties' problems in caring for indigents not eligible for Medi-Cal, evidenced a legislative intent to preempt the field of providing health services. (56 Ops.Cal.Atty.Gen., *supra*, at p. 571.) The Attorney General disagreed, concluding that the 1971 change "did not alter the duty of the counties to provide medical care to those indigents not eligible for Medi-Cal." (*Id.* at p. 569.) The Attorney General explained: "The statement of concern acknowledged the obligation of counties to continue to provide medical assistance under section 17000; the removal of the statement of concern was not accompanied by elimination of such duty on the part of the counties, *except as the addition of* [*MIP's*] *to the Medi-Cal program would remove the burden on the counties to provide medical care for such persons*." (*Id.* at p. 571, italics added.) ***94**

Indeed, the Legislature's statement of intent in an uncodified section of the 1982 legislation excluding adult MIP's from Medi-Cal suggests that it also shared our understanding of section 17000. Section 8.3 of the 1982 Medi-Cal revisions expressly declared the Legislature's intent "[i]n eliminating [M]edically [I]ndigent [A]dults from the Medi-Cal program ...." (Stats. 1982, ch. 328, § 8.3, p. 1575; Stats. 1982, ch. 1594, § 86, p. 6357.) It stated in part: "It is further the intent of the Legislature to provide counties with as much flexibility as possible in organizing county health services to serve *the population being transferred*." (Stats. 1982, ch. 328, § 8.3, p. 1576; Stats. 1982, ch. 1594, § 86, p. 6357, italics added.) If, as the state contends, counties had always been responsible under section 17000 for the medical care of adult MIP's, the description of adult MIP's as "the population being transferred" would have been inaccurate. By so describing adult MIP's, the Legislature indicated its understanding that counties did not have this responsibility while adult MIP's were eligible for Medi-Cal. These sources fully support our rejection of the state's argument that the 1982 legislation did not impose a mandate because, under section 17000, counties had always borne the responsibility for providing medical care to adult MIP's.

2. *The State's Assumption of Full Funding Responsibility for Providing Medical Care to Adult MIP's Under Medi-Cal*

To support its argument that it never relieved counties of their obligation under section 17000 to provide medical care to adult MIP's, the state characterizes as "temporary" the Legislature's assumption of full-funding responsibility for adult MIP's. According to the state, "any ongoing responsibility of the county was, at best, only temporarily, partially, alleviated (and never supplanted)." The state asserts that the Court of Appeal thus "erred by focusing on one phase in th[e] shifting pattern of arrangements" for funding indigent health care, "a focus which led to a myopic conclusion that the state alone is forever responsible for funding the health care for" adult MIP's.

A comparison of the 1978 and 1979 statutes that eliminated the counties' share of Medi-Cal costs refutes the state's claim. The Legislature expressly limited the effect of the 1978 legislation to one fiscal year, providing that the state "shall pay" each county's Medi-Cal cost share "for the period from July 1, 1978, to June 30, 1979." (Stats. 1978, ch. 292, § 33, p. 610.) The Legislative Counsel's Digest explained that this section would require the state to pay "[a]ll county costs for Medi-Cal" for "the 1978-79 fiscal year only." (Legis. Counsel's Dig., Sen. Bill No. 154, 4 Stats. 1978 (Reg. Sess.), Summary Dig., p. 71.) The digest further explained that the purpose of the bill containing this section was "the *partial* relief of local government from the *temporary* difficulties brought about by the approval of Proposition 13." ***95** (*Id.* at p. 70, italics added.) Clearly, the Legislature knew how to include words of limitation when it intended the effects of its provisions to be temporary.

By contrast, the 1979 legislation contains no such limiting language. It simply provided: "Section 14150 of the Welfare and Institutions Code is repealed." (Stats. 1979, ch. 282, § 74,

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p. 1043.) In setting forth the need to enact the legislation as an urgency statute, the Legislature explained: "The adoption of Article XIII A ... may cause the curtailment or elimination of programs and services which are vital to the state's public health, safety, education, and welfare. In order that such services not be interrupted, it is necessary that this act take effect immediately." (Stats. 1979, ch. 282, § 106, p. 1059.) In describing the effect of this legislation, the Legislative Counsel first explained that, "[u]nder existing law, the counties pay a specified annual share of the cost of" Medi-Cal. (Legis. Counsel's Dig., Assem. Bill No. 8, 4 Stats. 1979 (Reg. Sess.), Summary Dig., p. 79.) Referring to the 1978 legislation, it further explained that "[f]or the 1978-79 fiscal year only, the state pays ... [¶] ... [a]ll county costs for Medi-Cal ...." (*Ibid.*) The 1979 legislation, the digest continued, "provid[ed] for state assumption of all county costs of Medi-Cal." (*Ibid.*) We find nothing in the 1979 legislation or the Legislative Counsel's summary indicating a legislative intent to eliminate the counties' cost share of Medi-Cal only temporarily.

The state budget process for the 1980-1981 fiscal year confirms that the Legislature's assumption of all Medi-Cal costs was not viewed as "temporary." In the summary of his proposed budget, then Governor Brown described Assembly Bill No. 8, 1981-1982 Regular Session, generally as "a long-term local financing measure" (Governor's Budget for 1980-1981 as submitted to Legislature (1979-1980 Reg. Sess.) Summary of Local Government Fiscal Relief, p. A-30) through which "[t]he total cost of [the Medi-Cal] program was *permanently* assumed by the State ...." (*Id.* at p. A-32, italics added.) Similarly, in describing to the Joint Legislative Budget Committee the Medi-Cal funding item in the proposed budget, the Legislative Analyst explained: "Item 287 includes the state cost of 'buying out' the county share of Medi-Cal expenditures. Following passage of Proposition 13, [Senate Bill No.] 154 appropriated $418 million to relieve counties of all fiscal responsibility for Medi-Cal program costs. Subsequently, [Assembly Bill No.] 8 was enacted, *which made permanent state assumption of county Medi-Cal costs*." (Legis. Analyst, Rep. to Joint Legis. Budget Com., Analysis of 1980-1981 Budget Bill, Assem. Bill No. 2020 (1979-1980 Reg. Sess.) at p. 721, italics added.) Thus, the state errs in asserting that the 1979 legislation eliminated the counties' financial support of Medi-Cal "only temporarily."

***96**

3. *State Administration of Medical Care for Adult MIP's Under Medi-Cal*

The state argues that, unlike the school program before us in *Lucia Mar, supra*, 44 Cal.3d 830, which "had been wholly operated, administered and financed by the state," the program for providing medical care to adult MIP's " 'has never been operated or administered by' " the state. According to the state, Medi-Cal was simply a state "reimbursement program" for care that section 17000 required counties to provide. The state is incorrect.

One of the legislative goals of Medi-Cal was "to allow eligible persons to secure basic health care in the same manner employed by the public generally, and without discrimination or segregation based purely on their economic disability." (Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, p. 104.) "In effect, this meant that poorer people could have access to a private practitioner of their choice, and not be relegated to a county hospital program." (*California Medical Assn. v. Brian* (1973) 30 Cal.App.3d 637, 642 [106 Cal.Rptr. 555].) Medi-Cal "provided for reimbursement to both public and private health care providers for medical services rendered." (*Lackner, supra*, 97 Cal.App.3d at p. 581.) It further directed that, "[i]nsofar as practical," public assistance recipients be afforded "free choice of arrangements under which they shall receive basic health care." (Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, p. 115.) Finally, since its inception, Medi-Cal has permitted county boards of supervisors to "prescribe rules which authorize the county hospital to integrate its services with those of other hospitals into a system of community service which offers free choice of hospitals to those requiring hospital care. The intent of this section is to eliminate discrimination or segregation based on economic disability so that the county hospital and other hospitals in the community share in providing services to paying patients and to those who qualify for care in public medical care programs." (§ 14000.2.) Thus, "Medi-Cal eligibles were to be able to secure health care in the same manner employed by the general public (i.e., in the private sector or at a county facility)." (1974 Legis. Analyst's Rep., *supra*, at p. 625; see also Preliminary Rep., *supra*, at p. 17.) By allowing eligible persons "a choice of medical facilities for treatment," Medi-Cal placed county health care providers "in competition with private hospitals." (*Hall, supra*, 23 Cal.App.3d at p. 1061.)

Moreover, administration of Medi-Cal over the years has been the responsibility of various state departments and agencies. (§§ 10720-10721, 14061-14062, 14105, 14203;

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Belshé, *supra*, 13 Cal.4th at p. 751; *Morris*, *supra*, 67 Cal.2d at p. 741; Summary of Major Events, *supra*, at pp. 2-3, 15.) Thus, "[i]n adopting the Medi-Cal program the state Legislature, for the most part, shifted indigent medical care from being a county responsibility to a State ***97** responsibility under the Medi-Cal program. [Citation.]" (*Bay General Community Hospital v. County of San Diego* (1984) 156 Cal.App.3d 944, 959 [203 Cal.Rptr. 184] (*Bay General*); see also Preliminary Rep., *supra*, at p. 18 [with certain exceptions, Medi-Cal "shifted to the state" the responsibility for administration of the medical care provided to eligible persons].) We therefore reject the state's assertion that, while Medi-Cal covered adult MIP's, county facilities were the sole providers of their medical care, and counties both operated and administered the program that provided that care.

The circumstances we have discussed readily distinguish this case from *County of Los Angeles v. Commission on State Mandates* (1995) 32 Cal.App.4th 805 [38 Cal.Rptr.2d 304], on which the state relies. There, the court rejected the claim that Penal Code section 987.9, which required counties to provide criminal defendants with certain defense funds, imposed an unfunded state mandate. Los Angeles filed the claim after the state, which had enacted appropriations between 1977 and 1990 "to reimburse counties for their costs under" the statute, made no appropriation for the 1990-1991 fiscal year. (*County of Los Angeles v. Commission on State Mandates*, *supra*, at p. 812.) In rejecting the claim, the court first held that there was no state mandate because Penal Code section 987.9 merely implemented the requirements of federal law. (*County of Los Angeles v. Commission on State Mandates*, *supra*, at pp. 814-816.) Thus, the court stated, "[a]ssuming, arguendo, the provisions of [Penal Code] section 987.9 [constituted] a new program" under section 6, there was no state mandate. (*County of Los Angeles v. Commission on State Mandates*, *supra*, at p. 818.) Here, of course, it is unquestionably the state that has required San Diego to provide medical care to indigent persons.

In dictum, the court also rejected the argument that, under *Lucia Mar*, *supra*, 44 Cal.3d 830, the state's "decision not to reimburse the counties for their programs under [Penal Code] section 987.9" imposed a new program by shifting financial responsibility for the program to counties. (*County of Los Angeles v. Commission on State Mandates*, *supra*, 32 Cal.App.4th at p. 817.) The court explained: "In contrast [to *Lucia Mar*], the program here has never been operated or administered by the State of California. The counties have always borne legal and financial responsibility for implementing the procedures under [Penal Code] section 987.9. The state merely reimbursed counties for specific expenses incurred by the counties in their operation of a program for which they had a primary legal and financial responsibility." (*Ibid.*) Here, as we have explained, between 1971 and 1983, the state administered and bore financial responsibility for the medical care that adult MIP's received under Medi-Cal. The Medi-Cal program was not simply a ***98** method of reimbursement for county costs. Thus, the state's reliance on this dictum is misplaced. [17]

In summary, our discussion demonstrates the Legislature excluded adult MIP's from Medi-Cal *knowing* and *intending* that the 1982 legislation would trigger the counties' responsibility to provide medical care as providers of last resort under section 17000. Thus, through the 1982 legislation, the Legislature attempted to do precisely that which the voters enacted section 6 to prevent: "transfer[] to [counties] the fiscal responsibility for providing services which the state believed should be extended to the public." [18] (*County of Los Angeles*, *supra*, 43 Cal.3d at p. 56; see also *City of Sacramento v. State of California*, *supra*, 50 Cal.3d at p. 68 [A "central purpose" of section 6 was "to prevent the state's transfer of the *cost of government* from *itself* to the local level."].) Accordingly, we view the 1982 legislation as having mandated a " 'new program' " on counties by "compelling them to accept financial responsibility in whole or in part for a program," i.e., medical care for adult MIP's, "which was funded entirely by the state before the advent of article XIII B." [19] (*Lucia Mar*, *supra*, 44 Cal.3d at p. 836.)

A contrary conclusion would defeat the purpose of section 6. Under the state's interpretation of that section, because section 17000 was enacted before 1975, the Legislature could eliminate the *entire* Medi-Cal program and shift to the counties under section 17000 complete financial responsibility for medical care that the state has been providing since 1966. However, the taxing and spending limitations imposed by articles XIII A and XIII B would greatly limit the ability of counties to meet their expanded section 17000 obligation. "County taxpayers would be forced to accept new taxes or see the county forced to cut existing programs further ...." (*Kinlaw*, *supra*, 54 Cal.3d at p. 351 (dis. opn. of Broussard, J.).) As we have previously explained,

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the voters, recognizing that articles XIII A and XIII B left counties "ill equipped" to assume such increased financial responsibilities, adopted section 6 precisely to avoid this result. (***99** *County of Los Angeles*, *supra*, 43 Cal.3d at p. 61.) Thus, it was the voters who decreed that we must, as the state puts it, "focus[] on one phase in th[e] shifting pattern of [financial] arrangements" between the state and the counties. Under section 6, the state simply cannot "compel[] [counties] to accept financial responsibility in whole or in part for a program which was funded entirely by the state before the advent of article XIII B ...."[20] (*Lucia Mar*, *supra*, 44 Cal.3d at p. 836.)

B. *County Discretion to Set Eligibility and Service Standards*

(5a) The state next argues that, because San Diego had statutory discretion to set eligibility and service standards, there was no reimbursable mandate. Citing section 16704, the state asserts that the 1982 legislation required San Diego to spend MISA funds "only on those whom the *county* deems eligible *under § 17000*," "gave the county exclusive authority to determine the level and type of benefits it would provide," and required counties "to include [adult MIP's] in their § 17000 eligibility **only to the extent state funds were available and then only for 3 years.**"[21] (Original emphasis.) According to the state, under section 17001, "[t]he counties have ***100** complete discretion over the determination of eligibility, scope of benefits and how the services will be provided."[22]

The state exaggerates the extent of a county's discretion under section 17001. It is true "case law ... has recognized that section 17001 confers broad discretion upon the counties in performing their statutory duty to provide general assistance benefits to needy residents. [Citations.]" (*Robbins v. Superior Court* (1985) 38 Cal.3d 199, 211 [211 Cal.Rptr. 398, 695 P.2d 695] (*Robbins*).) However, there are "clear-cut limits" to this discretion. (*Ibid.*) (6) The counties may exercise their discretion "only within fixed boundaries. In administering General Assistance relief the county acts as an agent of the state. [Citation.] When a statute confers upon a state agency the authority to adopt regulations to implement, interpret, make specific or otherwise carry out its provisions, the agency's regulations must be consistent, not in conflict with the statute, and reasonably necessary to effectuate its purpose. (Gov. Code, § 11374.)" (*Mooney*, *supra*, 4 Cal.3d at p. 679.) Thus, the counties' eligibility and service standards must "carry out" the objectives of section 17000. (*Mooney*, *supra*, 4 Cal.3d at p. 679; see also *Poverty Resistance Center v. Hart* (1989) 213 Cal.App.3d 295, 304-305 [261 Cal.Rptr. 545]; § 11000 ["provisions of law relating to a public assistance program shall be fairly and equitably construed to effect the stated objects and purposes of the program"].) County standards that fail to carry out section 17000's objectives "are void and no protestations that they are merely an exercise of administrative discretion can sanctify them." (*Morris*, *supra*, 67 Cal.2d at p. 737.) Courts, which have " 'final responsibility for the interpretation of the law,' " must strike them down. (*Id.* at p. 748.) Indeed, despite the counties' statutory discretion, "courts have consistently invalidated ... county welfare regulations that fail to meet statutory requirements. [Citations.]" (*Robbins*, *supra*, 38 Cal.3d at p. 212.)

1. *Eligibility*

(5b) Regarding eligibility, we conclude that counties must provide medical care to all adult MIP's. As we emphasized in *Mooney*, section 17000 requires counties to relieve and support " '*all indigent persons* lawfully resident therein, "when such persons are not supported and relieved by their relatives" or by some other means.' " (*Mooney*, *supra*, 4 Cal.3d at p. 678; see also *Bernhardt v. Board of Supervisors* (1976) 58 Cal.App.3d 806, 811 [130 Cal.Rptr. 189].) Moreover, section 10000 declares that the statutory "purpose" of division 9 of the Welfare and Institutions Code, which includes ***101** section 17000, "is to provide for protection, care, and assistance to the people of the state in need thereof, and to promote the welfare and happiness of all of the people of the state by providing appropriate aid and services to *all* of its needy and distressed." (Italics added.) Thus, counties have no discretion to refuse to provide medical care to "indigent persons" within the meaning of section 17000 who do not receive it from other sources.[23] (See *Bell v. Board of Supervisors* (1994) 23 Cal.App.4th 1695, 1706 [28 Cal.Rptr.2d 919] [eligibility standards may not "defeat the purpose of the statutory scheme by depriving qualified recipients of mandated support"]; *Washington v. Board of Supervisors* (1993) 18 Cal.App.4th 981, 985 [22 Cal.Rptr.2d 852] [courts have repeatedly "voided county ordinances which have attempted to redefine eligibility standards set by state statute"].)

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Although section 17000 does not define the term "indigent persons," the 1982 legislation made clear that all adult MIP's fall within this category for purposes of defining a county's obligation to provide medical care.[24] As part of its exclusion of adult MIP's, that legislation required counties to participate in the MISA program. (Stats. 1982, ch. 1594, §§ 68, 70, 86, pp. 6343-6347, 6357.) Regarding that program, the 1982 legislation amended section 16704, subdivision (c)(1), to require that a county board of supervisors, in applying for MISA funds, "assure that it will expend such funds only for [specified] health services ... provided to persons certified as eligible for such services pursuant to Section 17000 ...." (Stats. 1982, ch. 1594, § 70, p. 6346.) At the same time, the 1982 legislation amended section 16704, subdivision (c)(3), to provide that "[a]ny person whose income and resources meet the income and resource criteria for certification for services pursuant to Section 14005.7 other than for the aged, blind, or disabled, shall not be excluded from eligibility for services to the extent that state funds are provided." (Stats. 1982, ch. 1594, § 70, p. 6346.) As the state correctly explains, under this provision, "counties had to include [Medically Indigent Adults] in their [section] 17000 eligibility" standards. By requiring counties to make all adult MIP's eligible for services paid for with MISA funds, while at the same time requiring counties to promise to spend such funds *only* on those certified as eligible under section 17000, the Legislature established that all adult MIP's are "indigent persons" for purposes of the counties' duty to provide medical care under section 17000. Otherwise, the counties could not comply with their promise. ***102**

Our conclusion is not affected by language in section 16704, subdivision (c)(3), making it "operative only until June 30, 1985, unless a later enacted statute extends or deletes that date."[25] As we have explained, the subdivision established that adult MIP's are "indigent persons" within the meaning of section 17000 for medical care purposes. As we have also explained, section 17000 requires counties to relieve and support *all* "indigent persons." Thus, even if the state is correct in asserting that section 16704, subdivision (c)(3), is now inoperative and no longer prohibits counties from excluding adult MIP's from eligibility for medical services, section 17000 has that effect.[26]

Additionally, the coverage history of Medi-Cal demonstrates that the Legislature has always viewed all adult MIP's as "indigent persons" within the meaning of section 17000 for medical care purposes. As we have previously explained, when the Legislature created the original Medi-Cal program, which covered only categorically linked persons, it "declar[ed] its concern with the problems which [would] be facing the counties with respect to the medical care of indigent persons who [were] not covered" by Medi-Cal, "whose medical care [had to] be financed entirely by the counties in a time of heavily increasing medical costs." (Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, p. 116 [enacting former § 14108.5].) Moreover, to ensure that the counties' Medi-Cal cost share would not leave counties "with insufficient funds to provide hospital care for those persons not eligible for Medi-Cal," the Legislature also created the county option. (*Hall*, *supra*, 23 Cal.App.3d at p. 1061.) Through the county option, "the state agreed to assume all county health care costs ... in excess of county costs incurred during the 1964-1965 fiscal year, adjusted for population increases." (*Lackner*, *supra*, 97 Cal.App.3d at p. 586.) Thus, the Legislature expressly recognized that the categorically linked persons initially eligible for Medi-Cal did not constitute all "indigent persons" entitled to medical care under section 17000, and required the state to share in the financial responsibility for providing that care.

In adding adult MIP's to Medi-Cal in 1971, the Legislature extended Medi-Cal coverage to noncategorically linked persons "who [were] financially unable to pay for their medical care." (Legis. Counsel's Dig., Assem. Bill No. 949, 3 Stats. 1971 (Reg. Sess.) Summary Dig., p. 83.) This ***103** description was consistent with prior judicial decisions that, for purposes of a county's duty to provide "indigent persons" with hospitalization, had defined the term to include a person "who has insufficient means to pay for his maintenance in a private hospital after providing for those who legally claim his support." (*Goodall v. Brite* (1936) 11 Cal.App.2d 540, 550 [54 P.2d 510].)

Moreover, the fate of amendments to section 17000 proposed at the same time suggests that, in the Legislature's view, the category of "indigent persons" entitled to medical care under section 17000 extended even *beyond* those eligible for Medi-Cal as MIP's. The June 17, 1971, version of Assembly Bill No. 949 amended section 17000 by adding the following: "however, the health needs of such persons shall be met under [Medi-Cal]." (Assem. Bill No. 949 (1971 Reg. Sess.) § 53.3, as amended June 17, 1971.) The Assembly deleted this amendment on July 20, 1971. (Assem. Bill No. 949 (1971 Reg. Sess.) as amended July 20, 1971, p. 37.) Regarding this change, the Assembly Committee on Health explained: "The proposed amendment to Section 17000, ... which would

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have removed the counties' responsibilities as health care provider of last resort, is deleted. This change was originally proposed to clarify the guarantee to hold counties harmless from additional Medi-Cal costs. It is deleted since it cannot remove the fact that counties are, by definition, a 'last resort' for any person, with or without the means to pay, who does not qualify for federal or state aid." (Assem. Com. on Health, Analysis of Assem. Bill No. 949 (1971 Reg. Sess.) as amended July 20, 1971 (July 21, 1971), p. 4.)

The Legislature's failure to amend section 17000 in 1971 figured prominently in the Attorney General's interpretation of that section only two years later. In a 1973 published opinion, the Attorney General stated that the 1971 inclusion of MIP's in Medi-Cal "did not alter the duty of the counties to provide medical care to those indigents not eligible for Medi-Cal." (56 Ops.Cal.Atty.Gen., *supra*, at p. 569.) He based this conclusion on the 1971 legislation, relevant legislative history, and "the history of state medical care programs." (*Id.* at p. 570.) The opinion concluded: "The definition of medically indigent in [the chapter establishing Medi-Cal] is applicable only to that chapter and *does not include all those enumerated in section 17000*. If the former medical care program, by providing care only for a specific group, public assistance recipients, did not affect the responsibility of the counties to provide such service under section 17000, we believe the most recent expansion of the medical assistance program does not affect, *absent an express legislative intent to the contrary*, the duty of the counties under section 17000 to continue to provide services to those eligible under section 17000 but not under [Medi-Cal]." (*Ibid.*, italics added.) The Attorney General's opinion, although not binding, is entitled to considerable weight. ***104** (*Freedom Newspapers, Inc. v. Orange County Employees Retirement System* (1993) 6 Cal.4th 821, 829 [25 Cal.Rptr.2d 148, 863 P.2d 218].) Absent controlling authority, it is persuasive because we presume that the Legislature was cognizant of the Attorney General's construction of section 17000 and would have taken corrective action if it disagreed with that construction. (*California Assn. of Psychology Providers v. Rank* (1990) 51 Cal.3d 1, 17 [270 Cal.Rptr. 796, 793 P.2d 2].)

In this case, of course, we need not (and do not) decide whether San Diego's obligation under section 17000 to provide medical care extended beyond adult MIP's. Our discussion establishes, however, that the obligation extended *at least* that far. The Legislature has made it clear that all adult MIP's are "indigent persons" under section 17000 for purposes of San Diego's obligation to provide medical care. Therefore, the state errs in arguing that San Diego had discretion to refuse to provide medical care to this population. [27]

2. *Service Standards*

(7) A number of statutes are relevant to the state's argument that San Diego had discretion in setting service standards. Section 17000 requires in general terms that counties "relieve and support" indigent persons. Section 10000, which sets forth the purpose of the division containing section 17000, declares the "legislative intent that aid shall be administered and services provided promptly and humanely, with due regard for the preservation of family life," so "as to encourage self-respect, self-reliance, and the desire to be a good citizen, useful to society." (§ 10000.) "Section 17000, as authoritatively interpreted, mandates that medical care be provided to indigents and section 10000 requires that such care be provided promptly and humanely. The duty is mandated by statute. There is no discretion concerning whether to provide such care ...." (*Tailfeather v. Board of Supervisors* (1996) 48 Cal.App.4th 1223, 1245 [56 Cal.Rptr.2d 255] (*Tailfeather*).)

Courts construing section 17000 have held that it "imposes a mandatory duty upon all counties to provide 'medically necessary care,' not just ***105** emergency care. [Citation.]" (*County of Alameda v. State Bd. of Control* (1993) 14 Cal.App.4th 1096, 1108 [18 Cal.Rptr.2d 487]; see also *Gardner v. County of Los Angeles* (1995) 34 Cal.App.4th 200, 216 [40 Cal.Rptr.2d 271]; § 16704.1 [prohibiting a county from requiring payment of a fee or charge "before [it] renders medically necessary services to ... persons entitled to services under Section 17000"].) It further "ha[s] been interpreted ... to impose a minimum standard of care below which the provision of medical services may not fall." (*Tailfeather*, *supra*, 48 Cal.App.4th at p. 1239.) In *Tailfeather*, the court stated that "section 17000 requires provision of medical services to the poor at a level which does not lead to unnecessary suffering or endanger life and health ...." (*Id.* at p. 1240.) In reaching this conclusion, it cited *Cooke*, *supra*, 213 Cal.App.3d at page 404, which held that section 17000 requires counties to provide "dental care sufficient to remedy substantial pain and infection." (See also § 14059.5 [defining "[a] service [as] 'medically necessary' ... when it is reasonable and necessary to protect life, to prevent

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significant illness or significant disability, or to alleviate severe pain"].)

During the years for which San Diego sought reimbursement, Health and Safety Code section 1442.5, former subdivision (c) (former subdivision (c)), also spoke to the level of services that counties had to provide under Welfare and Institutions Code section 17000.[28] As enacted in September 1974, former subdivision (c) provided that, whether a county's duty to provide care to all indigent people "is fulfilled directly by the county or through alternative means, the availability of services, and the quality of the treatment received by people who cannot afford to pay for their health care shall be the same as that available to nonindigent people receiving health care services in private facilities in that county." (Stats. 1974, ch. 810, § 3, p. 1765.) The express "purpose and intent" of the act that contained former subdivision (c) was "to insure that the duty of counties to provide health care to indigents [was] properly and continuously fulfilled." (Stats. 1974, ch. 810, § 1, p. 1764.) Thus, until its repeal in September 1992,[29] former subdivision (c) "[r]equire[d] that the availability and quality of services provided to indigents directly by the county or alternatively be the same as that available to nonindigents in private facilities in that county." (Legis. Counsel's Dig., Sen. Bill No. 2369, 2 Stats. 1974 (Reg. Sess.) Summary Dig., p. 130; see also *Gardner v. County of Los Angeles*, *supra*, 34 Cal.App.4th at p. 216; ***106** *Board of Supervisors v. Superior Court*, *supra*, 207 Cal.App.3d at p. 564 [former subdivision (c) required that care provided "be *comparable* to that enjoyed by the nonindigent"].)[30] "For the 1990-91 fiscal year," the Legislature qualified this obligation by providing: "nothing in [former] subdivision (c) ... shall require any county to exceed the standard of care provided by the state Medi-Cal program. Notwithstanding any other provision of law, counties shall not be required to increase eligibility or expand the scope of services in the 1990-91 fiscal year for their programs." (Stats. 1990, ch. 457, § 23, p. 2013.)

Although we have identified statutes relevant to service standards, we need not here define the precise contours of San Diego's statutory health care obligation. The state argues generally that San Diego had discretion regarding the services it provided. However, the state fails to identify either the specific services that San Diego provided under its CMS program or which of those services, if any, were not required under the governing statutes. Nor does the state argue that San Diego could have eliminated all services and complied with statutory requirements. Accordingly, we reject the state's argument that, because San Diego had some discretion in providing services, the 1982 legislation did not impose a reimbursable mandate.[31]

VI. Minimum Required Expenditure

(8) The Court of Appeal held that, under the governing statutes, the Commission must initially determine the precise amount of any reimbursement due San Diego. It therefore reversed the damages portion of the trial court's judgment and remanded the matter to the Commission for this determination. Nevertheless, the Court of Appeal affirmed the trial court's finding that the Legislature required San Diego to spend at least $41 million on its CMS program for fiscal years 1989-1990 and 1990-1991. In affirming this finding, the Court of Appeal relied primarily on Welfare and Institutions Code section 16990, subdivision (a), as it read at all relevant times. The state contends this provision did not mandate that San Diego spend any minimum amount on the CMS program. It further asserts that the Court of Appeal's "ruling in effect sets a damages baseline, in contradiction to [its] ostensible reversal of the damage award." ***107**

Former section 16990, subdivision (a), set forth the financial maintenance-of-effort requirement for counties that received funding under the California Healthcare for the Indigent Program (CHIP). The Legislature enacted CHIP in 1989 to implement Proposition 99, the Tobacco Tax and Health Protection Act of 1988 (codified at Rev. & Tax. Code, § 30121 et seq.). Proposition 99, which the voters approved on November 8, 1988, increased the tax on tobacco products and allocated the resulting revenue in part to medical and hospital care for certain persons who could not afford those services. (*Kennedy Wholesale, Inc. v. State Bd. of Equalization* (1991) 53 Cal.3d 245, 248, 254 [279 Cal.Rptr. 325, 806 P.2d 1360].) During the 1989-1990 and 1990-1991 fiscal years, former section 16990, subdivision (a), required counties receiving CHIP funds, "at a minimum," to "maintain a level of financial support of county funds for health services at least equal to its county match and any overmatch of county funds in the 1988-89 fiscal year," adjusted annually as provided. (Stats. 1989, ch. 1331, § 9, p. 5427.) Applying this provision, the Court of Appeal affirmed the trial court's finding that the state had required San Diego to spend in fiscal years 1989-1990 and 1990-1991 at least $41 million on the CMS program.

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We agree with the state that this finding is erroneous. Unlike participation in MISA, which was mandatory, participation in CHIP was voluntary. In establishing CHIP, the Legislature appropriated funds "for allocation to counties *participating* in" the program. (Stats. 1989, ch. 1331, § 10, p. 5436, italics added.) Section 16980, subdivision (a), directed the State Department of Health Services to make CHIP payments "upon application of the county assuring that it will comply with" applicable provisions. Among the governing provisions were former sections 16990, subdivision (a), and 16995, subdivision (a), which provided: "To be eligible for receipt of funds under this chapter, a county may not impose more stringent eligibility standards for the receipt of benefits under Section 17000 or reduce the scope of benefits compared to those which were in effect on November 8, 1988." (Stats. 1989, ch. 1331, § 9, p. 5431.)

However, San Diego has cited no provision, and we have found none, that *required* eligible counties to participate in the program or apply for CHIP funds. Through Revenue and Taxation Code section 30125, which was part of Proposition 99, the electorate directed that funds raised through Proposition 99 "shall be used to supplement existing levels of service and not to fund existing levels of service." (See also Stats. 1989, ch. 1331, §§ 1, 19, pp. 5382, 5438.) Counties not wanting to supplement their existing levels of service, and who therefore did not want CHIP funds, were not bound by the program's requirements. Those counties, including San Diego, that chose to ***108** seek CHIP funds did so voluntarily.[32] Thus, the Court of Appeal erred in concluding that former section 16990, subdivision (a), mandated a minimum funding requirement for San Diego's CMS program.

Nor did former section 16991, subdivision (a)(5), which the trial court and Court of Appeal also cited, establish a minimum financial obligation for San Diego's CMS program. Former section 16991 generally "establish[ed] a procedure for the allocation of funds to each county receiving funds from the [MISA] ... for the provision of services to persons meeting certain Medi-Cal eligibility requirements, based on the percentage of newly legalized individuals under the federal Immigration Reform and Control Act (IRCA)." (Legis. Counsel's Dig., Assem. Bill No. 75, 4 Stats. 1989 (Reg. Sess.) Summary Dig., p. 548.) Former section 16991, subdivision (a)(5) required the state, for fiscal years 1989-1990 and 1990-1991, to reimburse a county if its combined allocation from various sources was less than the funding it received under section 16703 for fiscal year 1988-1989.[33] Nothing about this state reimbursement requirement imposed on San Diego a minimum funding requirement for its CMS program.

Thus, we must reverse the judgment insofar as it finds that former sections 16990, subdivision (a), and 16991, subdivision (a)(5), established a $41 million spending floor for San Diego's CMS program. Instead, the various statutes that we have previously discussed (e.g., §§ 10000, 17000, and Health & Saf. Code, § 1442.5, former subd. (c)), the cases construing those statutes, and any other relevant authorities must guide the Commission's determination of the level of services that San Diego had to provide and any reimbursement to which it is entitled. ***109**

VII. Remaining Issues

(9) The state raises a number of additional issues. It first complains that a mandamus proceeding under Code of Civil Procedure section 1085 was an improper vehicle for challenging the Commission's position. It asserts that, under Government Code section 17559, review by administrative mandamus under Code of Civil Procedure section 1094.5 is the exclusive method for challenging a Commission decision denying a mandate claim. The Court of Appeal rejected this argument, reasoning that the trial court had jurisdiction under Code of Civil Procedure section 1085 because, under section 6, the state has a ministerial duty of reimbursement when it imposes a mandate.

Like the Court of Appeal, but for different reasons, we reject the state's argument. "[M]andamus pursuant to [Code of Civil Procedure] section 1094.5, commonly denominated 'administrative' mandamus, is mandamus still. It is not possessed of 'a separate and distinctive legal personality. It is not a remedy removed from the general law of mandamus or exempted from the latter's established principles, requirements and limitations.' [Citations.] The full panoply of rules applicable to 'ordinary' mandamus applies to 'administrative' mandamus proceedings, except where modified by statute. [Citations.]" (*Woods v. Superior Court* (1981) 28 Cal.3d 668, 673-674 [170 Cal.Rptr. 484, 620 P.2d 1032].) Where the entitlement to mandamus relief is adequately alleged, a trial court may treat a proceeding brought under Code of Civil Procedure section 1085 as one brought under Code of Civil Procedure section 1094.5 and should deny a demurrer asserting that the wrong mandamus statute has been invoked. (*Woods*, *supra*, 28 Cal.3d at

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pp. 673-674; *Anton v. San Antonio Community Hosp.* (1977) 19 Cal.3d 802, 813-814 [140 Cal.Rptr. 442, 567 P.2d 1162].) Thus, even if San Diego identified the wrong mandamus statute, the error did not affect the trial court's ability to grant mandamus relief.

"In any event, distinctions between traditional and administrative mandate have little impact on this appeal ...." (*McIntosh v. Aubry* (1993) 14 Cal.App.4th 1576, 1584 [18 Cal.Rptr.2d 680].) The determination whether the statutes here at issue established a mandate under section 6 is a question of law. (*County of Fresno v. Lehman*, *supra*, 229 Cal.App.3d at p. 347.) In reaching our conclusion, we have relied on no facts that are in dispute. Where, as here, a "purely legal question" is at issue, courts "exercise independent judgment ... , no matter whether the issue arises by traditional or administrative mandate. [Citations.]" (*McIntosh*, *supra*, 14 Cal.App.4th at p. 1584.) As the state concedes, even under Code of Civil Procedure section 1094.5, a judgment must "be reversed if based on erroneous conclusions of law." Thus, any differences between the two mandamus statutes have had no impact on our analysis. ***110**

The state next contends that the trial court prejudicially erred in denying the "peremptory disqualification" motion that the Director of the Department of Finance filed under Code of Civil Procedure section 170.6. We will not review this ruling, however, because it is reviewable only by writ of mandate under Code of Civil Procedure section 170.3, subdivision (d). (*People v. Webb* (1993) 6 Cal.4th 494, 522-523 [24 Cal.Rptr.2d 779, 862 P.2d 779]; *People v. Hull* (1991) 1 Cal.4th 266 [2 Cal.Rptr.2d 526, 820 P.2d 1036].)

Nor can we address the state's argument that the trial court erred in granting a preliminary injunction. The May 1991 order granting the preliminary injunction was "immediately and separately appealable" under Code of Civil Procedure section 904.1, subdivision (a)(6). (*Art Movers, Inc. v. Ni West, Inc.* (1992) 3 Cal.App.4th 640, 645 [4 Cal.Rptr.2d 689].) Thus, the state's attempt to challenge the order in an appeal filed after entry of final judgment in December 1992 was untimely.[34] (See *Chico Feminist Women's Health Center v. Scully* (1989) 208 Cal.App.3d 230, 251 [256 Cal.Rptr. 194].) Moreover, the state's attempt to appeal the order granting the preliminary injunction is moot because of (1) the trial court's July 1 order granting a peremptory writ of mandate, which expressly "supersede[d] and replace[d]" the preliminary injunction order and (2) entry of final judgment. (*Sheward v. Citizens' Water Co.* (1891) 90 Cal. 635, 638-639 [27 P. 439]; *People v. Morse* (1993) 21 Cal.App.4th 259, 264-265 [25 Cal.Rptr.2d 816]; *Art Movers, Inc.*, *supra*, 3 Cal.App.4th at p. 647.)

Finally, the state requests that we reverse the trial court's reservation of jurisdiction regarding an award of attorney fees. This request is premature. In the judgment, the trial court "retain[ed] jurisdiction to determine any right to and amount of attorneys' fees ...." This provision does not declare that San Diego in fact has a right to an award of attorney fees. Nor has San Diego asserted such a right. As San Diego states, at this point, "[t]here is nothing for this Court to review." We will not give an advisory ruling on this issue.

VIII. Disposition

The judgment of the Court of Appeal is affirmed insofar as it holds that the exclusion of adult MIP's from Medi-Cal imposed a mandate on San Diego within the meaning of section 6. The judgment is reversed insofar as it holds that the state required San Diego to spend at least $41 million on the CMS program in fiscal years 1989-1990 and 1990-1991. The matter is ***111** remanded to the Commission to determine whether, and by what amount, the statutory standards of care (e.g., Health & Saf. Code, § 1442.5, former subd. (c); Welf. & Inst. Code, §§ 10000, 17000) forced San Diego to incur costs in excess of the funds provided by the state, and to determine the statutory remedies to which San Diego is entitled.

C. J., Mosk, J., Baxter, J., Anderson, J.,* and Aldrich, J.,†]]]] concurred.

KENNARD, J.

I dissent.

As part of an initiative measure placing spending limits on state and local government, the voters in 1979 added article XIII B to the California Constitution. Section 6 of this article provides that when the state "mandates a new

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program or higher level of service on any local government," the state must reimburse the local government for the cost of such program or service. Under subdivision (c) of this constitutional provision, however, the state "may, but need not," provide such reimbursement *if the state mandate was enacted before January 1, 1975*. (Cal. Const., art. XIII B, § 6, subd. (c).) Subdivision (c) is the critical provision here.

Because the counties have for many decades been under a state mandate to provide for the poor, a mandate that existed before the voters added article XIII B to the state Constitution, the express language of subdivision (c) of section 6 of article XIII B exempts the state from any *legal obligation* to reimburse the counties for the cost of medical care to the needy. The fact that for a certain period after 1975 the state directly paid under the state Medi-Cal program for these costs did not lead to the creation of a new mandate once the state stopped doing so. To hold to the contrary, as the majority does, is to render subdivision (c) a nullity.

The issue here is not whether the poor are entitled to medical care. They are. The issue is whether the state or the counties must pay for this care. The majority places this obligation on the state. The counties' win, however, may be a pyrrhic victory. For, in anticipation of today's decision, the Legislature has enacted legislation that will drastically reduce the counties' share of other state revenue, as discussed in part III below.

I

Beginning in 1855, California imposed a legal obligation on the counties to take care of their poor. (*Mooney* v. *Pickett* (1971) 4 Cal.3d 669, 677-678 ***112** [94 Cal.Rptr. 279, 483 P.2d 1231].) Since 1965, this obligation has been codified in Welfare and Institutions Code section 17000. (Stats. 1965, ch. 1784, § 5, p. 4090.) That statute states in full: "Every county and every city and county shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions." (Welf. & Inst. Code, § 17000.) Included in this is a duty to provide medical care to indigents. (*Board of Supervisors v. Superior Court* (1989) 207 Cal.App.3d 552, 557 [254 Cal.Rptr. 905].)

A brief overview of the efforts by federal, state, and local governments to furnish medical services to the poor may be helpful.

Before March 1, 1966, the date on which California began its Medi-Cal program, medical services for the poor "were provided in different ways and were funded by the state, county, and federal governments in varying amounts." (Assem. Com. on Public Health, Preliminary Rep. on Medi-Cal (Feb. 29, 1968) p. 3.) The Medi-Cal program, which California adopted to implement the federal Medicaid program (42 U.S.C. § 1396 et seq.; see *Morris v. Williams* (1967) 67 Cal.2d 733, 738 [63 Cal.Rptr. 689, 433 P.2d 697]), at first limited eligibility to those persons "linked" to a federal categorical aid program by being over age 65, blind, disabled, or a member of a family with dependent children. (Legis. Analyst, Rep. to Joint Legis. Budget Com., Analysis of 1971-1972 Budget Bill, Sen. Bill No. 207 (1971 Reg. Sess.), pp. 548, 550.) Persons not linked to federal programs were ineligible for Medi-Cal; they could obtain medical care from the counties. (*County of Santa Clara* v. *Hall* (1972) 23 Cal.App.3d 1059, 1061 [100 Cal.Rptr. 629].)

In 1971, the Legislature revised Medi-Cal by extending coverage to certain so-called "noncategorically linked" persons, or "medically indigent persons." (Stats. 1971, ch. 577, §§ 12, 13, 22.5, 23, pp. 1110-1111, 1115.) The revisions included a formula for determining each county's share of Medi-Cal costs for the 1972-1973 fiscal year, with increases in later years based on the assessed value of property. (*Id.* at §§ 41, 42, pp. 1131-1133.)

In 1978, California voters added to the state Constitution article XIII A (Proposition 13), which severely limited property taxes. In that same year, to help the counties deal with the drastic drop in local tax revenue, the Legislature assumed the counties' share of Medi-Cal costs. (Stats. 1978, ch. 292, § 33, p. 610.) In 1979, the Legislature relieved the counties of their obligation to share in Medi-Cal costs. (Stats. 1979, ch. 282, § 106, p. 1059.) ***113** Also in 1979, the voters added to the state Constitution article XIII B, which placed spending limits on state and local governments and added the mandate/reimbursement provisions at issue here.

In 1982, the Legislature removed from Medi-Cal eligibility the category of "medically indigent persons" that had been added in 1971. The Legislature also transferred funds for indigent health care services from the state to the counties

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through the Medically Indigent Services Account. (Stats. 1982, ch. 328, §§ 6, 8.3, 8.5, pp. 1574-1576; Stats. 1982, ch. 1594, §§ 19, 86, pp. 6315, 6357.) Medically Indigent Services Account funds were then combined with county health service funds to provide health care to persons not eligible for Medi-Cal (Stats. 1982, ch. 1594, § 86, p. 6357), and counties were to provide health services to persons in this category "to the extent that state funds are provided" (*id.*, § 70, p. 6346).

From 1983 through June 1989, the state fully funded San Diego County's program for furnishing medical care to the poor. Thereafter, in fiscal years 1989-1990 and 1990-1991, the state partially funded San Diego County's program. In early 1991, however, the state refused to provide San Diego County full funding for the 1990-1991 fiscal year, prompting a threat by the county to terminate its indigent medical care program. This in turn led the Legal Aid Society of San Diego to file an action against the County of San Diego, asserting that Welfare and Institutions Code section 17000 imposed a legal obligation on the county to provide medical care to the poor. The county cross-complained against the state. The county argued that the state's 1982 removal of the category of "medically indigent persons" from Medi-Cal eligibility mandated a "new program or higher level of service" within the meaning of section 6 of article XIII B of the California Constitution, because it transferred the cost of caring for these persons to the county. Accordingly, the county contended, section 6 required the state to reimburse the county for its cost of providing such care, and prohibited the state from terminating reimbursement as it did in 1991. The county eventually reached a settlement with the Legal Aid Society of San Diego, leading to a dismissal of the latter's complaint.

While the County of San Diego's case against the state was pending, litigation was proceeding in a similar action against the state by the County of Los Angeles and the County of San Bernardino. In that action, the Superior Court for the County of Los Angeles entered a judgment in favor of Los Angeles and San Bernardino Counties. The state sought review in the Second District Court of Appeal in Los Angeles. In December 1992, the parties to the Los Angeles case entered into a settlement agreement providing for dismissal of the appeal and vacating of the superior court judgment. ***114** The Court of Appeal thereafter ordered that the superior court judgment be vacated and that the appeal be dismissed.

The County of San Diego's action against the state, however, was not settled. It proceeded on the county's claim against the state for reimbursement of the county's expenditures for medical care to the indigent. [1] The majority holds that the county is entitled to such reimbursement. I disagree.

II

Article XIII B, section 6 of the California Constitution provides: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, *except that the Legislature may, but need not, provide such subvention of funds for the following mandates:* [¶] ... [¶] *(c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.*" (Italics added.) [2]

Of importance here is Welfare and Institutions Code section 17000 (hereafter sometimes section 17000). It imposes a legal obligation on the counties to provide, among other things, medical services to the poor. (*Board of Supervisors v. Superior Court*, *supra*, 207 Cal.App.3d at p. 557; *County of San Diego v. Viloria* (1969) 276 Cal.App.2d 350, 352 [80 Cal.Rptr. 869].) Section 17000 was enacted long before and has existed continuously since January 1, 1975, the date set forth in subdivision (c) of section 6 of article XIII B of the California Constitution. Thus, section 17000 falls within subdivision (c)'s language of "[l]egislative mandates enacted prior to January 1, 1975," rendering it exempt from the reimbursement provision of section 6.

Contrary to the majority's conclusion, the Legislature's 1982 legislation removing the category of "medically indigent persons" from Medi-Cal did not meet California Constitution, article XIII B, section 6 's requirement of imposing on local government "a new program or higher level of service," and therefore did not entitle the counties to reimbursement from the state under section 6 of article XIII B. The counties' legal obligation to provide medical care arises from section 17000, not from the subsequently enacted ***115** 1982 legislation. The majority itself concedes that the 1982 legislation merely "trigger[ed] the counties' responsibility to provide medical care as providers of last resort under section 17000." (Maj. opn., *ante,* at p. 98.) Although certain actions by the state and the federal government during the 1970's and 1980's may have alleviated the counties' financial burden of providing medical care for the indigent, those actions did not supplant or remove the counties' existing legal obligation under section

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17000 to furnish such care. (*Cooke* v. *Superior Court* (1989) 213 Cal.App.3d 401, 411 [261 Cal.Rptr. 706]; *Madera Community Hospital* v. *County of Madera* (1984) 155 Cal.App.3d 136, 151 [201 Cal.Rptr. 768].)

The state's reimbursement obligation under section 6 of article XIII B of the California Constitution arises only if, after January 1, 1975, the date mentioned in subdivision (c) of section 6, the state imposes on the counties "a new program or higher level of service." That did not occur here. As I pointed out above, the counties' legal obligation to provide for the poor arises from section 17000, enacted long before the January 1, 1975, cutoff date set forth in subdivision (c) of section 6. That statutory obligation remained in effect when during a certain period after 1975 the state assumed the financial burden of providing medical care to the poor, in an effort to help the counties deal with a drastic drop in local revenue as a result of the voters' passage of Proposition 13, which severely limited property taxes. Because the counties' statutory obligation to provide health care to the poor was created before 1975 and has existed unchanged since that time, the state's 1982 termination of Medi-Cal eligibility for "medically indigent persons" did not create a "new program or higher level of service" within the meaning of section 6 of article XIII B, and therefore did not obligate the state to reimburse the counties for their expenditures in health care for the poor.

III

In imposing on the state a legal obligation to reimburse the counties for their cost of furnishing medical services to the poor, the majority's holding appears to bail out financially strapped counties. Not so.

Today's decision will immediately result in a reduction of state funds available to the counties. Here is why. In 1991, the Legislature added section 11001.5 to the Revenue and Taxation Code, providing that 24.33 percent of the moneys collected by the Department of Motor Vehicles as motor vehicle license fees must be deposited in the State Treasury to the credit of the Local Revenue Fund. In anticipation of today's decision, the Legislature stated in subdivision (d) of this statute: "This section shall cease to be operative on ***116** the first day of the month following the month in which the Department of Motor Vehicles is notified by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal [that]: [¶] ... [¶] (2) The state is obligated to reimburse counties for costs of providing medical services to medically indigent adults pursuant to Chapters 328 and 1594 of the Statutes of 1982." (Rev. & Tax. Code, § 11001.5, subd. (d); see also *id*., § 10753.8, subd. (b).)

The loss of such revenue, which the Attorney General estimates at "hundreds of millions of dollars," may put the counties in a serious financial bind. Indeed, realization of the scope of this revenue loss appears to explain why the County of Los Angeles, after a superior court victory in its action seeking state reimbursement for the cost of furnishing medical care to "medically indigent persons," entered into a settlement with the state under which the superior court judgment was effectively obliterated by a stipulated reversal. (See *Neary v. Regents of University of California* (1992) 3 Cal.4th 273 [10 Cal.Rptr.2d 859, 834 P.2d 119].) In a letter addressed to the Second District Court of Appeal, sent while the County of Los Angeles was engaged in settlement negotiations with the state, the county's attorney referred to the legislation mentioned above in these terms: "This legislation was quite clearly written with this case in mind. Consequently, to pursue this matter, *the County of Los Angeles risks losing a funding source it must have to maintain its health services programs at current levels.* The additional funding that might flow to the County from a final judgment in its favor in this matter, is several years away *and is most likely of a lesser amount than this County's share of the vehicle license fees*." (Italics added.) Thus, the County of Los Angeles had apparently determined that a legal victory entitling it to reimbursement from the state for the cost of providing medical care to the category of "medically indigent persons" would not in fact serve its economic interests.

I have an additional concern. According to the majority, whenever there is a change in a state program that has the effect of increasing a county's financial burden under section 17000 there must be reimbursement by the state. This means that so long as section 17000 continues to exist, an increase in state funding to a particular county for the care of the poor, once undertaken, may be irreversible, thus locking the state into perpetual financial assistance to that county for health care to the needy. This would, understandably, be a major disincentive for the Legislature to ever increase the state's funding of a county's medical care for the poor.

The rigidity imposed by today's holding will have unfortunate consequences should the state's limited financial resources

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prove insufficient to ***117** reimburse the counties under section 6 of article XIII B of the California Constitution for the "new program or higher level of service" of providing medical care to the poor under section 17000. In that event, the state may be required to modify this "new program or higher level of service" in order to reconcile the state's reimbursement obligation with its finite resources and its other financial commitments. Such modifications are likely to take the form of limitations on eligibility for medical care or on the amount or kinds of medical care that the counties must provide to the poor under section 17000. A more flexible system—one that actively encouraged shared state and county responsibility for indigent medical care, using a variety of innovative funding mechanisms—would be less likely to result in a curtailment of medical services to the poor.

And if the Legislature is unable or unwilling to appropriate funds to comply with the majority's reimbursement order, the law allows the county to file "in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement." (Gov. Code, § 17612, subd. (c); see maj. opn., *ante,* at p. 82.) Such a declaration would do nothing to alleviate the plight of the poor.

Conclusion

The dispute in this case ultimately arises from a collision between the taxing limitations on the counties imposed by article XIII A of the state Constitution and the preexisting, open-ended mandate imposed on them under Welfare and Institutions Code section 17000 to provide medical care for the poor. As I have explained, the Legislature's assumption thereafter of some of the resulting financial burden to the counties did not repeal section 17000' s mandate, nor did the Legislature's later termination of its financial support create a new mandate. In holding to the contrary, the majority imposes on the Legislature an obligation that the Legislature does not have under the law.

I recognize that my resolution of this issue—that under existing law the state has *no legal obligation* to reimburse the counties for health expenditures for the poor—would leave the counties in the same difficult position in which they find themselves now: providing funding for indigent medical care while maintaining other essential public services in a time of fiscal austerity. But complex policy questions such as the structuring and funding of indigent medical care are best left to the counties, the Legislature, and ultimately the electorate, rather than to the courts. It is the counties that must figure out how to allocate the limited budgets imposed on them by the electorate's adoption of articles XIII A and XIII B of the California Constitution among indigent medical care programs and a host of other pressing ***118** and essential needs. It is the Legislature that must decide whether to furnish financial assistance to the counties so they can meet their section 17000 obligations to provide for the poor, and whether to continue to impose the obligations of section 17000 on the counties. It is the electorate that must decide whether, given the ever-increasing costs of meeting the needs of indigents under section 17000, counties should be afforded some relief from the taxing and spending limits of articles XIII A and XIII B, both enacted by voters' initiative. These are hard choices, but for the reasons just given they are better made by the representative branches of government and the electorate than by the courts. ***119**

Footnotes

* Retired judge of the San Diego Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Presiding Justice, Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

† Associate Justice, Court of Appeal, Second Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

1 Except as otherwise indicated, all further statutory references are to the Welfare and Institutions Code.

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2 Congress later repealed the requirement that states work towards expanding eligibility. (See Cal. Health and Welfare Agency, The Medi-Cal Program: A Brief Summary of Major Events (Mar. 1990) p. 1 (Summary of Major Events).)

3 Former section 14150.1 provided in relevant part: "[A] county may elect to pay as its share [of Medi-Cal costs] one hundred percent ... of the county cost of health care uncompensated from any source in 1964-65 for all categorical aid recipients, and all other persons in the county hospital or in a contract hospital, increased for such county for each fiscal year subsequent to 1964-65 by an amount proportionate to the increase in population for such county .... If the county so elects, the county costs of health care in any fiscal year shall not exceed the total county costs of health care uncompensated from any source in 1964-65 for all categorical aid recipients, and all other persons in the county hospital or in a contract hospital, increased for such county for each fiscal year subsequent to 1964-65 by an amount proportionate to the increase in population for such county ...." (Stats. 1966, Second Ex. Sess. 1965, ch. 4, § 2, p. 121.)

4 Former section 14150 provided the standard method for determining the counties' share of Medi-Cal costs. Under it, "a county was required to pay the state a specific sum, in return for which the state would pay for the medical care of all [categorically linked] individuals .... Financial responsibility for nonlinked individuals ... remained with the counties." (*Lackner*, *supra*, 97 Cal.App.3d at p. 581.)

5 In this opinion, the terms "adult MIP's" and "Medically Indigent Adults" refer only to those persons who were excluded from the Medi-Cal program by the 1982 legislation.

6 San Diego lodged with the trial court a copy of the Commission's decision in the Los Angeles action.

7 In setting forth the facts relating to the Los Angeles action, we rely in part on the appellate record from that action, of which we take judicial notice. (Evid. Code, §§ 452, subd. (d), 459.)

8 The settlement resulted from 1991 legislation that changed the system of health care funding as of June 30, 1991. (See § 17600 et seq.; Stats. 1991, chs. 87, 89, pp. 231-235, 243-341.) That legislation provided counties with new revenue sources, including a portion of state vehicle license fees, to fund health care programs. However, the legislation declared that the statutes providing counties with vehicle license fees would "cease to be operative on the first day of the month following the month in which the Department of Motor Vehicles is notified by the Department of Finance of a final judicial determination by the California Supreme Court or any California court of appeal" that "[t]he state is obligated to reimburse counties for costs of providing medical services to medically indigent adults pursuant to Chapters 328 and 1594 of the Statutes of 1982." (Rev. & Tax. Code, §§ 10753.8, subd. (b)(2), 11001.5, subd. (d)(2); see also Stats. 1991, ch. 89, § 210, p. 340.) Los Angeles and San Bernardino Counties settled their action to avoid triggering these provisions. Unlike the dissent, we do not believe that consideration of these recently enacted provisions is appropriate in analyzing the 1982 legislation. Nor do we assume, as the dissent does, that our decision necessarily triggers these provisions. That issue is not before us.

9 The cross-complaint named the following state officers: (1) Kenneth W. Kizer, Director of the Department of Health Services; (2) Kim Belshé, Acting Secretary of the Health and Welfare Agency; (3) Gray Davis, the State Controller; (4) Kathleen Brown, the State Treasurer; and (5) Thomas Hayes, the Director of the Department of Finance. Where the context suggests, subsequent references in this opinion to "the state" include these officers.

10 The judgment dismissed all of San Diego's other claims.

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11 In *Garamendi*, *supra*, 20 Cal.App.4th at pages 771-775, the court discussed procedural requirements for raising a claim that another court has already exercised its concurrent jurisdiction. Given our conclusion that the trial court's error here was not jurisdictional, we express no opinion about this discussion in *Garamendi* or the sufficiency of the state's efforts to raise the issue in this case.

12 Notably, in discussing the options still available to San Diego, the state asserts that San Diego "might have been able to go to superior court and file a [mandamus] petition based on the record of the prior test claim."

13 "County General Assistance in California dates from 1855, and for many years afforded the only form of relief to indigents." (*Mooney* v . *Pickett* (1971) 4 Cal.3d 669, 677 [94 Cal.Rptr. 279, 483 P.2d 1231] (*Mooney*).) Section 17000 is substantively identical to former section 2500, which was enacted in 1937. (Stats. 1937, chs. 369, 464, pp. 1097, 1406.)

14 See also *County of Los Angeles v. Frisbie* (1942) 19 Cal.2d 634, 639 [122 P.2d 526] (construing former section 2500); *Jennings v. Jones* (1985) 165 Cal.App.3d 1083, 1091 [212 Cal.Rptr. 134] (counties must support all indigent persons "having no other means of support"); *Union of American Physicians & Dentists v. County of Santa Clara* (1983) 149 Cal.App.3d 45, 51, fn. 10 [196 Cal.Rptr. 602]; *Rogers v. Detrich* (1976) 58 Cal.App.3d 90, 95 [128 Cal.Rptr. 261] (counties have duty of support "where such support is not otherwise furnished").

15 In asserting that Medi-Cal coverage did not supplant San Diego's obligation under section 17000, the dissent incorrectly relies on *Madera Community Hospital v. County of Madera* (1984) 155 Cal.App.3d 136 [201 Cal.Rptr. 768] (*Madera*) and *Cooke*, *supra*, 213 Cal.App.3d 401. (Dis. opn., *post*, at p. 115.) In *Madera*, the court voided a county ordinance that extended county benefits under section 17000 only to persons " 'meeting all eligibility standards for the Medi-Cal program.' " (*Madera*, *supra*, 155 Cal.App.3d at p. 150.) The court explained: "Because all funding for the Medi-Cal program comes from either the federal or the state government ..., [c]ounty has denied any financial obligation whatsoever from county funds for the medical care of its indigent and poor residents." (*Ibid.*) Thus, properly understood, *Madera* held only that Medi-Cal does not relieve counties of their obligation to provide medical care to persons who are "indigent" within the meaning of section 17000 but who are ineligible for Medi-Cal. The limit of *Madera*'s holding is apparent from the court's reliance on a 1979 opinion of the Attorney General discussing the scope of a county's authority under section 17000. (*Madera*, *supra*, 155 Cal.App.3d at pp. 151-152.) The Attorney General explained that "[t]he county obligation [under section 17000] to provide general relief extends to those indigents who do not qualify under specialized aid programs, ... including Medi-Cal." (62 Ops.Cal.Atty.Gen. 70, 71, fn. 1 (1979).) Moreover, the *Madera* court expressly recognized that state and federal programs "alleviate, to a greater or lesser extent, [a] [c]ounty's burden." (*Madera*, *supra*, 155 Cal.App.3d at p. 151.) In *Cooke*, the court simply made a passing reference to *Madera* in dictum describing the coverage history of Medi-Cal. (*Cooke*, *supra*, 213 Cal.App.3d at p. 411.) It neither analyzed the issue before us nor explained the meaning of the dictum that the dissent cites.

16 As we have previously explained, even before 1971 the state, through the county option, assumed much of the financial responsibility for providing medical care to adult MIP's.

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17 Because *County of Los Angeles v. Commission on State Mandates*, *supra*, 32 Cal.App.4th 805, is distinguishable, we need not (and do not) express an opinion regarding the court's analysis in that decision or its conclusions.

18 The state properly does not contend that the provision of medical care to adult MIP's is not a "program" within the meaning of section 6. (See *County of Los Angeles*, *supra*, 43 Cal.3d at p. 56 [section 6 applies to "programs that carry out the governmental function of providing services to the public"].)

19 Alternatively, the 1982 legislation can be viewed as having mandated an increase in the services that counties were providing through existing section 17000 programs, by adding adult MIP's to the indigent population that counties already had to serve under that section. (See *County of Los Angeles*, *supra*, 43 Cal.3d at p. 56 ["subvention requirement for increased or higher level of service is directed to state mandated increases in the services provided by local agencies in existing 'programs' "].)

20 In reaching a contrary conclusion, the dissent ignores the electorate's purpose in adopting section 6. The dissent also mischaracterizes our decision. We do not hold that "whenever there is a change in a state program that has the effect of increasing a county's financial burden under section 17000 there must be reimbursement by the state." (Dis. opn., *post*, at p. 116.) Rather, we hold that section 6 prohibits the state from shifting to counties the costs of state programs for which the state assumed complete financial responsibility before adoption of section 6. Whether the state may discontinue assistance that it initiated after section 6's adoption is a question that is not before us.

21 As amended in 1982, section 16704, subdivision (c)(1), provided in relevant part: "The [county board of supervisors] shall assure that it will expend [MISA] funds only for the health services specified in Sections 14132 and 14021 provided to persons certified as eligible for such services pursuant to Section 17000 and shall assure that it will incur no less in net costs of county funds for county health services in any fiscal year than the amount required to obtain the maximum allocation under Section 16702." (Stats. 1982, ch. 1594, § 70, p. 6346.) Section 16704, subdivision (c)(3), provided in relevant part: "Any person whose income and resources meet the income and resource criteria for certification for services pursuant to Section 14005.7 other than for the aged, blind, or disabled, shall not be excluded from eligibility for services to the extent that state funds are provided. Such persons may be held financially liable for these services based upon the person's ability to pay. A county may not establish a payment requirement which would deny medically necessary services. This section shall not be construed to mandate that a county provide any specific level or type of health care service .... The provisions of this paragraph shall become inoperative if a court ruling is issued which decrees that the provisions of this paragraph mandates [*sic*] that additional state funds be provided and which requires that additional state reimbursement be made to counties for costs incurred under this paragraph. This paragraph shall be operative only until June 30, 1983, unless a later enacted statute extends or deletes that date." (Stats. 1982, ch. 1594, § 70, pp. 6346-6347.)

22 Section 17001 provides: "The board of supervisors of each county, or the agency authorized by county charter, shall adopt standards of aid and care for the indigent and dependent poor of the county or city and county."

23 We disapprove *Bay General*, *supra*, 156 Cal.App.3d at pages 959-960, insofar as it (1) states that a county's responsibility under section 17000 extends only to indigents as defined by the county's board of supervisors, and (2) suggests that a county may refuse to provide medical care to persons who are "indigent" within the meaning of section 17000 but do not qualify for Medi-Cal.

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24 Our conclusion is limited to this aspect of a county's duty under section 17000. We express no opinion regarding the scope of a county's duty to provide other forms of relief and support under section 17000.

25 The 1982 legislation made the subdivision operative until June 30, 1983. (Stats. 1982, ch. 1594, § 70, p. 6347.) In 1983, the Legislature repealed and reenacted section 16704, and extended the operative date of subdivision (c)(3) to June 30, 1985. (Stats. 1983, ch. 323, §§ 131.1, 131.2, pp. 1079-1080.)

26 Given our analysis, we express no opinion about the statement in *Cooke*, *supra*, 213 Cal.App.3d at page 412, footnote 9, that the "life" of section 16704, subdivision (c)(3), "was implicitly extended" by the fact that the "paragraph remains in the statute despite three subsequent amendments to the statute ...."

27 Although asserting that nothing required San Diego to provide "all" adult MIP's with medical care, the state never precisely identifies which adult MIP's were legally entitled to medical care and which ones were not. Nor does the state ever directly assert that some adult MIP's were not "indigent persons" under section 17000. On the contrary, despite its argument, the state seems to suggest that San Diego's medical care obligation under section 17000 extended even beyond adult MIP's. It asserts: "At no time prior to or following 1983 did Medi-Cal ever provide medical services to, or pay for medical services provided to, all persons who could not afford such services and therefore might be deemed 'medically indigent.' ... For some period prior to 1983, Medi-Cal paid for services for *some* indigent adults under its 'medically indigent adults' category.... [A]t *no time* did the state ever assume financial responsibility for all adults who are too indigent to afford health care." (Original italics.)

28 The state argues that former subdivision (c) is irrelevant to our determination because, like section 17000, it "predate[d] 1975." Our previous analysis rejecting this argument in connection with section 17000 applies here as well.

29 Statutes 1992, chapter 719, section 2, page 2882, repealed former subdivision (c) and enacted a new subdivision (c) in its place. This urgency measure was approved by the Governor on September 14, 1992, and filed with the Secretary of State on September 15, 1992.

30 We disapprove *Cooke*, *supra*, 213 Cal.App.3d at page 410, to the extent it held that Health and Safety Code section 1442.5, former subdivision (c), was merely "a limitation on a county's ability to close facilities or reduce services provided in those facilities," and was irrelevant absent a claim that a "county facility was closed [or] that any services in [the] county ... were reduced." Although former subdivision (c) was contained in a section that dealt in part with closures and service reductions, nothing limited its reach to that context.

31 During further proceedings before the Commission to determine the amount of reimbursement due San Diego, the state may argue that particular services available under San Diego's CMS program exceeded statutory requirements.

32 Consistent with the electorate's direction, in its application for CHIP funds, San Diego assured the state that it would "[e]xpend [CHIP] funds only to supplement existing levels of services provided and not to fund existing levels of service ...." Because San Diego's initial decision to seek CHIP funds was voluntary, the evidence it cites of state threats to withhold CHIP funds if it eliminated the CMS program is irrelevant.

33 Former section 16991, subdivision (a)(5), provided in full: "If the sum of funding that a county received from its allocation pursuant to Section 16703, the amount of reimbursement it received from federal State Legalization Impact Assistance Grant [(SLIAG)] funding for indigent care, and its share of funding provided in this section is less than the amount of funding the county received pursuant to Section 16703 in fiscal year 1988-89 the state shall reimburse the county for the amount of the difference. For the 1990-91 fiscal year, if the

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sum of funding received from its allocation, pursuant to Section 16703 and the amount of reimbursement it received from [SLIAG] Funding for indigent care that year is less than the amount of funding the county received pursuant to Section 16703 in the 1988-89 fiscal year, the state shall reimburse the amount of the difference. If the department determines that the county has not made reasonable efforts to document and claim federal SLIAG funding for indigent care, the department shall deny the reimbursement." (Stats. 1989, ch. 1331, § 9, p. 5428.)

34 Despite its argument here, when it initially appealed, the state apparently recognized that it could no longer challenge the May 1991 order. In its March 1993 notice of appeal, it appealed only from the judgment entered December 18, 1992, and did not mention the May 1991 order.

* Presiding Justice, Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

† Associate Justice, Court of Appeal, Second Appellate District, Division Three, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

1 I agree with the majority that the superior court had jurisdiction to decide this case. (Maj. opn., *ante,* at pp. 86-90.)

2 Section 6 of article XIII B pertains to two types of mandates: new programs and higher levels of service. The words "such subvention" in the first paragraph of this constitutional provision makes the subdivision (c) exemption applicable to both types of mandates.

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Distinguished by County of Sonoma v. Commission on State Mandates, Cal.App. 1 Dist., November 21, 2000

53 Cal.3d 482, 808 P.2d 235, 280 Cal.Rptr. 92
Supreme Court of California

COUNTY OF FRESNO, Plaintiff and Appellant,
v.
THE STATE OF CALIFORNIA et al., Defendants and Respondents.

No. S015637.
Apr 22, 1991.

SUMMARY

A county filed a test claim with the Commission on State Mandates seeking, under Cal. Const., art. XIII B, § 6 (state must provide subvention of funds to reimburse local governments for costs of state- mandated programs or increased levels of service), reimbursement from the state for costs incurred in implementing the Hazardous Materials Release Response Plans and Inventory Act (Health & Saf. Code, § 25500 et seq.). The commission found the county had the authority to charge fees to pay for the program, and the program was thus not a reimbursable state-mandated program under Gov. Code, § 17556, subd. (d), which provides that costs are not state-mandated if the agency has authority to levy a charge or fee sufficient to pay for the program. The county filed a petition for writ of mandate and a complaint for declaratory relief against the state. The trial court denied relief. (Superior Court of Fresno County, No. 379518-4, Gary S. Austin, Judge.) The Court of Appeal, Fifth Dist., No. F011925, affirmed.

The Supreme Court affirmed the decision of the Court of Appeal. The court held, as to the single issue on review, that Gov. Code, § 17556, subd. (d), was facially constitutional under Cal. Const., art. XIII B, § 6. It held art. XIII B was not intended to reach beyond taxation, and § 6 was included in art. XIII B in recognition that Cal. Const., art. XIII A, severely restricted the taxing powers of local governments. It held that art. XIII B, § 6 was designed to protect the tax revenues of local governments from state mandates that would require an expenditure of such revenues and, when read in textual and historical context, requires subvention only when the costs in question can be recovered solely from tax revenues. Accordingly, the court held that Gov. Code, § 17556, subd. (d), effectively construed the term "cost" in the constitutional provision as excluding expenses that are recoverable from sources other than taxes, and that such a construction is altogether sound. (Opinion by Mosk, J., with Lucas, C. J., Broussard, ***483** Panelli, Kennard, JJ., and Best (Hollis G.), J.,* concurring. Separate concurring opinion by Arabian, J.)

HEADNOTES

Classified to California Digest of Official Reports

(1)
State of California § 11--Reimbursement to Local Governments for State-mandated Costs--Costs for Which Fees May Be Levied--Validity of Exclusion.
In a proceeding by a county seeking reversal of a decision by the Commission on State Mandates that the state was not required by Cal. Const., art. XIII B, § 6, to reimburse the county for costs incurred in implementing the Hazardous Materials Release Response Plans and Inventory Act (Health & Saf. Code, § 25500 et seq.), the trial court properly found that Gov. Code, § 17556, subd. (d) (costs are not state-mandated if agency has authority to levy charge or fee sufficient to pay for program), was facially constitutional. Cal. Const., art. XIII B, was intended to apply to taxation and was not intended to reach beyond taxation, as is apparent from its language and confirmed by its history. It was designed to protect the tax revenues of local governments from state mandates that would require expenditure of such revenues; read in its textual and historical contexts, requires subvention only when the costs in question can be recovered solely from tax revenues. Gov. Code, § 17556, subd. (d), effectively construes the term "costs" in the constitutional provision as excluding expenses that are recoverable from sources other than taxes, and that construction is altogether sound. Accordingly, Gov. Code, § 17556, subd. (d), is facially constitutional under Cal. Const., art. XIII B, § 6.

[See **Cal.Jur.3d (Rev),** Municipalities, § 361; 9 **Witkin,** Summary of Cal. Law (9th ed. 1988) Taxation, § 124.]

COUNSEL

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Max E. Robinson, County Counsel, and Pamela A. Stone, Deputy County Counsel, for Plaintiff and Appellant.
B. C. Barnum, County Counsel (Kern), and Patricia J. Randolph, Deputy County Counsel, as Amici Curiae on behalf of Plaintiff and Appellant. ***484**
John K. Van de Kamp and Daniel E. Lungren, Attorneys General, N. Eugene Hill, Assistant Attorney General, and Richard M. Frank, Deputy Attorney General, for Defendants and Respondents.

MOSK, J.

We granted review in this proceeding to decide whether section 17556, subdivision (d), of the Government Code (section 17556(d)) is facially valid under article XIII B, section 6, of the California Constitution (article XIII B, section 6).

Article XIII B, section 6, provides: "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates: [¶] (a) Legislative mandates requested by the local agency affected; [¶] (b) Legislation defining a new crime or changing an existing definition of a crime; or [¶] (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

The Legislature enacted Government Code sections 17500 through 17630 to implement article XIII B, section 6. (Gov. Code, § 17500.) It created a "quasi-judicial body" (*ibid.*) called the Commission on State Mandates (commission) (*id.,* § 17525) to "hear and decide upon [any] claim" by a local government that the local government "is entitled to be reimbursed by the state for costs" as required by article XIII B, section 6. (Gov. Code, § 17551, subd. (a).) It defined "costs" as "costs mandated by the state"—"any increased costs" that the local government "is required to incur ... as a result of any statute ..., or any executive order implementing any statute ..., which mandates a new program or higher level of service of any existing program" within the meaning of article XIII B, section 6. (Gov. Code, § 17514.) Finally, in section 17556(d) it declared that "The commission shall not find costs mandated by the state ... if, after a hearing, the commission finds that" the local government "has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service."

For the reasons discussed below, we conclude that section 17556(d) is facially constitutional under article XIII B, section 6. ***485**

I. Facts and Procedural History

The present proceeding arose after the Legislature enacted the Hazardous Materials Release Response Plans and Inventory Act (Act). (Health & Saf. Code, § 25500 et seq.) The Act establishes minimum statewide standards for business and area plans relating to the handling and release or threatened release of hazardous materials. (*Id.,* § 25500.) It requires local governments to implement its provisions. (*Id.,* § 25502.) To cover the costs they may incur, it authorizes them to collect fees from those who handle hazardous materials. (*Id.,* § 25513.)

The County of Fresno (County) implemented the Act but chose not to impose the authorized fees. Instead, it filed a so-called "test" or initial claim with the commission (Gov. Code, § 17521) seeking reimbursement from the State of California (State) under article XIII B, section 6. After a hearing, the commission rejected the claim. In its statement of decision, the commission made the following findings, among others: the Act constituted a "new program"; the County did indeed incur increased costs; but because it had authority under the Act to levy fees sufficient to cover such costs, section 17556(d) prohibited a finding of reimbursable costs.

The County then filed a petition for writ of mandate and complaint for declaratory relief against the State, the commission, and others, seeking vacation of the commission's decision and a declaration that section 17556(d) is unconstitutional under article XIII B, section 6. While the matter was pending, the commission amended its statement of decision to include another basis for denial of the test claim: the Act did not constitute a "program" under the rationale of *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46 [233 Cal.Rptr. 38, 729 P.2d 202] (*County of Los Angeles*), because it did not impose unique requirements on local governments.

After a hearing, the trial court denied the petition and effectively dismissed the complaint. It determined, inter

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alia, that mandate under Code of Civil Procedure section 1094.5 was the County's sole remedy, and that the commission was the sole properly named respondent. It also determined that section 17556(d) is constitutional under article XIII B, section 6. It did not address the question whether the Act constituted a "program" under *County of Los Angeles*. Judgment was entered accordingly.

The Court of Appeal affirmed. It held the Act did indeed constitute a "program" under *County of Los Angeles, supra,* 43 Cal.3d 46. It also held section 17556(d) is constitutional under article XIII B, section 6. ***486**

(1) We granted review to decide a single issue, i.e., whether section 17556(d) is facially constitutional under article XIII B, section 6.

II. Discussion

We begin our analysis with the California Constitution. At the June 6, 1978, Primary Election, article XIII A was added to the Constitution through the adoption of Proposition 13, an initiative measure aimed at controlling ad valorem property taxes and the imposition of new "special taxes." (*Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 231-232 [149 Cal.Rptr. 239, 583 P.2d 1281].) The constitutional provision imposes a limit on the power of state and local governments to adopt and levy taxes. (*City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 59, fn. 1 [266 Cal.Rptr. 139, 785 P.2d 522] (*City of Sacramento*).)

At the November 6, 1979, Special Statewide Election, article XIII B was added to the Constitution through the adoption of Proposition 4, another initiative measure. That measure places limitations on the ability of both state and local governments to appropriate funds for expenditures.

"Articles XIII A and XIII B work in tandem, together restricting California governments' power both to levy and to spend [taxes] for public purposes." (*City of Sacramento, supra,* 50 Cal.3d at p. 59, fn. 1.)

Article XIII B of the Constitution was intended to apply to taxation—specifically, to provide "permanent protection for taxpayers from excessive taxation" and "a reasonable way to provide discipline in tax spending at state and local levels." (See *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 446 [170 Cal.Rptr. 232], quoting and following Ballot Pamp., Proposed Stats. and Amends. to Cal. Const. with arguments to voters, Special Statewide Elec. (Nov. 6, 1979), argument in favor of Prop. 4, p. 18.) To this end, it establishes an "appropriations limit" for both state and local governments (Cal. Const., art. XIII B, § 8, subd. (h)) and allows no "appropriations subject to limitation" in excess thereof (*id.,* § 2). (See *County of Placer v. Corin, supra,* 113 Cal.App.3d at p. 446.) It defines the relevant "appropriations subject to limitation" as "any authorization to expend during a fiscal year the proceeds of taxes ...." (Cal. Const., art. XIII B, § 8, subd. (b).) It defines "proceeds of taxes" as including "all tax revenues and the proceeds to ... government from," inter alia, "regulatory licenses, user charges, and user fees *to the extent that such proceeds exceed the costs reasonably borne by* [*government*] *in providing the regulation, product, or service* ...." (Cal. Const., art. XIII B, § 8, subd. (c), italics added.) Such "excess" proceeds from "licenses," "charges," and "fees" "are but ***487** *taxes*" for purposes here. (*County of Placer v. Corin, supra,* 113 Cal.App.3d at p. 451, italics in original.)

Article XIII B of the Constitution, however, was not intended to reach beyond taxation. That fact is apparent from the language of the measure. It is confirmed by its history. In his analysis, the Legislative Analyst declared that Proposition 4 "would not restrict the growth in appropriations financed from other [i.e., nontax] sources of revenue, including federal funds, bond funds, traffic fines, user fees based on reasonable costs, and income from gifts." (Ballot Pamp., Proposed Stats. and Amends. to Cal. Const. with arguments to voters, Special Statewide Elec. (Nov. 6, 1979), analysis by Legislative Analyst, p. 16.)

Section 6 was included in article XIII B in recognition that article XIII A of the Constitution severely restricted the taxing powers of local governments. (See *County of Los Angeles, supra,* 43 Cal.3d at p. 61.) The provision was intended to preclude the state from shifting financial responsibility for carrying out governmental functions onto local entities that were ill equipped to handle the task. (*Ibid.*; see *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 836, fn. 6 [244 Cal.Rptr. 677, 750 P.2d 318].) Specifically, it was designed to protect the tax revenues of local governments from state mandates that would require expenditure of such

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revenues. Thus, although its language broadly declares that the "state shall provide a subvention of funds to reimburse ... local government for the costs [of a state-mandated new] program or higher level of service," read in its textual and historical context section 6 of article XIII B requires subvention only when the costs in question can be recovered *solely from tax revenues*.

In view of the foregoing analysis, the question of the facial constitutionality of section 17556(d) under article XIII B, section 6, can be readily resolved. As noted, the statute provides that "The commission shall not find costs mandated by the state ... if, after a hearing, the commission finds that" the local government "has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service." Considered within its context, the section effectively construes the term "costs" in the constitutional provision as excluding expenses that are recoverable from sources other than taxes. Such a construction is altogether sound. As the discussion makes clear, the Constitution requires reimbursement only for those expenses that are recoverable solely from taxes. It follows that section 17556(d) is facially constitutional under article XIII B, section 6.

The County argues to the contrary. It maintains that section 17556(d) in essence creates a new exception to the reimbursement requirement of article ***488** XIII B, section 6, for self-financing programs and that the Legislature cannot create exceptions to the reimbursement requirement beyond those enumerated in the Constitution.

We do not agree that in enacting section 17556(d) the Legislature created a new exception to the reimbursement requirement of article XIII B, section 6. As explained, the Legislature effectively—and properly—construed the term "costs" as excluding expenses that are recoverable from sources other than taxes. In a word, such expenses are outside of the scope of the requirement. Therefore, they need not be explicitly excepted from its reach.

The County nevertheless argues that no matter how characterized, section 17556(d) is indeed inconsistent with article XIII B, section 6. Its contention is in substance as follows: the source of section 17556(d) is former Revenue and Taxation Code section 2253.2; at the time of Proposition 4, subdivision (b)(4) of that former section stated that the State Board of Control shall not allow a claim for reimbursement of costs mandated by the state if the legislation contains a self-financing authority; the drafters of Proposition 4 incorporated some of the provisions of former Revenue and Taxation Code section 2253.2 into article XIII B, section 6, but did not incorporate former subdivision (b)(4); their failure to do so reveals an intent to treat as immaterial the presence or absence of a "self-financing" provision; and such an intent is confirmed by the "legislative history" set out at page 55 in Spirit of 13, Inc., Summary of Proposed Implementing Legislation and Drafters' Intent: "the state may not arbitrarily declare that it is not going to comply with Section 6 ... if the state provides new compensating revenues."

In our view, the County's argument is unpersuasive. Even if we assume arguendo that the intent of those who drafted Proposition 4 is as claimed, what is crucial here is the intent of those who voted for the measure. (See *County of Los Angeles, supra,* 43 Cal.3d 46, 56.) There is no substantial evidence that the voters sought what the County assumes the drafters desired. Moreover, the "legislative history" cited above cannot be considered relevant; it was written and circulated after the passage of Proposition 4. As such, it could not have affected the voters in any way.

To avoid this result, the County advances one final argument: "Based on the authority of [section 17556(d)], the Commission on State Mandates refuses to hear mandates on the merits once it finds that the authority to charge fees is given by the Legislature. This position is taken whether or not fees can actually or legally be charged to recover the entire costs of the program." ***489**

The County appears to be making one or both of the following arguments: (1) the commission applies section 17556(d) in an unconstitutional manner; or (2) the Act's self-financing authority is somehow lacking. Such contentions, however, miss the designated mark. They raise questions bearing on the constitutionality of section 17556(d) as applied and the legal efficacy of the authority conferred by the Act. The sole issue on review, however, is the facial constitutionality of section 17556(d).

III. Conclusion

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For the reasons set forth above, we conclude that section 17556(d) is facially constitutional under article XIII B, section 6.

The judgment of the Court of Appeal is affirmed.

Lucas, C. J., Broussard, J., Panelli, J., Kennard, J., and Best (Hollis G.), J.,* concurred.

ARABIAN, J.,

Concurring.

I concur in the determination that Government Code section 17556, subdivision (d)[1] (section 17556(d)), does not offend article XIII B, section 6, of the California Constitution (article XIII B, section 6). In my estimation, however, the constitutional measure of the issue before us warrants fuller examination than the majority allow. A literalistic analysis begs the question of whether the Legislature had the authority to act statutorily upon a subject matter the electorate has spoken to constitutionally through the initiative process.

Article XIII B, section 6, unequivocally commands that "the state shall provide a subvention of funds to reimburse ... local government for the costs of [a new] program or increased level of service" except as specified therein. Article XIII B does not define this reference to "costs." (See Cal. Const., art. XIII B, § 8.) Rather, the Legislature assumed the task of explicating the related concept of "costs mandated by the state" when it created the Commission on State Mandates and enacted procedures intended to implement article XIII B, section 6, more effectively. (See § 17500 et seq.) As part of this statutory scheme, it exempted the state from its constitutionally imposed subvention obligation under certain enumerated circumstances. Some of these exemptions the electorate expressly contemplated in approving article XIII B, section 6 (§ 17556, subds. (a), (c), & (g); see § 17514), while others are strictly of legislative formulation and derive from ***490** former Revenue and Taxation Code section 2253.2. (§ 17556, subds. (b), (d), (e), & (f).)

The majority find section 17556 valid notwithstanding the mandatory language of article XIII B, section 6, based on the circular and conclusory rationale that "the Legislature effectively—and properly—construed the term 'costs' as excluding expenses that are recoverable from sources other than taxes. In a word, such expenses are outside of the scope of the [subvention] requirement. Therefore, they need not be explicitly excepted from its reach." (Maj. opn., *ante,* at p. 488*ante,* at p. 488.) In my view, excluding or otherwise removing something from the purview of a law is tantamount to creating an exception thereto. When an exclusionary implication is clear from the import or effect of the statutory language, use of the word "except" should not be necessary to construe the result for what it clearly is. In this circumstance, "I would invoke the folk wisdom that if an object looks like a duck, walks like a duck and quacks like a duck, it is likely to be a duck." (*In re Deborah C.* (1981) 30 Cal.3d 125, 141 [177 Cal.Rptr. 852, 635 P.2d 446] (conc. opn. by Mosk, J.).)

Of at least equal importance, section 17500 et seq. constitutes a legislative implementation of article XIII B, section 6. As such, the overall statutory scheme must comport with the express constitutional language it was designed to effectuate as well as the implicit electoral intent. Eschewing semantics, I would squarely and forthrightly address the fundamental and substantial question of whether the Legislature could lawfully enlarge upon the scope of article XIII B, section 6, to include exceptions not originally designated in the initiative.

I do not hereby seek to undermine the majority holding but rather to set it on a firmer constitutional footing. "[S]tatutes must be given a reasonable interpretation, one which will carry out the intent of the legislators and render them valid and operative rather than defeat them. In so doing, sections of the Constitution, as well as the codes, will be harmonized where reasonably possible, in order that all may stand." (*Rose v. State of California* (1942) 19 Cal.2d 713, 723 [123 P.2d 505]; see also *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 58 [233 Cal.Rptr. 38, 729 P.2d 202].) To this end, it is a fundamental premise of our form of government that "the Constitution of this State is not to be considered as a grant of power, but rather as a restriction upon the powers of the Legislature; and ... it is competent for the Legislature to exercise all powers not forbidden ...." (*People v. Coleman* (1854) 4 Cal. 46, 49.) "Two important consequences flow from this fact. First, the entire law-making authority of the state, except the people's right of initiative and referendum, is vested in the ***491**

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Legislature, and that body may exercise any and all legislative powers which are not expressly or by necessary implication denied to it by the Constitution. [Citations.] *In other words, 'we do not look to the Constitution to determine whether the legislature is authorized to do an act, but only to see if it is prohibited.'* [Citation.] [¶] Secondly, all intendments favor the exercise of the Legislature's plenary authority: 'If there is any doubt as to the Legislature's power to act in any given case, the doubt should be resolved in favor of the Legislature's action. Such restrictions and limitations [imposed by the Constitution] are to be construed strictly, and are not to be extended to include matters not covered by the language used.' [Citations.]" (*Methodist Hosp. of Sacramento v. Saylor* (1971) 5 Cal.3d 685, 691 [97 Cal.Rptr. 1, 488 P.2d 161], italics added.) "Specifically, the express enumeration of legislative powers is not an exclusion of others not named unless accompanied by negative terms. [Citations.]" (*Dean v. Kuchel* (1951) 37 Cal.2d 97, 100 [230 P.2d 811].)

As the majority opinion impliedly recognizes, neither the language nor the intent of article XIII B conflicts with the exercise of legislative prerogative we review today. Of paramount significance, neither section 6 nor any other provision of article XIII B prohibits statutory delineation of additional circumstances obviating reimbursement for state mandated programs. (See *Dean v. Kuchel, supra,* 37 Cal.2d at p. 101; *Roth Drugs, Inc. v. Johnson* (1936) 13 Cal.App.2d 720, 729 [57 P.2d 1022]; see also *Kehrlein v. City of Oakland* (1981) 116 Cal.App.3d 332, 338 [172 Cal.Rptr. 111].)

Furthermore, the initiative was "[b]illed as a flexible way to provide discipline in government spending" by creating appropriations limits to restrict the amount of such expenditures. (*County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 447 [170 Cal.Rptr. 232]; see Cal. Const., art. XIII B, § 1.) By their nature, user fees do not affect the equation of local government spending: While they facilitate implementation of newly mandated state programs or increased levels of service, they are excluded from the "appropriations subject to limitations" calculation and its attendant budgetary constraints. (See Cal. Const., art. XIII B, § 8; see also *City Council v. South* (1983) 146 Cal.App.3d 320, 334 [194 Cal.Rptr. 110]; *County of Placer v. Corin, supra,* 113 Cal.App.3d at pp. 448-449; Cal. Const., art. XIII B, § 3, subd. (b); cf. *Russ Bldg. Partnership v. City and County of San Francisco* (1987) 199 Cal.App.3d 1496, 1505 [246 Cal.Rptr. 21] [" 'fees not exceeding the reasonable cost of providing the service or regulatory activity for which the fee is charged and which are not levied for general revenue purposes, have been considered outside the realm of "special taxes" [limited by California Constitution, article XIII A]' "]; *Terminal Plaza Corp. v. City* ***492** *and County of San Francisco* (1986) 177 Cal.App.3d 892, 906 [223 Cal.Rptr. 379] [same].)

This conclusion fully accommodates the intent of the voters in adopting article XIII B, as reflected in the ballot materials accompanying the proposition. (See *Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 245-246 [149 Cal.Rptr. 239, 583 P.2d 1281].) In general, these materials convey that "[t]he goals of article XIII B, of which section 6 is a part, were to protect residents from excessive taxation and government spending." (*County of Los Angeles v. State of California, supra,* 43 Cal.3d at p. 61; *Huntington Park Redevelopment Agency v. Martin* (1985) 38 Cal.3d 100, 109- 110 [211 Cal.Rptr. 133, 695 P.2d 220].) To the extent user fees are not borne by the general public or applied to the general revenues, they do not bear upon this purpose. Moreover, by imputation, voter approval contemplated the continued imposition of reasonable user fees outside the scope of article XIII B. (Ballot Pamp., Proposed Amends. to Cal. Const. with arguments to voters, Limitation of Government Appropriations, Special Statewide Elec. (Nov. 6, 1979), arguments in favor of and against Prop. 4, p. 18 [initiative "Will curb excessive user fees imposed by local government" but "will Not eliminate user fees ..."]; see *County of Placer v. Corin, supra,* 113 Cal.App.3d at p. 452.)

"The concern which prompted the inclusion of section 6 in article XIII B was the perceived attempt by the state to enact legislation or adopt administrative orders creating programs to be administered by local agencies, thereby transferring to those agencies the fiscal responsibility for providing services which the state believed should be extended to the public." (*County of Los Angeles v. State of California, supra,* 43 Cal.3d at p. 56; see *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 66 [266 Cal.Rptr. 139, 785 P.2d 522].) "Section 6 had the additional purpose of precluding a shift of financial responsibility for carrying out governmental functions from the state to

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local agencies which had had their taxing powers restricted by the enactment of article XIII A in the preceding year and were ill equipped to take responsibility for any new programs." (*County of Los Angeles v. State of California, supra,* 43 Cal.3d at p. 61.) An exemption from reimbursement for state mandated programs for which local governments are authorized to charge offsetting user fees does not frustrate or compromise these goals or otherwise disturb the balance of local government financing and expenditure.[2] (See ***493** *County of Placer v. Corin, supra,* 113 Cal.App.3d at p. 452, fn. 7.) Article XIII B, section 8, subdivision (c), specifically includes regulatory licenses, user charges, and user fees in the appropriations limitation equation only "to the extent that those proceeds exceed the costs reasonably borne by [the governmental] entity in providing the regulation, product, or service ...."

The self-executing nature of article XIII B does not alter this analysis. "It has been uniformly held that the legislature has the power to enact statutes providing for reasonable regulation and control of rights granted under constitutional provisions. [Citations.]" (*Chesney v. Byram* (1940) 15 Cal.2d 460, 465 [101 P.2d 1106].) " ' "Legislation may be desirable, by way of providing convenient remedies for the protection of the right secured, or of regulating the claim of the right so that its exact limits may be known and understood; but all such legislation must be subordinate to the constitutional provision, and in furtherance of its purpose, and must not in any particular attempt to narrow or embarrass it." [Citations.]' " (*Id.,* at pp. 463-464; see also *County of Contra Costa v. State of California* (1986) 177 Cal.App.3d 62, 75 [222 Cal.Rptr. 750].) Section 17556(d) is not "merely [a] transparent attempt[] to do indirectly that which cannot lawfully be done directly." (*Carmel Valley Fire Protection Dist. v. State of California* (1987) 190 Cal.App.3d 521, 541 [234 Cal.Rptr. 795].) On the contrary, it creates no conflict with the constitutional directive it subserves. Hence, rather than pursue an interpretive expedient, this court should expressly declare that it operates as a valid legislative implementation thereof.

"[Initiative] provisions of the Constitution and of charters and statutes should, as a general rule, be liberally construed in favor of the reserved power. [Citations.] As opposed to that principle, however, 'in examining and ascertaining the intention of the people with respect to the scope and nature of those ... powers, it is proper and important to consider what the consequences of applying it to a particular act of legislation would be, and if upon such consideration it be found that by so applying it the inevitable effect would be greatly to impair or wholly destroy the efficacy of some other governmental power, the practical application of which is essential and, perhaps, ... indispensable, to the convenience, comfort, and well-being of the inhabitants of certain legally established districts or subdivisions of the state or of the whole state, then in such case the courts may and should assume that the people intended no such result to flow from the application of those powers and that they do not so apply.' [Citation.]" (*Hunt v. Mayor & Council of Riverside* (1948) 31 Cal.2d 619, 628-629 [191 P.2d 426].) ***494**

This court is not infrequently called upon to resolve the tension of apparent or actual conflicts in the express will of the people.[3] Whether that expression emanates directly from the ballot or indirectly through legislative implementation, each deserves our fullest estimation and effectuation. Given the historical and abiding role of government by initiative, I decline to circumvent that responsibility and accept uncritically the Legislature's self-validating statutory scheme as the basis for approving the exercise of its prerogative. It is not enough to say a broader constitutional analysis yields the same result and therefore is unnecessary. We provide a higher quality of justice harmonizing rather than ignoring the divers voices of the people, for such is the nature of our office. ***495**

Footnotes

* Presiding Justice, Court of Appeal, Fifth Appellate District, assigned by the Chairperson of the Judicial Council.

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* Presiding Justice, Court of Appeal, Fifth Appellate District, assigned by the Chairperson of the Judicial Council.

1 Unless otherwise indicated, all further statutory references are to the Government Code.

2 This conclusion also accords with the traditional and historical role of user fees in promoting the multifarious functions of local government by imposing on those receiving a service the cost of providing it. (Cf. *County of Placer v. Corin, supra,* 113 Cal.App.3d at p. 454 ["Special assessments, being levied only for improvements that benefit particular parcels of land, and not to raise general revenues, are simply not the type of exaction that can be used as a mechanism for circumventing these tax relief provisions. [Citation.]"].)

3 See, e.g., *Zumwalt v. Superior Court* (1989) 49 Cal.3d 167 [260 Cal.Rptr. 545, 776 P.2d 247]; *Los Angeles County Transportation Com. v. Richmond* (1982) 31 Cal.3d 197 [182 Cal.Rptr. 324, 643 P.2d 941]; *California Housing Finance Agency v. Patitucci* (1978) 22 Cal.3d 171 [148 Cal.Rptr. 875, 583 P.2d 729]; *California Housing Finance Agency v. Elliott* (1976) 17 Cal.3d 575 [131 Cal.Rptr. 361, 551 P.2d 1193]; *Blotter v. Farrell* (1954) 42 Cal.2d 804 [270 P.2d 481]; *Dean v. Kuchel, supra,* 37 Cal.2d 97; *Hunt v. Mayor & Council of Riverside, supra,* 31 Cal.2d 619.

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55 Cal.App.4th 976, 64 Cal.Rptr.2d 270, 97 Cal. Daily Op. Serv. 4510, 97 Daily Journal D.A.R. 7464

REDEVELOPMENT AGENCY OF THE CITY OF SAN MARCOS, Plaintiff and Appellant,
v.
CALIFORNIA COMMISSION ON STATE MANDATES, Defendant and Respondent;
CALIFORNIA DEPARTMENT OF FINANCE, Intervener and Respondent.

No. D026195.
Court of Appeal, Fourth District, Division 1, California.
May 30, 1997.

SUMMARY

The trial court denied a petition for a writ of administrative mandate brought by a city's redevelopment agency that challenged the California Commission on State Mandates' denial of the agency's test claim under Gov. Code, § 17550 et seq. (reimbursement of costs mandated by the state). In its claim, the agency sought a determination that the State of California should reimburse the agency for moneys transferred into its lowand moderate-income housing fund pursuant to Health & Saf. Code, §§ 33334.2 and 33334.3, of the Community Redevelopment Law. Those statutes require a 20 percent deposit of the particular form of financing received by the agency (tax increment financing generated from its project areas) for purposes of improving the supply of affordable housing. The agency claimed that this tax increment financing should not be subject to state control of the allocations made to various funds and that such control constituted a state-mandated new program or higher level of service for which reimbursement or subvention was required under Cal. Const., art. XIII B, § 6. The trial court found that the source of funds used by the agency was exempt, under Health & Saf. Code, § 33678, from the scope of Cal. Const., art. XIII B, § 6. (Superior Court of San Diego County, No. 686818, Sheridan E. Reed and Herbert B. Hoffman, Judges.)

The Court of Appeal affirmed. It held that under Health & Saf. Code, § 33678, which provides that tax increment financing is not deemed to be the "proceeds of taxes," the source of funds used by the agency was exempt ***977** from the scope of Cal. Const., art. XIII B, § 6. Although Cal. Const., art. XIII B, § 6, does not expressly discuss the source of funds used by an agency to fund a program, the historical and contextual context of this provision demonstrates that it applies only to costs recovered solely from tax revenues. Because of the nature of the financing they receive (i.e., tax increment financing), redevelopment agencies are not subject to appropriations limitations or spending caps, they do not expend any proceeds of taxes, and they do not raise general revenues for the local entity. Also, the state is not transferring any program for which it was formerly responsible. Therefore, the purposes of state subvention laws are not furthered by requiring reimbursement when redevelopment agencies are required to allocate their tax increment financing in a particular manner, as in the operation of Health & Saf. Code, §§ 33334.2 and 33334.3. (Opinion by Huffman, J., with Work, Acting P. J., and McIntyre, J., concurring.)

HEADNOTES

Classified to California Digest of Official Reports

(1)
State of California § 11--Fiscal Matters--Subvention:Words, Phrases, and Maxims--Subvention.
"Subvention" generally means a grant of financial aid or assistance, or a subsidy.

(2)
State of California § 11--Fiscal Matters--Subvention--Judicial Rules.
Under Gov. Code, § 17559, review by administrative mandamus is the exclusive method of challenging a decision of the California Commission on State Mandates to deny a subvention claim. The determination whether the statutes at issue established a mandate under Cal. Const., art. XIII B, § 6, is a question of law. On appellate review, the following standards apply: Gov. Code, § 17559, governs the proceeding below and requires that the trial court review the decision of the commission under the substantial evidence standard. Where the substantial evidence test is applied by the trial court, the appellate court is generally confined to inquiring whether substantial evidence supports the trial court's findings and judgment. However, the appellate court independently reviews the trial court's legal conclusions

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about the meaning and effect of constitutional and statutory provisions.

(3a, 3b)
State of California § 11--Fiscal Matters--Subvention--State-mandated Costs--Statutory Set-aside Requirement for Local Redevelopment Agency's Tax Increment Financing.
The California Commission on State Mandates properly denied a test claim brought by a city's redevelopment agency seeking a determination that the state should reimburse the agency for moneys transferred into its lowand ***978** moderate-income housing fund pursuant to Health & Saf. Code, §§ 33334.2 and 33334.3, which require a 20 percent deposit of the particular form of financing received by the agency, i.e., tax increment financing generated from its project areas. Under Health & Saf. Code, § 33678, which provides that tax increment financing is not deemed to be the "proceeds of taxes," the source of funds used by the agency was exempt from the scope of Cal. Const., art. XIII B, § 6 (subvention). Although Cal. Const., art. XIII B, § 6, does not expressly discuss the source of funds used by an agency to fund a program, the historical and contextual context of this provision demonstrates that it applies only to costs recovered solely from tax revenues. Because of the nature of the financing they receive (i.e., tax increment financing), redevelopment agencies are not subject to appropriations limitations or spending caps, they do not expend any proceeds of taxes, and they do not raise general revenues for the local entity. Also, the state is not transferring any program for which it was formerly responsible. Therefore, the purposes of state subvention laws are not furthered by requiring reimbursement when redevelopment agencies are required to allocate their tax increment financing in a particular manner, as in the operation of Health & Saf. Code, §§ 33334.2 and 33334.3.

[See 9 Witkin, Summary of Cal. Law (9th ed. 1989) Taxation, § 123.]

(4)
Constitutional Law § 10--Construction of Constitutional Provisions-- Limitations on Legislative Powers.
The rules of constitutional interpretation require a strict construction of a constitutional provision that contains limitations and restrictions on legislative powers, because such limitations and restrictions are not to be extended to include matters not covered by the language used.

(5)
State of California § 11--Fiscal Matters--Subvention--Purpose of Constitutional Provisions.
The goal of Cal. Const., arts. XIII A and XIII B, is to protect California residents from excessive taxation and government spending. A central purpose of Cal. Const., art. XIII B, § 6 (reimbursement to local government of state-mandated costs), is to prevent the state's transfer of the cost of government from itself to the local level.

COUNSEL
Higgs, Fletcher & Mack and John Morris for Plaintiff and Appellant.
Gary D. Hori for Defendant and Respondent. ***979**
Daniel E. Lungren, Attorney General, Robert L. Mukai, Chief Assistant Attorney General, Linda A. Cabatic and Daniel G. Stone, Deputy Attorneys General, for Intervener and Respondent.

HUFFMAN, J.

The California Commission on State Mandates (the Commission) denied a test claim by the Redevelopment Agency of the City of San Marcos (the Agency) (Gov. Code, § 17550 et seq.), which sought a determination that the State of California should reimburse the Agency for moneys transferred into its Low and Moderate Income Housing Fund (the Housing Fund) pursuant to Health and Safety Code [1] sections 33334.2 and 33334.3. Those sections require a 20 percent deposit of the particular form of financing received by the Agency, tax increment financing generated from its project areas, for purposes of improving the supply of affordable housing. (1)**(See fn. 2)**The Agency claimed that this tax increment financing should not be subject to state control of the allocations made to various funds and that such control constituted a state-mandated new program or higher level of service for which reimbursement or subvention was required under article XIII B of the California Constitution, section 6 (hereafter section 6; all further references to articles are to the California Constitution). [2] (Cal. Const., art. XVI, § 16; § 33670.)

The Agency brought a petition for writ of administrative mandamus to challenge the decision of the Commission. (Code Civ. Proc., § 1094.5; Gov. Code, § 17559.) The superior court denied the petition, ruling that the source of funds used by the Agency for redevelopment, tax increment financing, was exempt pursuant to section 33678 from the

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scope of section 6, as not constituting "proceeds of taxes" which are governed by that section. The superior court did not rule upon the alternative grounds of decision stated by the Commission, i.e., the 20 percent set-aside requirement for lowand moderate-income housing did not impose a new program or higher level of service in an existing program within the meaning of section 6, and, further, there were no costs subject to reimbursement related to the Housing Fund because there was no net increase in the aggregate program responsibilities of the Agency.

The Agency appeals the judgment denying its petition for writ of mandate. For the reasons set forth below, we affirm. ***980**

I. Procedural Context

This test claim was litigated before the Commission pursuant to statutory procedures for determining whether a statute imposes state-mandated costs upon a local agency which must be reimbursed, through a subvention of funds, under section 6. (Gov. Code, § 17500 et seq.)[3] The Commission hearing consisted of oral argument on the points and authorities presented.

(2) Under Government Code section 17559, review by administrative mandamus is the exclusive method of challenging a Commission decision denying a subvention claim. "The determination whether the statutes here at issue established a mandate under section 6 is a question of law. [Citation.]" (*County of San Diego v. State of California* (1997) 15 Cal.4th 68, 109 [61 Cal.Rptr.2d 134, 931 P.2d 312].) On appellate review, we apply these standards: "Government Code section 17559 governs the proceeding below and requires that the trial court review the decision of the Commission under the substantial evidence standard. Where the substantial evidence test is applied by the trial court, we are generally confined to inquiring whether substantial evidence supports the court's findings and judgment. [Citation.] However, we independently review the superior court's legal conclusions about the meaning and effect of constitutional and statutory provisions. [Citation.]" (*City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1810 [53 Cal.Rptr.2d 521].)

II. Statutory Schemes

Before we outline the statutory provisions setting up tax increment financing for redevelopment agencies, we first set forth the Supreme Court's recent summary of the history and substance of the law applicable to state mandates, such as the Agency claims exist here: "Through adoption of Proposition 13 in 1978, the voters added article XIII A to the California Constitution, which 'imposes a limit on the power of state and local governments to ***981** adopt and levy taxes. [Citation.]' [Citation.] The next year, the voters added article XIII B to the Constitution, which 'impose[s] a complementary limit on the rate of growth in governmental spending.' [Citation.] These two constitutional articles 'work in tandem, together restricting California governments' power both to levy and to spend for public purposes.' [Citation.] Their goals are 'to protect residents from excessive taxation and government spending. [Citation.]' [Citation.]" (*County of San Diego v. State of California*, *supra*, 15 Cal.4th at pp. 80-81.)

Section 6, part of article XIII B and the provision here at issue, requires that whenever the Legislature or any state agency mandates a "new program or higher level of service" on any local government, " 'the state shall provide a subvention of funds to reimburse such local government for *the costs of such program* or increased level of service ....' " (*County of San Diego v. State of California*, *supra*, 15 Cal.4th at p. 81, italics added.) Certain exceptions are then stated, none of which is relevant here.[4]

In *County of San Diego v. State of California*, *supra*, 15 Cal.4th at page 81, the Supreme Court explained that section 6 represents a recognition that together articles XIII A and XIII B severely restrict the taxing and spending powers of local agencies. The purpose of the section is to preclude the state from shifting financial responsibility for governmental functions to local agencies, which are ill equipped to undertake increased financial responsibilities because they are subject to taxing and spending limitations under articles XIII A and XIII B. (*County of San Diego v. State of California*, *supra*, at p. 81.)

To evaluate the Agency's argument that the provisions of sections 33334.2 and 33334.3, requiring a deposit into the housing fund of 20 percent of the tax increment financing received by the Agency, impose this type of reimbursable governmental program or a higher level of service under an existing program, we first review the provisions establishing financing for redevelopment agencies. Such agencies have no independent powers of taxation (***982** *Huntington Park Redevelopment Agency v. Martin* (1985) 38 Cal.3d 100,

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106 [211 Cal.Rptr. 133, 695 P.2d 220]), but receive a portion of tax revenues collected by other local agencies from property within a redevelopment project area, which may result from the following scheme: "Redevelopment agencies finance real property improvements in blighted areas. Pursuant to article XVI, section 16 of the Constitution, these agencies are authorized to use tax increment revenues for redevelopment projects. The constitutional mandate has been implemented through the Community Redevelopment Law (Health & Saf. Code, § 33000 et seq.). [¶] The Community Redevelopment Law authorizes several methods of financing; one is the issuance of tax allocation bonds. Tax increment revenue, the increase in annual property taxes attributable to redevelopment improvements, provides the security for tax allocation bonds. Tax increment revenues are computed as follows: The real property within a redevelopment project area is assessed in the year the redevelopment plan is adopted. Typically, after redevelopment, property values in the project area increase. The taxing agencies (e.g., city, county, school or special district) keep the tax revenues attributable to the original assessed value and pass the portion of the assessed property value which exceeds the original assessment on to the redevelopment agency. (Health & Saf. Code, §§ 33640, 33641, 33670, 33675). In short, tax increment financing permits a redevelopment agency to take advantage of increased property tax revenues in the project areas without an increase in the tax rate. This scheme for redevelopment financing has been a part of the California Constitution since 1952. (Cal. Const., art. XVI, § 16.)" (*Brown v. Community Redevelopment Agency* (1985) 168 Cal.App.3d 1014, 1016-1017 [214 Cal.Rptr. 626].) [5]

In *Brown v. Community Redevelopment Agency*, *supra*, 168 Cal.App.3d at pages 1016-1018, the court determined that by enacting section 33678, the Legislature interpreted article XIII B of the Constitution as not broad enough in reach to cover the raising or spending of tax increment revenues by redevelopment agencies. Specifically, the court decided the funds a redevelopment agency receives from tax increment financing do not constitute "proceeds of taxes" subject to article XIII B appropriations limits. (*Brown v. Community Redevelopment Agency*, *supra*, at p. 1019). [6] This ruling was based on section 33678, providing in pertinent part: "This section implements and fulfills the intent ... of Article XIII B and ***983** Section 16 of Article XVI of the California Constitution. *The allocation and payment to an agency of the portion of taxes specified in subdivision (b) of Section 33670 for the purpose of paying principal of, or interest on ... indebtedness incurred for redevelopment activity ... shall not be deemed the receipt by an agency of proceeds of taxes levied by or on behalf of the agency within the meaning of or for the purposes of Article XIII B ... nor shall such portion of taxes be deemed receipt of proceeds of taxes by, or an appropriation subject to limitation of, any other public body within the meaning or for purposes of Article XIII B ...* or any statutory provision enacted in implementation of Article XIII B. *The allocation and payment to an agency of this portion of taxes shall not be deemed the appropriation by a redevelopment agency of proceeds of taxes levied by or on behalf of a redevelopment agency within the meaning or for purposes of Article XIII B of the California Constitution.*" (Italics added.)

In *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 451 [170 Cal.Rptr. 232], the court defined "proceeds of taxes" in this way: "Under article XIII B, with the exception of state subventions, the items that make up the scope of ' "proceeds of taxes" ' concern charges levied to raise *general revenues* for the local entity. ' "Proceeds of taxes," ' in addition to 'all tax revenues' includes 'proceeds ... from ... regulatory licenses, user charges, and user fees [*only*] *to the extent that such proceeds exceed the costs reasonably borne by such entity in providing the regulation, product or service....*' (§ 8, subd. (c).) (Italics added.) Such 'excess' regulatory or user fees are but *taxes* for the raising of general revenue for the entity. [Citations.] Moreover, to the extent that an assessment results in revenue above the cost of the improvement or is of general public benefit, it is no longer a special assessment but a tax. [Citation.] *We conclude 'proceeds of taxes' generally contemplates only those impositions which raise general tax revenues for the entity.*" (Italics added.) [7]

(3a) In light of these interrelated sections and concepts, our task is to determine whether the 20 percent Housing Fund set-aside requirement of a redevelopment agency's tax increment financing qualifies under section 6 as a "cost" of a program. As will be explained, we agree with the trial court that the resolution of this issue is sufficient to dispose of the entire matter, and ***984** accordingly we need not discuss the alternate grounds of decision stated by the Commission. [8]

III. Housing Fund Allocations: Reimbursable Costs?

1. *Arguments*

The Agency takes the position that the language of section 33678 is simply inapplicable to its claim for subvention

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of funds required to be deposited into the Housing Fund. It points out that section 6 expressly lists three exceptions to the requirement for subvention of funds to cover the costs of state-mandated programs: (a) Legislative mandates requested by the local agency affected; (b) legislation defining or changing a definition of a crime; or (c) pre-1975 legislative mandates or implementing regulations or orders. (See fn. 4, *ante*.*ante*.) None of these exceptions refers to the source of the funding originally used by the agency to pay the costs incurred for which reimbursement is now being sought. Thus, the agency argues it is immaterial that under section 33678, *for purposes of appropriations limitations*, tax increment financing is not deemed to be the "proceeds of taxes." (*Brown v. Community Redevelopment Agency*, *supra*, 168 Cal.App.3d at pp. 1017-1020.) The Agency would apply a "plain meaning" rule to section 6 (see, e.g., *Davis v. City of* Berkeley (1990) 51 Cal.3d 227, 234 [272 Cal.Rptr. 139, 794 P.2d 897]) and conclude that the source of the funds used to pay the program costs up front, before any subvention, is not stated in the section and thus is not relevant.

As an illustration of its argument that the source of its funds is irrelevant under section 6, the Agency cites to Government Code section 17556. That section is a legislative interpretation of section 6, creating several classes of state-mandated programs for which no state reimbursement of local agencies for costs incurred is required. In *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487 [280 Cal.Rptr. 92, 808 P.2d 235], the Supreme Court upheld the facial constitutionality of Government Code section 17556, subdivision (d), which disallows state subvention of funds where the local government is authorized to collect service charges or fees in connection with a mandated program. The court explained that section 6 "was designed to protect the tax revenues of local governments from state mandates that ***985** would require expenditure of such revenues." (*County of Fresno v. State of California*, *supra*, at p. 487.) Based on the language and history of the measure, the court stated, "Article XIII B of the Constitution, however, was not intended to reach beyond taxation." (*Ibid.*) The court therefore concluded that in view of its textual and historical context, section 6 "requires subvention only when the costs in question can be recovered *solely from tax revenues*." (*Ibid.*, original italics.) Interpreting section 6, the court stated: "Considered within its context, the section effectively construes the term 'costs' in the constitutional provision as excluding expenses that are recoverable from sources other than taxes." (*Ibid.*) No subvention was required where the local authority could recover its expenses through fees or assessments, not taxes.

2. *Interpretation of Section 6*

Here, the Agency contends the authority of *County of Fresno v. State of California*, *supra*, *53* Cal.3d 482, should be narrowly read to cover only self-financing programs, and the Supreme Court's broad statements defining "costs" in this context read as mere dicta. It also continues to argue for a "plain meaning" reading of section 6, which it reiterates does not expressly discuss the source of funds used by an agency to pay the costs of a program before any reimbursement is sought. We disagree with both of these arguments. The correct approach is to read section 6 in light of its historical and textual context. (4) The rules of constitutional interpretation require a strict construction of section 6, because constitutional limitations and restrictions on legislative powers are not to be extended to include matters not covered by the language used. (*City of San Jose v. State of California*, *supra*, 45 Cal.App.4th at pp. 1816-1817.)

(5) The goals of articles XIII A and XIII B are to protect California residents from excessive taxation and government spending. (*County of Los Angeles v. State of California*, *supra*, 15 Cal.4th at p. 81.) A central purpose of section 6 is to prevent the state's transfer of the cost of government from itself to the local level. (*City of Sacramento v. State of California*, *supra*, 50 Cal.3d at p. 68.) (3b) The related goals of these enactments require us to read the term "costs" in section 6 in light of the enactment as a whole. The "costs" for which the Agency is seeking reimbursement are its deposits of tax increment financing proceeds into the Housing Fund. Those tax increment financing proceeds are normally received pursuant to the Community Redevelopment Law (§ 33000 et seq.) when, after redevelopment, the taxing agencies collect and keep the tax revenues attributable to the original assessed value and pass on to the redevelopment agency the portion of the ***986** assessed property value which exceeds the original assessment. (*Brown v. Community Redevelopment Agency*, *supra*, 168 Cal.App.3d at pp. 1016-1017.) Is this the type of expenditure of tax revenues of local governments, upon state mandates which require use of such revenues, against which section 6 was designed to protect? (*County of Fresno v. State of California*, *supra*, 53 Cal.3d at p. 487.)

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3. *Relationship of Appropriations Limitations and Subvention*

We may find assistance in answering this question by looking to the type of appropriations limitations imposed by article XIII B. In *County of Placer v. Corin*, *supra*, 113 Cal.App.3d at page 447, the court described the discipline imposed by article XIII B in this way: "[A]rticle XIIIB does not limit the ability to expend government funds collected from all sources. Rather, the appropriations limit is based on 'appropriations subject to limitation,' which consists primarily of the authorization to expend during a fiscal year the 'proceeds of taxes.' (§ 8, subd. (a).) As to local governments, limits are placed only on the authorization to expend the proceeds of taxes levied by that entity, in addition to proceeds of state subventions (§ 8, subd. (c)); no limitation is placed on the expenditure of those revenues that do not constitute 'proceeds of taxes.' " [9]

Because of the nature of the financing they receive, tax increment financing, redevelopment agencies are not subject to this type of appropriations limitations or spending caps; they do not expend any "proceeds of taxes." Nor do they raise, through tax increment financing, "*general revenues* for the local entity." (*County of Placer v. Corin*, *supra*, 113 Cal.App.3d at p. 451, original italics.) The purpose for which state subvention of funds was created, to protect local agencies from having the state transfer its cost of government from itself to the local level, is therefore not brought into play when redevelopment agencies are required to allocate their tax increment financing in a particular manner, as in the operation of sections 33334.2 and 33334.3. (See *City of Sacramento v. State of California*, *supra*, 50 Cal.3d at p. 68.) The state is not transferring to the Agency the operation and administration of a program for which it was formerly legally and financially ***987** responsible. (*County of Los Angeles v. Commission on State Mandates* (1995) 32 Cal.App.4th 805, 817 [38 Cal.Rptr.2d 304].) [10]

For all these reasons, we conclude the same policies which support exempting tax increment revenues from article XIII B appropriations limits also support denying reimbursement under section 6 for this particular allocation of those revenues to the Housing Fund. Tax increment financing is not within the scope of article XIII B. (*Brown v. Community Redevelopment Agency*, *supra*, 168 Cal.App.3d at pp. 1016-1020.) Section 6 "requires subvention only when the costs in question can be recovered *solely from tax revenues*." (*County of Fresno v. State of California*, *supra*, 53 Cal.3d at p. 487, original italics.) No state duty of subvention is triggered where the local agency is not required to expend its proceeds of taxes. Here, these costs of depositing tax increment revenues in the Housing Fund are attributable not directly to tax revenues, but to the benefit received by the Agency from the tax increment financing scheme, which is one step removed from other local agencies' collection of tax revenues. (§ 33000 et seq.) Therefore, in light of the above authorities, this use of tax increment financing is not a reimbursable "cost" under section 6. We therefore need not interpret any remaining portions of section 6.

Disposition

The judgment is affirmed.

Work, Acting P. J., and McIntyre, J., concurred.

Appellant's petition for review by the Supreme Court was denied September 3, 1997.

Footnotes

1 All further statutory references are to the Health and Safety Code unless otherwise noted.

2 " 'Subvention' generally means a grant of financial aid or assistance, or a subsidy. [Citation.]" (*Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1577 [15 Cal.Rptr.2d 547].)

3 In our prior opinion issued in this case, we determined the trial court erred when it denied the California Department of Finance (DOF) leave to intervene as an indispensable party and a real party in interest

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in the mandamus proceeding. (*Redevelopment Agency v. Commission on State Mandates* (1996) 43 Cal.App.4th 1188, 1194-1199 [51 Cal.Rptr.2d 100].) Thus, DOF is now a respondent on this appeal, as is the Commission (sometimes collectively referred to as respondents). However, our decision in that case was a collateral matter and does not assist us on the merits of this proceeding.

4 Section 6 lists the following exclusions to the requirement for subvention of funds: "(a) Legislative mandates requested by the local agency affected; [¶] (b) Legislation defining a new crime or changing an existing definition of a crime; or [¶] (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975." In *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 69 [266 Cal.Rptr. 139, 785 P.2d 522], the Supreme Court identified these items as exclusions of otherwise reimbursable programs from the scope of section 6. (See also Gov. Code, § 17514, definition of "costs mandated by the state," using the same "new program or higher level of service" language of section 6.)

5 Section 33071 in the Community Redevelopment Law provides that a fundamental purpose of redevelopment is to expand the supply of lowand moderate-income housing, as well as expanding employment opportunities and improving the social environment.

6 The term of art, "proceeds of taxes," is defined in article XIII B, section 8, as follows: (c) " *'Proceeds of taxes' shall include, but not be restricted to, all tax revenues* and the proceeds to an entity of government, from (1) regulatory licenses, user charges, and user fees to the extent that those proceeds exceed the costs reasonably borne by that entity in providing the regulation, product, or service, and (2) the investment of tax revenues. With respect to any local government, 'proceeds of taxes' shall include subventions received from the state, other than pursuant to Section 6, and, with respect to the state, proceeds of taxes shall exclude such subventions." (Italics added.)

7 The issues before the court in *County of Placer v. Corin*, *supra*, 113 Cal.App.3d 443 were whether special assessments and federal grants should be considered proceeds of taxes; the court held they should not. Section 6 is not discussed; the court's analysis of other concepts found in article XIII B is nevertheless instructive.

8 The alternate grounds of the Commission's decision were that there were no costs subject to reimbursement related to the Housing Fund because there was no net increase in the aggregate program responsibilities of the Agency, and that the set-aside requirement did not constitute a mandated "new program or higher level of service" under this section.

9 The term of art, "appropriations subject to limitation," is defined in article XIII B, section 8, as follows: [¶] (b) " 'Appropriations subject to limitation' of an entity of local government means any authorization to expend during a fiscal year *the proceeds of taxes levied by or for that entity* and the proceeds of state subventions to that entity (other than subventions made pursuant to Section 6) exclusive of refunds of taxes." (Italics added.)

10 We disagree with respondents that the legislative history of sections 33334.2 and 33334.3 is of assistance here, specifically, that section 23 of the bill creating these sections provided that no appropriations were made by the act, nor was any obligation for reimbursements of local agencies created for any costs incurred in carrying out the programs created by the act. (Stats. 1976, ch. 1337, § 23, pp. 6070-6071.) As stated in *City of San Jose v. State of California*, *supra*, 45 Cal.App.4th at pages 1817-1818, legislative findings regarding mandate are irrelevant to the issue to be decided by the Commission, whether a state mandate exists.

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64 Cal.Rptr.2d 270, 97 Cal. Daily Op. Serv. 4510, 97 Daily Journal D.A.R. 7464

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54 Cal.3d 326, 814 P.2d 1308, 285 Cal.Rptr. 66
Supreme Court of California

FRANCES KINLAW et al., Plaintiffs and Appellants,
v.
THE STATE OF CALIFORNIA et al., Defendants and Respondents.

No. S014349.
Aug 30, 1991.

SUMMARY

Medically indigent adults and taxpayers brought an action pursuant to Code Civ. Proc., § 526a, against the state, alleging that it had violated Cal. Const., art. XIII B, § 6 (reimbursement of local governments for state-mandated new programs), by shifting its financial responsibility for the funding of health care for the poor onto the county without providing the necessary funding, and that as a result the state had evaded its constitutionally mandated spending limits. The trial court granted summary judgment for the State after concluding plaintiffs lacked standing to prosecute the action. (Superior Court of Alameda County, No. 632120-4, Henry Ramsey, Jr., and Demetrios P. Agretelis, Judges.) The Court of Appeal, First Dist., Div. Two, Nos. A041426 and A043500, reversed.

The Supreme Court reversed the judgment of the Court of Appeal, holding the administrative procedures established by the Legislature (Gov. Code, § 17500 et seq.), which are available only to local agencies and school districts directly affected by a state mandate, were the exclusive means by which the state's obligations under Cal. Const., art. XIII B, § 6, were to be determined and enforced. Accordingly, the court held plaintiffs lacked standing to prosecute the action. (Opinion by Baxter, J., with Lucas, C. J., Panelli, Kennard, and Arabian, JJ., concurring. Separate dissenting opinion by Broussard, J., with Mosk, J., concurring.)

HEADNOTES

Classified to California Digest of Official Reports

(1)
State of California § 7--Actions--State-mandated Costs--Reimbursement-- Exclusive Statutory Remedy.
Gov. Code, § 17500 et seq., creates an administrative forum for resolution of state mandate claims arising under Cal. Const., art. XIII B, § 6, and establishes ***327** procedures which exist for the express purpose of avoiding multiple proceedings, judicial and administrative, addressing the same claim that a reimbursable state mandate has been created. The statutory scheme also designates the Sacramento County Superior Court as the venue for judicial actions to declare unfunded mandates invalid. It also designates the Sacramento County Superior Court as the venue for judicial actions to declare unfunded mandates invalid (Gov. Code, § 17612). In view of the comprehensive nature of the legislative scheme, and from the expressed intent, the Legislature has created what is clearly intended to be a comprehensive and exclusive procedure by which to implement and enforce Cal. Const., art. XIII B, § 6.

(2)
State of California § 7--Actions--State-mandated Costs--Reimbursement-- Private Action to Enforce--Standing.
In an action by medically indigent adults and taxpayers seeking to enforce Cal. Const., art. XIII B, § 6, for declaratory and injunctive relief requiring the state to reimburse the county for the cost of providing health care services to medically indigent adults who, prior to 1983, had been included in the state Medi-Cal program, the Court of Appeal erred in holding that the existence of an administrative remedy (Gov. Code, § 17500 et seq.) by which affected local agencies could enforce their constitutional right under art. XIII B, § 6 to reimbursement for the cost of state mandates di not bar the action. Because the right involved was given by the Constitution to local agencies and school districts, not individuals either as taxpayers or recipients of government benefits and services, the administrative remedy was adequate fully to implement the constitutional provision. The Legislature has the authority to establish procedures for the implementation of local agency rights under art. XIII B, § 6; unless the exercise of a constitutional right is unduly restricted, a court must limit enforcement to the procedures established by the Legislature. Plaintiffs' interest, although pressing, was indirect and did not differ from the interest of the public at large in the financial plight of local government. Relief by way of reinstatement to Medi-Cal pending further

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action by the state was not a remedy available under the statute, and thus was not one which a court may award.

[See **Cal.Jur.3d,** State of California, § 78; 7 **Witkin,** Summary of Cal. Law (9th ed. 1988) Constitutional Law, § 1127 **Witkin,** Summary of Cal. Law (9th ed. 1988) Constitutional Law, § 112.]

COUNSEL

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Catherine I. Hanson, Astrid G. Meghrigian, Alice P. Mead, Alan K. Marks, County Counsel (San Bernardino), Paul F. Mordy, Deputy County Counsel, De Witt W. Clinton, County Counsel (Los Angeles), Robert M. Fesler, Assistant County Counsel, Frank J. DaVanzo, Deputy County Counsel, Weissburg & Aronson, Mark S. Windisch, Carl Weissburg and Howard W. Cohen as Amici Curiae on behalf of Plaintiffs and Appellants.

John K. Van de Kamp and Daniel E. Lungren, Attorneys General, N. Eugene Hill, Assistant Attorney General, Richard M. Frank, Asher Rubin and Carol Hunter, Deputy Attorneys General, for Defendants and Respondents.

BAXTER, J.

Plaintiffs, medically indigent adults and taxpayers, seek to enforce section 6 of article XIII B (hereafter, section 6) of the California Constitution through an action for declaratory and injunctive relief. They invoked the jurisdiction of the superior court as taxpayers pursuant to Code of Civil Procedure section 526a and as persons affected by the alleged failure of the state to comply with section 6. The superior court granted summary judgment for defendants State of California and Director of the Department of Health Services, after concluding that plaintiffs lacked standing to prosecute the action. On appeal, the Court of Appeal held that plaintiffs have standing and that the action is not barred by the availability of administrative remedies.

We reverse. The administrative procedures established by the Legislature, which are available only to local agencies and school districts directly affected by a state mandate, are the exclusive means by which the state's obligations under section 6 are to be determined and enforced. Plaintiffs therefore lack standing.

I State Mandates

Section 6, adopted on November 6, 1979, as part of an initiative measure imposing spending limits on state and local government, also imposes on the state an obligation to reimburse local agencies for the cost of most programs and services which they must provide pursuant to a state mandate if the local agencies were not under a preexisting duty to fund the activity. It provides: ***329**

"Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide such subvention of funds for the following mandates:

"(a) Legislative mandates requested by the local agency affected;

"(b) Legislation defining a new crime or changing an existing definition of a crime; or

"(c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."

A complementary provision, section 3 of article XIII B, provides for a shift from the state to the local agency of a portion of the spending or "appropriation" limit of the state when responsibility for funding an activity is shifted to a local agency:

"The appropriations limit for any fiscal year ... shall be adjusted as follows: [¶] (a) In the event that the financial responsibility of providing services is transferred, in whole or in part, ... from one entity of government to another, then for the year in which such transfer becomes effective the appropriations limit of the transferee entity shall be increased by such reasonable amount as the said entities shall mutually agree and the appropriations limit of the transferor entity shall be decreased by the same amount."

II Plaintiffs' Action

The underlying issue in this action is whether the state is obligated to reimburse the County of Alameda, and shift to Alameda County a concomitant portion of the state's spending limit, for the cost of providing health care services

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to medically indigent adults who prior to 1983 had been included in the state Medi-Cal program. Assembly Bill No. 799 (1981-1982 Reg. Sess.) (AB 799) (Stats. 1982, ch. 328, p. 1568) removed medically indigent adults from Medi-Cal effective January 1, 1983. At the time section 6 was adopted, the state was funding Medi-Cal coverage for these persons without requiring any county financial contribution.

Plaintiffs initiated this action in the Alameda County Superior Court. They sought relief on their own behalf and on behalf of a class of similarly ***330** situated medically indigent adult residents of Alameda County. The only named defendants were the State of California, the Director of the Department of Health Services, and the County of Alameda.

In the complaint for declaratory and injunctive relief, plaintiffs sought an injunction compelling the state to restore Medi-Cal eligibility to medically indigent adults or to reimburse the County of Alameda for the cost of providing health care to those persons. They also prayed for a declaration that the transfer of responsibility from the state-financed Medi- Cal program to the counties without adequate reimbursement violated the California Constitution. [1]

At the time plaintiffs initiated their action neither Alameda County, nor any other county or local agency, had filed a reimbursement claim with the Commission on State Mandates (Commission). [2]

Whether viewed as an action seeking restoration of Medi-Cal benefits, one to compel state reimbursement of county costs, or one for declaratory relief, therefore, the action required a determination that the enactment of AB 799 created a state mandate within the contemplation of section 6. Only upon resolution of that issue favorably to plaintiffs would the state have an obligation to reimburse the county for its increased expense and shift a portion of its appropriation limit, or to reinstate Medi-Cal benefits for plaintiffs and the class they seek to represent.

The gravamen of the action is, therefore, enforcement of section 6. [3] ***331**

III Enforcement of Article XIII B, Section 6

In 1984, almost five years after the adoption of article XIII B, the Legislature enacted comprehensive administrative procedures for resolution of claims arising out of section 6. (§ 17500.) The Legislature did so because the absence of a uniform procedure had resulted in inconsistent rulings on the existence of state mandates, unnecessary litigation, reimbursement delays, and, apparently, resultant uncertainties in accommodating reimbursement requirements in the budgetary process. The necessity for the legislation was explained in section 17500:

"The Legislature finds and declares that the existing system for reimbursing local agencies and school districts for the costs of state- mandated local programs has not provided for the effective determination of the state's responsibilities under Section 6 of Article XIII B of the California Constitution. The Legislature finds and declares that the failure of the existing process to adequately and consistently resolve the complex legal questions involved in the determination of state-mandated costs has led to an increasing reliance by local agencies and school districts on the judiciary and, therefore, in order to relieve unnecessary congestion of the judicial system, *it is necessary to create a mechanism which is capable of rendering sound quasi-judicial decisions and providing an effective means of resolving disputes over the existence of state-mandated local programs.*" (Italics added.)

In part 7 of division 4 of title 2 of the Government Code, "State-Mandated Costs," which commences with section 17500, the Legislature created the Commission (§ 17525), to adjudicate disputes over the existence of a state-mandated program (§§ 17551, 17557) and to adopt procedures for submission and adjudication of reimbursement claims (§ 17553). The five-member Commission includes the Controller, the Treasurer, the Director of Finance, the Director of the Office of Planning and Research, and a public member experienced in public finance. (§ 17525.)

The legislation establishes a test-claim procedure to expeditiously resolve disputes affecting multiple agencies (§ 17554), [4] establishes the method of ***332** payment of claims (§§ 17558, 17561), and creates reporting procedures which enable the Legislature to budget adequate funds to meet the expense of state mandates (§§ 17562, 17600, 17612, subd. (a).)

Pursuant to procedures which the Commission was authorized to establish (§ 17553), local agencies [5] and school districts [6] are to file claims for reimbursement of state-mandated costs with the Commission (§§ 17551, 17560), and reimbursement is to be provided only through this statutory procedure. (§§ 17550, 17552.)

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The first reimbursement claim filed which alleges that a state mandate has been created under a statute or executive order is treated as a "test claim." (§ 17521.) A public hearing must be held promptly on any test claim. At the hearing on a test claim or on any other reimbursement claim, evidence may be presented not only by the claimant, but also by the Department of Finance and any other department or agency potentially affected by the claim. (§ 17553.) Any interested organization or individual may participate in the hearing. (§ 17555.)

A local agency filing a test claim need not first expend sums to comply with the alleged state mandate, but may base its claim on estimated costs. (§ 17555.) The Commission must determine both whether a state mandate exists and, if so, the amount to be reimbursed to local agencies and school districts, adopting "parameters and guidelines" for reimbursement of any claims relating to that statute or executive order. (§ 17557.) Procedures for determining whether local agencies have achieved statutorily authorized cost savings and for offsetting these savings against reimbursements are also provided. (§ 17620 et seq.) Finally, judicial review of the Commission decision is available through petition for writ of mandate filed pursuant to Code of Civil Procedure section 1094.5. (§ 17559.)

The legislative scheme is not limited to establishing the claims procedure, however. It also contemplates reporting to the Legislature and to departments and agencies of the state which have responsibilities related to funding state mandates, budget planning, and payment. The parameters and guidelines adopted by the Commission must be submitted to the Controller, who is to pay subsequent claims arising out of the mandate. (§ 17558.) Executive orders mandating costs are to be accompanied by an appropriations ***333** bill to cover the costs if the costs are not included in the budget bill, and in subsequent years the costs must be included in the budget bill. (§ 17561, subds. (a) & (b).) Regular review of the costs is to be made by the Legislative Analyst, who must report to the Legislature and recommend whether the mandate should be continued. (§ 17562.) The Commission is also required to make semiannual reports to the Legislature of the number of mandates found and the estimated reimbursement cost to the state. (§ 17600.) The Legislature must then adopt a "local government claims bill." If that bill does not include funding for a state mandate, an affected local agency or school district may seek a declaration from the superior court for the County of Sacramento that the mandate is unenforceable, and an injunction against enforcement. (§ 17612.)

Additional procedures, enacted in 1985, create a system of state-mandate apportionments to fund reimbursement. (§ 17615 et seq.)

(1) It is apparent from the comprehensive nature of this legislative scheme, and from the Legislature's expressed intent, that the exclusive remedy for a claimed violation of section 6 lies in these procedures. The statutes create an administrative forum for resolution of state mandate claims, and establishes procedures which exist for the express purpose of avoiding multiple proceedings, judicial and administrative, addressing the same claim that a reimbursable state mandate has been created. The statutory scheme also designates the Sacramento County Superior Court as the venue for judicial actions to declare unfunded mandates invalid (§ 17612).

The legislative intent is clearly stated in section 17500: "It is the intent of the Legislature in enacting this part to provide for the implementation of Section 6 of Article XIII B of the California Constitution and to consolidate the procedures for reimbursement of statutes specified in the Revenue and Taxation Code with those identified in the Constitution. ..." And section 17550 states: "Reimbursement of local agencies and school districts for costs mandated by the state shall be provided pursuant to this chapter."

Finally, section 17552 provides: "This chapter shall provide *the sole and exclusive procedure* by which a local agency or school district may claim reimbursement for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution." (Italics added.)

In short, the Legislature has created what is clearly intended to be a comprehensive and exclusive procedure by which to implement and enforce section 6. ***334**

IV Exclusivity

(2) Plaintiffs argued, and the Court of Appeal agreed, that the existence of an administrative remedy by which affected local agencies could enforce their right under section 6 to reimbursement for the cost of state mandates did not bar this action because the administrative remedy is available only to local agencies and school districts.

The Court of Appeal recognized that the decision of the County of Alameda, which had not filed a claim for reimbursement at the time the complaint was filed, was a discretionary decision which plaintiffs could not challenge.

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(*Dunn v. Long Beach L. & W. Co.* (1896) 114 Cal. 605, 609, 610-611 [46 P. 607]; *Silver v. Watson* (1972) 26 Cal.App.3d 905, 909 [103 Cal.Rptr. 576]; *Whitson v. City of Long Beach* (1962) 200 Cal.App.2d 486, 506 [19 Cal.Rptr. 668]; *Elliott v. Superior Court* (1960) 180 Cal.App.2d 894, 897 [5 Cal.Rptr. 116].) The court concluded, however, that public policy and practical necessity required that plaintiffs have a remedy for enforcement of section 6 independent of the statutory procedure.

The right involved, however, is a right given by the Constitution to local agencies, not individuals either as taxpayers or recipients of government benefits and services. Section 6 provides that the "state shall provide a subvention of funds *to reimburse ... local governments* ...." (Italics added.) The administrative remedy created by the Legislature is adequate to fully implement section 6. That Alameda County did not file a reimbursement claim does not establish that the enforcement remedy is inadequate. Any of the 58 counties was free to file a claim, and other counties did so. The test claim is now before the Court of Appeal. The administrative procedure has operated as intended.

The Legislature has the authority to establish procedures for the implementation of local agency rights under section 6. Unless the exercise of a constitutional right is unduly restricted, the court must limit enforcement to the procedures established by the Legislature. (*People v. Western Air Lines, Inc.* (1954) 42 Cal.2d 621, 637 [268 P.2d 723]; *Chesney v. Byram* (1940) 15 Cal.2d 460, 463 [101 P.2d 1106]; *County of Contra Costa v. State of California* (1986) 177 Cal.App.3d 62, 75 [222 Cal.Rptr. 750].)

Plaintiffs' argument that they must be permitted to enforce section 6 as individuals because their right to adequate health care services has been compromised by the failure of the state to reimburse the county for the cost ***335** of services to medically indigent adults is unpersuasive. Plaintiffs' interest, although pressing, is indirect and does not differ from the interest of the public at large in the financial plight of local government. Although the basis for the claim that the state must reimburse the county for its costs of providing the care that was formerly available to plaintiffs under Medi-Cal is that AB 799 created a state mandate, plaintiffs have no right to have any reimbursement expended for health care services of any kind. Nothing in article XIII B or other provision of law controls the county's expenditure of the funds plaintiffs claim must be paid to the county. To the contrary, section 17563 gives the local agency complete discretion in the expenditure of funds received pursuant to section 6, providing: "Any funds received by a local agency or school district pursuant to the provisions of this chapter may be used for any public purpose."

The relief plaintiffs seek in their prayer for state reimbursement of county expenses is, in the end, a reallocation of general revenues between the state and the county. Neither public policy nor practical necessity compels creation of a judicial remedy by which individuals may enforce the right of the county to such revenues. The Legislature has established a procedure by which the county may claim any revenues to which it believes it is entitled under section 6. That test-claim statute expressly provides that not only the claimant, but also "any other interested organization or individual may participate" in the hearing before the Commission (§ 17555) at which the right to reimbursement of the costs of such mandate is to be determined. Procedures for receiving any claims must "provide for presentation of evidence by the claimant, the Department of Finance and any other affected department or agency, *and any other interested person.*" (§ 17553. Italics added.) Neither the county nor an interested individual is without an opportunity to be heard on these questions. These procedures are both adequate and exclusive. [7]

The alternative relief plaintiffs seek—reinstatement to Medi-Cal pending further action by the state—is not a remedy available under the statute, and thus is not one which this court may award. The remedy for the failure to fund a program is a declaration that the mandate is unenforceable. That relief is available only after the Commission has determined that a mandate exists ***336** and the Legislature has failed to include the cost in a local government claims bill, and only on petition by the county. (§ 17612.) [8]

Moreover, the judicial remedy approved by the Court of Appeal permits resolution of the issues raised in a state mandate claim without the participation of those officers and individuals the Legislature deems necessary to a full and fair exposition and resolution of the issues. Neither the Controller nor the Director of Finance was named a defendant in this action. The Treasurer and the Director of the Office of Planning and Research did not participate. All of these officers would have been involved in determining the

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question as members of the Commission, as would the public member of the Commission. The judicial procedures were not equivalent to the public hearing required on test claims before the Commission by section 17555. Therefore, other affected departments, organizations, and individuals had no opportunity to be heard. [9]

Finally, since a determination that a state mandate has been created in a judicial proceeding rather than one before the Commission does not trigger the procedures for creating parameters and guidelines for payment of claims, or for inclusion of estimated costs in the state budget, there is no source of funds available for compliance with the judicial decision other than the appropriations for the Department of Health Services. Payment from those funds can only be at the expense of another program which the department is obligated to fund. No public policy supports, let alone requires, this result.

The superior court acted properly in dismissing this action.

The judgment of the Court of Appeal is reversed.

Lucas, C. J., Panelli, J., Kennard, J., and Arabian, J., concurred.

BROUSSARD, J.

I dissent. For nine years the Legislature has defied the mandate of article XIII B of the California Constitution (hereafter article XIII B). Having transferred responsibility for the care of medically indigent adults (MIA's) to county governments, the Legislature has failed to provide the counties with sufficient money to meet this responsibility, yet the ***337** Legislature computes its own appropriations limit as if it fully funded the program. The majority, however, declines to remedy this violation because, it says, the persons most directly harmed by the violation—the medically indigent who are denied adequate health care—have no standing to raise the matter. I disagree, and will demonstrate that (1) plaintiffs have standing as citizens to seek a declaratory judgment to determine whether the state is complying with its constitutional duty under article XIII B; (2) the creation of an administrative remedy whereby counties and local districts can enforce article XIII B does not deprive the citizenry of its own independent right to enforce that provision; and (3) even if plaintiffs lacked standing, our recent decision in *Dix v. Superior Court* (1991) 53 Cal.3d 442 [279 Cal.Rptr. 834, 807 P.2d 1063] permits us to reach and resolve any significant issue decided by the Court of Appeal and fully briefed and argued here. I conclude that we should reach the merits of the appeal.

On the merits, I conclude that the state has not complied with its constitutional obligation under article XIII B. To prevent the state from avoiding the spending limits imposed by article XIII B, section 6 of that article prohibits the state from transferring previously state-financed programs to local governments without providing sufficient funds to meet those burdens. In 1982, however, the state excluded the medically indigent from its Medi-Cal program, thus shifting the responsibility for such care to the counties. Subvention funds provided by the state were inadequate to reimburse the counties for this responsibility, and became less adequate every year. At the same time, the state continued to compute its spending limit as if it fully financed the entire program. The result is exactly what article XIII B was intended to prevent: the state enjoys a falsely inflated spending limit; the county is compelled to assume a burden it cannot afford; and the medically indigent receive inadequate health care.

I. Facts and Procedural History

Plaintiffs—citizens, taxpayers, and persons in need of medical care—allege that the state has shifted its financial responsibility for the funding of health care for MIA's to the counties without providing the necessary funding and without any agreement transferring appropriation limits, and that as a result the state is violating article XIII B. Plaintiffs further allege they and the class they claim to represent cannot, consequently, obtain adequate health care from the County of Alameda, which lacks the state funding to provide it. The county, although nominally a defendant, aligned ***338** itself with plaintiffs. It admits the inadequacy of its program to provide medical care for MIA's but blames the absence of state subvention funds. [1]

At hearings below, plaintiffs presented uncontradicted evidence regarding the enormous impact of these statutory changes upon the finances and population of Alameda County. That county now spends about $40 million annually on health care for MIA's, of which the state reimburses about half. Thus, since article XIII B became effective, Alameda County's obligation for the health care of MIA's has risen from zero to more than $20 million per year. The county has inadequate funds to discharge its new obligation

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for the health care of MIA's; as a result, according to the Court of Appeal, uncontested evidence from medical experts presented below shows that, "The delivery of health care to the indigent in Alameda County is in a state of shambles; the crisis cannot be overstated ...." "Because of inadequate state funding, some Alameda County residents are dying, and many others are suffering serious diseases and disabilities, because they cannot obtain adequate access to the medical care they need ...." "The system is clogged to the breaking point. ... All community clinics ... are turning away patients." "The funding received by the county from the state for MIAs does not approach the actual cost of providing health care to the MIAs. As a consequence, inadequate resources available to county health services jeopardize the lives and health of thousands of people ...."

The trial court acknowledged that plaintiffs had shown irreparable injury, but denied their request for a preliminary injunction on the ground that they could not prevail in the action. It then granted the state's motion for summary judgment. Plaintiffs appealed from both decisions of the trial court.

The Court of Appeal consolidated the two appeals and reversed the rulings below. It concluded that plaintiffs had standing to bring this action to enforce the constitutional spending limit of article XIII B, and that the action is not barred by the existence of administrative remedies available to counties. It then held that the shift of a portion of the cost of medical indigent care by the state to Alameda County constituted a state-mandated new program under the provisions of article XIII B, which triggered that article's provisions requiring a subvention of funds by the state to reimburse Alameda ***339** County for the costs of such program it was required to assume. The judgments denying a preliminary injunction and granting summary judgment for defendants were reversed. We granted review.

II. Standing

A. *Plaintiffs have standing to bring an action for declaratory relief to determine whether the state is complying with article XIII B.*

Plaintiffs first claim standing as taxpayers under Code of Civil Procedure section 526a, which provides that: "An action to obtain a judgment, restraining and preventing any illegal expenditure of, waste of, or injury to, the estate, funds, or other property of a county ..., may be maintained against any officer thereof, or any agent, or other person, acting in its behalf, either by a citizen resident therein, or by a corporation, who is assessed for and is liable to pay, or, within one year before the commencement of the action, has paid, a tax therein. ..." As in *Common Cause v. Board of Supervisors* (1989) 49 Cal.3d 432, 439 [261 Cal.Rptr. 574, 777 P.2d 610], however, it is "unnecessary to reach the question whether plaintiffs have standing to seek an injunction under Code of Civil Procedure section 526a, because there is an independent basis for permitting them to proceed." Plaintiffs here seek a declaratory judgment that the transfer of responsibility for MIA's from the state to the counties without adequate reimbursement violates article XIII B. A declaratory judgment that the state has breached its duty is essentially equivalent to an action in mandate to compel the state to perform its duty. (See *California Assn. of Psychology Providers v. Rank* (1990) 51 Cal.3d 1, 9 [270 Cal.Rptr. 796, 793 P.2d 2], which said that a declaratory judgment establishing that the state has a duty to act provides relief equivalent to mandamus, and makes issuance of the writ unnecessary.) Plaintiffs further seek a mandatory injunction requiring that the state pay the health costs of MIA's under the Medi-Cal program until the state meets its obligations under article XIII B. The majority similarly characterize plaintiffs' action as one comparable to mandamus brought to enforce section 6 of article XIII B.

We should therefore look for guidance to cases that discuss the standing of a party seeking a writ of mandate to compel a public official to perform his or her duty.[2] Such an action may be brought by any person "beneficially interested" in the issuance of the writ. (Code Civ. Proc., § 1086.) In *Carsten* ***340** *v. Psychology Examining Com.* (1980) 27 Cal.3d 793, 796 [166 Cal.Rptr. 844, 614 P.2d 276], we explained that the "requirement that a petitioner be 'beneficially interested' has been generally interpreted to mean that one may obtain the writ only if the person has some special interest to be served or some particular right to be preserved or protected over and above the interest held in common with the public at large." We quoted from Professor Davis, who said, "One who is in fact adversely affected by governmental action should have standing to challenge that action if it is judicially reviewable." (Pp. 796-797, quoting 3 Davis, Administrative Law Treatise (1958) p. 291.) Cases applying this standard include *Stocks v. City of Irvine* (1981) 114 Cal.App.3d 520

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[170 Cal.Rptr. 724], which held that low- income residents of Los Angeles had standing to challenge exclusionary zoning laws of suburban communities which prevented the plaintiffs from moving there; *Taschner v. City Council, supra,* 31 Cal.App.3d 48, which held that a property owner has standing to challenge an ordinance which may limit development of the owner's property; and *Felt v. Waughop* (1924) 193 Cal. 498 [225 P. 862], which held that a city voter has standing to compel the city clerk to certify a correct list of candidates for municipal office. Other cases illustrate the limitation on standing: *Carsten v. Psychology Examining Com., supra,* 27 Cal.3d 793, held that a member of the committee who was neither seeking a license nor in danger of losing one had no standing to challenge a change in the method of computing the passing score on the licensing examination; *Parker v. Bowron* (1953) 40 Cal.2d 344 [254 P.2d 6] held that a union official who was neither a city employee nor a city resident had no standing to compel a city to follow a prevailing wage ordinance; and *Dunbar v. Governing Board* (1969) 275 Cal.App.2d 14 [79 Cal.Rptr. 662] held that a member of a student organization had standing to challenge a college district's rule barring a speaker from campus, but persons who merely planned to hear him speak did not.

No one questions that plaintiffs are affected by the lack of funds to provide care for MIA's. Plaintiffs, except for plaintiff Rabinowitz, are not merely citizens and taxpayers; they are medically indigent persons living in Alameda County who have been and will be deprived of proper medical care if funding of MIA programs is inadequate. Like the other plaintiffs here, ***341** plaintiff Kinlaw, a 60-year-old woman with diabetes and hypertension, has no health insurance. Plaintiff Spier has a chronic back condition; inadequate funding has prevented him from obtaining necessary diagnostic procedures and physiotherapy. Plaintiff Tsosie requires medication for allergies and arthritis, and claims that because of inadequate funding she cannot obtain proper treatment. Plaintiff King, an epileptic, says she was unable to obtain medication from county clinics, suffered seizures, and had to go to a hospital. Plaintiff "Doe" asserts that when he tried to obtain treatment for AIDS-related symptoms, he had to wait four to five hours for an appointment and each time was seen by a different doctor. All of these are people personally dependent upon the quality of care of Alameda County's MIA program; most have experienced inadequate care because the program was underfunded, and all can anticipate future deficiencies in care if the state continues its refusal to fund the program fully.

The majority, however, argues that the county has no duty to use additional subvention funds for the care of MIA's because under Government Code section 17563 "[a]ny funds received by a local agency ... pursuant to the provisions of this chapter may be used for any public purpose." Since the county may use the funds for other purposes, it concludes that MIA's have no special interest in the subvention. [3]

This argument would be sound if the county were already meeting its obligations to MIA's under Welfare and Institutions Code section 17000. If that were the case, the county could use the subvention funds as it chose, and plaintiffs would have no more interest in the matter than any other county resident or taxpayer. But such is not the case at bar. Plaintiffs here allege that the county is not complying with its duty, mandated by Welfare and Institutions Code section 17000, to provide health care for the medically indigent; the county admits its failure but pleads lack of funds. Once the county receives adequate funds, it must perform its statutory duty under section 17000 of the Welfare and Institutions Code. If it refused, an action in mandamus would lie to compel performance. (See *Mooney v. Pickett* (1971) 4 Cal.3d 669 [94 Cal.Rptr. 279, 483 P.2d 1231].) In fact, the county has made clear throughout this litigation that it would use the subvention funds to provide care for MIA's. The majority's conclusion that plaintiffs lack a special, beneficial interest in the state's compliance with article XIII B ignores the practical realities of health care funding.

Moreover, we have recognized an exception to the rule that a plaintiff must be beneficially interested. "Where the question is one of public right ***342** and the object of the mandamus is to procure the enforcement of a public duty, the relator need not show that he has any legal or special interest in the result, since it is sufficient that he is interested as a citizen in having the laws executed and the duty in question enforced." (*Bd. of Soc. Welfare v. County of L. A.* (1945) 27 Cal.2d 98, 100-101 [162 P.2d 627].) We explained in *Green v. Obledo* (1981) 29 Cal.3d 126, 144 [172 Cal.Rptr. 206, 624 P.2d 256], that this "exception promotes the policy of guaranteeing citizens the opportunity to ensure that no governmental body impairs or defeats the purpose of legislation establishing a public right. ... It has often been invoked by California courts. [Citations.]"

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Green v. Obledo presents a close analogy to the present case. Plaintiffs there filed suit to challenge whether a state welfare regulation limiting deductibility of work-related expenses in determining eligibility for aid to families with dependent children (AFDC) assistance complied with federal requirements. Defendants claimed that plaintiffs were personally affected only by a portion of the regulation, and had no standing to challenge the balance of the regulation. We replied that "[t]here can be no question that the proper calculation of AFDC benefits is a matter of public right [citation], and plaintiffs herein are certainly citizens seeking to procure the enforcement of a public duty. [Citation.] It follows that plaintiffs have standing to seek a writ of mandate commanding defendants to cease enforcing [the regulation] in its entirety." (29 Cal.3d at p. 145.)

We again invoked the exception to the requirement for a beneficial interest in *Common Cause v. Board of Supervisors, supra,* 49 Cal.3d 432. Plaintiffs in that case sought to compel the county to deputize employees to register voters. We quoted *Green v. Obledo, supra,* 29 Cal.3d 126, 144, and concluded that "[t]he question in this case involves a public right to voter outreach programs, and plaintiffs have standing as citizens to seek its vindication." (49 Cal.3d at p. 439.) We should reach the same conclusion here.

B. *Government Code sections 17500-17630 do not create an exclusive remedy which bars citizen-plaintiffs from enforcing article XIII B.*

Four years after the enactment of article XIII B, the Legislature enacted Government Code sections 17500 through 17630 to implement article XIII B, section 6. These statutes create a quasi-judicial body called the Commission on State Mandates, consisting of the state Controller, state Treasurer, state Director of Finance, state Director of the Office of Planning and Research, and one public member. The commission has authority to "hear and decide upon [any] claim" by a local government that it "is entitled to be reimbursed by the state" for costs under article XIII B. (***343** Gov. Code, § 17551, subd. (a).) Its decisions are subject to review by an action for administrative mandamus in the superior court. (See Gov. Code, § 17559.)

The majority maintains that a proceeding before the Commission on State Mandates is the exclusive means for enforcement of article XIII B, and since that remedy is expressly limited to claims by local agencies or school districts (Gov. Code, § 17552), plaintiffs lack standing to enforce the constitutional provision.[4] I disagree, for two reasons.

First, Government Code section 17552 expressly addressed the question of exclusivity of remedy, and provided that "[t]his chapter shall provide the sole and exclusive procedure by which *a local agency or school district* may claim reimbursement for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution." (Italics added.) The Legislature was aware that local agencies and school districts were not the only parties concerned with state mandates, for in Government Code section 17555 it provided that "any other interested organization or individual may participate" in the commission hearing. Under these circumstances the Legislature's choice of words—"the sole and exclusive procedure by which a local agency or school district may claim reimbursement"—limits the procedural rights of those claimants only, and does not affect rights of other persons. *Expressio unius est exclusio alterius*—"the expression of certain things in a statute necessarily involves exclusion of other things not expressed." (*Henderson v. Mann Theatres Corp.* (1976) 65 Cal.App.3d 397, 403 [135 Cal.Rptr. 266].)

The case is similar in this respect to *Common Cause v. Board of Supervisors, supra,* 49 Cal.3d 432. Here defendants contend that the counties' right of action under Government Code sections 17551-17552 impliedly excludes ***344** any citizen's remedy; in *Common Cause* defendants claimed the Attorney General's right of action under Elections Code section 304 impliedly excluded any citizen's remedy. We replied that "the plain language of section 304 contains no limitation on the right of private citizens to sue to enforce the section. To infer such a limitation would contradict our long-standing approval of citizen actions to require governmental officials to follow the law, expressed in our expansive interpretation of taxpayer standing [citations], and our recognition of a 'public interest' exception to the requirement that a petitioner for writ of mandate have a personal beneficial interest in the proceedings [citations]." (49 Cal.3d at p. 440, fn. omitted.) Likewise in this case the plain language of Government Code sections 17551-17552 contain no limitation on the right of private citizens, and to infer such a

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right would contradict our long-standing approval of citizen actions to enforce public duties.

The United States Supreme Court reached a similar conclusion in *Rosado v. Wyman* (1970) 397 U.S. 397 [25 L.Ed.2d 442, 90 S.Ct. 1207]. In that case New York welfare recipients sought a ruling that New York had violated federal law by failing to make cost-of-living adjustments to welfare grants. The state replied that the statute giving the Department of Health, Education and Welfare authority to cut off federal funds to noncomplying states constituted an exclusive remedy. The court rejected the contention, saying that "[w]e are most reluctant to assume Congress has closed the avenue of effective judicial review to those individuals most directly affected by the administration of its program." (P. 420 [25 L.Ed.2d at p. 460].) The principle is clear: the persons actually harmed by illegal state action, not only some administrator who has no personal stake in the matter, should have standing to challenge that action.

Second, article XIII B was enacted to protect taxpayers, not governments. Sections 1 and 2 of article XIII B establish strict limits on state and local expenditures, and require the refund of all taxes collected in excess of those limits. Section 6 of article XIII B prevents the state from evading those limits and burdening county taxpayers by transferring financial responsibility for a program to a county, yet counting the cost of that program toward the limit on state expenditures.

These provisions demonstrate a profound distrust of government and a disdain for excessive government spending. An exclusive remedy under which only governments can enforce article XIII B, and the taxpayer-citizen can appear only if a government has first instituted proceedings, is inconsistent with the ethos that led to article XIII B. The drafters of article XIII B and the voters who enacted it would not accept that the state Legislature—the principal body regulated by the article—could establish a procedure ***345** under which the only way the article can be enforced is for local governmental bodies to initiate proceedings before a commission composed largely of state financial officials.

One obvious reason is that in the never-ending attempts of state and local government to obtain a larger proportionate share of available tax revenues, the state has the power to coerce local governments into foregoing their rights to enforce article XIII B. An example is the Brown-Presley Trial Court Funding Act (Gov. Code, § 77000 et seq.), which provides that the county's acceptance of funds for court financing may, in the discretion of the Governor, be deemed a waiver of the counties' rights to proceed before the commission on all claims for reimbursement for state-mandated local programs which existed and were not filed prior to passage of the trial funding legislation.[5] The ability of state government by financial threat or inducement to persuade counties to waive their right of action before the commission renders the counties' right of action inadequate to protect the public interest in the enforcement of article XIII B.

The facts of the present litigation also demonstrate the inadequacy of the commission remedy. The state began transferring financial responsibility for MIA's to the counties in 1982. Six years later no county had brought a proceeding before the commission. After the present suit was filed, two counties filed claims for 70 percent reimbursement. Now, nine years after the 1982 legislation, the counties' claims are pending before the Court of Appeal. After that court acts, and we decide whether to review its decision, the matter may still have to go back to the commission for hearings to ***346** determine the amount of the mandate—which is itself an appealable order. When an issue involves the life and health of thousands, a procedure which permits this kind of delay is not an adequate remedy.

In sum, effective, efficient enforcement of article XIII B requires that standing to enforce that measure be given to those harmed by its violation—in this case, the medically indigent—and not be vested exclusively in local officials who have no personal interest at stake and are subject to financial and political pressure to overlook violations.

C. *Even if plaintiffs lack standing this court should nevertheless address and resolve the merits of the appeal.*

Although ordinarily a court will not decide the merits of a controversy if the plaintiffs lack standing (see *McKinny v. Board of Trustees* (1982) 31 Cal.3d 79, 90 [181 Cal.Rptr. 549, 642 P.2d 460]), we recognized an exception to this rule in our recent decision in *Dix v. Superior Court, supra,* 53 Cal.3d 442 (hereafter *Dix*). In *Dix,* the victim of a crime sought to challenge the trial court's decision to recall a sentence under Penal Code section 1170. We held that only the prosecutor, not the victim of the crime, had standing to raise that issue. We nevertheless went on to consider and decide questions raised by the victim concerning

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the trial court's authority to recall a sentence under Penal Code section 1170, subdivision (d). We explained that the sentencing issues "are significant. The case is fully briefed and all parties apparently seek a decision on the merits. Under such circumstances, we deem it appropriate to address [the victim's] sentencing arguments for the guidance of the lower courts. Our discretion to do so under analogous circumstances is well settled. [Citing cases explaining when an appellate court can decide an issue despite mootness.]" (53 Cal.3d at p. 454.) In footnote we added that "Under article VI, section 12, subdivision (b) of the California Constitution ..., we have jurisdiction to 'review the *decision of a Court of Appeal* in any cause.' (Italics added.) Here the Court of Appeal's decision addressed two issues—standing and merits. Nothing in article VI, section 12(b) suggests that, having rejected the Court of Appeal's conclusion on the preliminary issue of standing, we are foreclosed from 'review [ing]' the second subject addressed and resolved in its decision." (Pp. 454-455, fn. 8.)

I see no grounds on which to distinguish *Dix.* The present case is also one in which the Court of Appeal decision addressed both standing and merits. It is fully briefed. Plaintiffs and the county seek a decision on the merits. While the state does not seek a decision on the merits in this proceeding, its appeal of the superior court decision in the mandamus proceeding brought by the County of Los Angeles (see maj. opn., *ante,* p. 330, fn. 2*ante,* p. 330, fn. 2) shows that it is not opposed to an appellate decision on the merits. ***347**

The majority, however, notes that various state officials—the Controller, the Director of Finance, the Treasurer, and the Director of the Office of Planning and Research—did not participate in this litigation. Then in a footnote, the majority suggests that this is the reason they do not follow the *Dix* decision. (Maj. opn., *ante,* p. 336, fn. 9*ante,* p. 336, fn. 9.) In my view, this explanation is insufficient. The present action is one for declaratory relief against the state. It is not necessary that plaintiffs also sue particular state officials. (The state has never claimed that such officials were necessary parties.) I do not believe we should refuse to reach the merits of this appeal because of the nonparticipation of persons who, if they sought to participate, would be here merely as amici curiae. [6]

The case before us raises no issues of departmental policy. It presents solely an issue of law which this court is competent to decide on the briefs and arguments presented. That issue is one of great significance, far more significant than any raised in *Dix.* Judges rarely recall sentencing under Penal Code section 1170, subdivision (d); when they do, it generally affects only the individual defendant. In contrast, the legal issue here involves immense sums of money and affect budgetary planning for both the state and counties. State and county governments need to know, as soon as possible, what their rights and obligations are; legislators considering proposals to deal with the current state and county budget crisis need to know how to frame legislation so it does not violate article XIII B. The practical impact of a decision on the people of this state is also of great importance. The failure of the state to provide full subvention funds and the difficulty of the county in filling the gap translate into inadequate staffing and facilities for treatment of thousands of persons. Until the constitutional issues are resolved the legal uncertainties may inhibit both levels of government from taking the steps needed to address this problem. A delay of several years until the Los Angeles case is resolved could result in pain, hardship, or even death for many people. I conclude that, whether or not plaintiffs have standing, this court should address and resolve the merits of the appeal.

D. *Conclusion as to standing.*

As I have just explained, it is not necessary for plaintiffs to have standing for us to be able to decide the merits of the appeal. Nevertheless, I conclude ***348** that plaintiffs have standing both as persons "beneficially interested" under Code of Civil Procedure section 1086 and under the doctrine of *Green v. Obledo, supra,* 29 Cal.3d 126, to bring an action to determine whether the state has violated its duties under article XIII B. The remedy given local agencies and school districts by Government Code sections 17500- 17630 is, as Government Code section 17552 states, the exclusive remedy by which those bodies can challenge the state's refusal to provide subvention funds, but the statute does not limit the remedies available to individual citizens.

III. Merits of the Appeal

A. *State funding of care for MIA's.*

Welfare and Institutions Code section 17000 requires every county to "relieve and support" all indigent or incapacitated residents, except to the extent that such persons are supported or relieved by other sources. [7] From 1971 until 1982, and thus at the time article XIII B became effective, counties were not required to pay for the provision of health services to MIA's, whose health needs were met through the state-funded Medi-Cal program. Since the medical needs of MIA's were fully

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met through other sources, the counties had no duty under Welfare and Institutions Code section 17000 to meet those needs. While the counties did make general contributions to the Medi-Cal program (which covered persons other than MIA's) from 1971 until 1978, at the time article XIII B became effective in 1980 the counties were not required to make any financial contributions to Medi-Cal. It is therefore undisputed that the counties were not required to provide financially for the health needs of MIA's when article XIII B became effective. The state funded all such needs of MIA's.

In 1982, the Legislature passed Assembly Bill No. 799 (1981-1982 Reg. Sess.; Stats. 1982, ch. 328, pp. 1568-1609) (hereafter AB No. 799), which removed MIA's from the state-funded Medi-Cal program as of January 1, 1983, and thereby transferred to the counties, through the County Medical Services Plan which AB No. 799 created, the financial responsibility to provide health services to approximately 270,000 MIA's. AB No. 799 required that the counties provide health care for MIA's, yet appropriated only 70 percent of what the state would have spent on MIA's had those persons remained a state responsibility under the Medi-Cal program.

Since 1983, the state has only partially defrayed the costs to the counties of providing health care to MIA's. Such state funding to counties was ***349** initially relatively constant, generally more than $400 million per year. By 1990, however, state funding had decreased to less than $250 million. The state, however, has always included the full amount of its former obligation to provide for MIA's under the Medi-Cal program in the year preceding July 1, 1980, as part of its article XIII B "appropriations limit," i.e., as part of the base amount of appropriations on which subsequent annual adjustments for cost-of-living and population changes would be calculated. About $1 billion has been added to the state's adjusted spending limit for population growth and inflation *solely* because of the state's inclusion of all MIA expenditures in the appropriation limit established for its base year, 1979-1980. The state has not made proportional increases in the sums provided to counties to pay for the MIA services funded by the counties since January 1, 1983.

B. *The function of article XIII B.*

Our recent decision in *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 486-487 [280 Cal.Rptr. 92, 808 P.2d 235] (hereafter *County of Fresno*), explained the function of article XIII B and its relationship to article XIII A, enacted one year earlier:

"At the June 6, 1978, Primary Election, article XIII A was added to the Constitution through the adoption of Proposition 13, an initiative measure aimed at controlling ad valorem property taxes and the imposition of new 'special taxes.' (*Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 231-232 [149 Cal.Rptr. 239, 583 P.2d 1281].) The constitutional provision imposes a limit on the power of state and local governments to adopt and levy taxes. (*City of Sacramento v. State of California* (1990) 50 Cal.3d 51, 59, fn. 1 [266 Cal.Rptr. 139, 785 P.2d 522] (*City of Sacramento*).)

"At the November 6, 1979, Special Statewide Election, article XIII B was added to the Constitution through the adoption of Proposition 4, another initiative measure. That measure places limitations on the ability of both state and local governments to appropriate funds for expenditures.

" 'Articles XIII A and XIII B work in tandem, together restricting California governments' power both to levy and to spend [taxes] for public purposes.' (*City of Sacramento, supra,* 50 Cal.3d at p. 59, fn. 1.)

"Article XIII B of the Constitution was intended ... to provide 'permanent protection for taxpayers from excessive taxation' and 'a reasonable way to provide discipline in tax spending at state and local levels.' (See *County of Placer v. Corin* (1980) 113 Cal.App.3d 443, 446 [170 Cal.Rptr. 232], quoting and following Ballot Pamp., Proposed Stats. and Amends. to Cal. Const. with arguments to voters, Special Statewide Elec. (Nov. 6, 1979), argument ***350** in favor of Prop. 4, p. 18.) To this end, it establishes an 'appropriations limit' for both state and local governments (Cal. Const., art. XIII B, § 8, subd. (h)) and allows no 'appropriations subject to limitation' in excess thereof (*id.,* § 2). [8] (See *County of Placer v. Corin, supra,* 113 Cal.App.3d at p. 446.) It defines the relevant 'appropriations subject to limitation' as 'any authorization to expend during a fiscal year the proceeds of taxes ....' (Cal. Const., art. XIII B, § 8, subd. (b).)" (*County of Fresno, supra,* 53 Cal.3d at p. 486.)

Under section 3 of article XIII B the state may transfer financial responsibility for a program to a county if the state

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and county mutually agree that the appropriation limit of the state will be decreased and that of the county increased by the same amount.[9] Absent such an agreement, however, section 6 of article XIII B generally precludes the state from avoiding the spending limits it must observe by shifting to local governments programs and their attendant financial burdens which were a state responsibility prior to the effective date of article XIII B. It does so by requiring that "Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the cost of such program or increased level of service ...."[10]

"Section 6 was included in article XIII B in recognition that article XIII A of the Constitution severely restricted the taxing powers of local governments. (See *County of Los Angeles* [v. *State of California* (1987)] 43 Cal.3d 46, 61 [233 Cal.Rptr. 38, 729 P.2d 202].) The provision was intended to preclude the state from shifting financial responsibility for carrying out governmental functions onto local entities that were ill equipped to handle the task. (*Ibid.*; see *Lucia Mar Unified School Dist. v. Honig, supra,* 44 Cal.3d 830, 836, fn. 6.) Specifically, it was designed to protect the tax ***351** revenues of local governments from state mandates that would require expenditure of such revenues." (*County of Fresno, supra,* 53 Cal.3d at p. 487.)

C. *Applicability of article XIII B to health care for MIA's.*

The state argues that care of the indigent, including medical care, has long been a county responsibility. It claims that although the state undertook to fund this responsibility from 1979 through 1982, it was merely temporarily (as it turned out) helping the counties meet their responsibilities, and that the subsequent reduction in state funding did not impose any "new program" or "higher level of service" on the counties within the meaning of section 6 of article XIII B. Plaintiffs respond that the critical question is not the traditional roles of the county and state, but who had the fiscal responsibility on November 6, 1979, when article XIII B took effect. The purpose of article XIII B supports the plaintiffs' position.

As we have noted, article XIII A of the Constitution (Proposition 13) and article XIII B are complementary measures. The former radically reduced county revenues, which led the state to assume responsibility for programs previously financed by the counties. Article XIII B, enacted one year later, froze both state and county appropriations at the level of the 1978-1979 budgets—a year when the budgets included state financing for the prior county programs, but not county financing for these programs. Article XIII B further limited the state's authority to transfer obligations to the counties. Reading the two together, it seems clear that article XIII B was intended to limit the power of the Legislature to retransfer to the counties those obligations which the state had assumed in the wake of Proposition 13.

Under article XIII B, both state and county appropriations limits are set on the basis of a calculation that begins with the budgets in effect when article XIII B was enacted. If the state could transfer to the county a program for which the state at that time had full financial responsibility, the county could be forced to assume additional financial obligations without the right to appropriate additional moneys. The state, at the same time, would get credit toward its appropriations limit for expenditures it did not pay. County taxpayers would be forced to accept new taxes or see the county forced to cut existing programs further; state taxpayers would discover that the state, by counting expenditures it did not pay, had acquired an actual revenue surplus while avoiding its obligation to refund revenues in excess of the appropriations limit. Such consequences are inconsistent with the purpose of article XIII B.

Our decisions interpreting article XIII B demonstrate that the state's subvention requirement under section 6 is not vitiated simply because the ***352** "program" existed before the effective date of article XIII B. The alternate phrase of section 6 of article XIII B, " 'higher level of service[,]' ... must be read in conjunction with the predecessor phrase 'new program' to give it meaning. Thus read, it is apparent that *the subvention requirement for increased or higher level of service is directed to state mandated increases in the services provided by local agencies in existing 'programs.*' " (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56 [233 Cal.Rptr. 38, 729 P.2d 202], italics added.)

Lucia Mar Unified School Dist. v. Honig, supra, 44 Cal.3d 830, presents a close analogy to the present case. The state Department of Education operated schools for severely handicapped students, but prior to 1979 *school districts were required by statute to contribute* to education of those students from the district at the state schools. In 1979, in response to the restrictions on school district revenues

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imposed by Proposition 13, the statutes requiring such district contributions were repealed and the state assumed full responsibility for funding. The state funding responsibility continued until June 28, 1981, when Education Code section 59300 (hereafter section 59300), requiring school districts to share in these costs, became effective.

The plaintiff districts filed a test claim before the commission, contending they were entitled to state reimbursement under section 6 of article XIII B. The commission found the plaintiffs were not entitled to state reimbursement, on the rationale that the increase in costs to the districts compelled by section 59300 imposed no new program or higher level of services. The trial and intermediate appellate courts affirmed on the ground that section 59300 called for only an " 'adjustment of costs' " of educating the severely handicapped, and that "*a shift in the funding of an existing program is not a new program or a higher level of service*" within the meaning of article XIII B. (*Lucia Mar Unified School Dist. v. Honig, supra,* 44 Cal.3d at p. 834, italics added.)

We reversed, rejecting the state's theories that the funding shift to the county of the subject program's costs does not constitute a new program. "[There can be no] doubt that although the schools for the handicapped have been operated by the state for many years, the program was new insofar as plaintiffs are concerned, since *at the time section 59300 became effective* they were not required to contribute to the education of students from their districts at such schools. [¶] ... To hold, under the circumstances of this case, that a shift in funding of an existing program from the state to a local entity is not a new program as to the local agency would, we think, violate the intent underlying section 6 of article XIIIB. That article imposed spending limits on state and local governments, and it followed by one year the adoption by initiative of article XIIIA, which severely limited the taxing ***353** power of local governments. ... [¶] The intent of the section would plainly be violated if the state could, while retaining administrative control [11] of programs it has supported with state tax money, simply shift the cost of the programs to local government on the theory that the shift does not violate section 6 of article XIIIB because the programs are not 'new.' Whether the shifting of costs is accomplished by compelling local governments to pay the cost of entirely new programs created by the state, *or by compelling them to accept financial responsibility in whole or in part for a program which was funded entirely by the state before the advent of article XIIIB, the result seems equally violative of the fundamental purpose underlying section 6 of that article.*" (*Lucia Mar Unified School Dist. v. Honig, supra,* 44 Cal.3d at pp. 835- 836, fn. omitted, italics added.)

The state seeks to distinguish *Lucia Mar* on the ground that the education of handicapped children in state schools had never been the responsibility of the local school district, but overlooks that the local district had previously been required to contribute to the cost. Indeed the similarities between *Lucia Mar* and the present case are striking. In *Lucia Mar,* prior to 1979 the state and county shared the cost of educating handicapped children in state schools; in the present case from 1971-1979 the state and county shared the cost of caring for MIA's under the Medi-Cal program. In 1979, following enactment of Proposition 13, the state took full responsibility for both programs. Then in 1981 (for handicapped children) and 1982 (for MIA's), the state sought to shift some of the burden back to the counties. To distinguish these cases on the ground that care for MIA's is a county program but education of handicapped children a state program is to rely on arbitrary labels in place of financial realities.

The state presents a similar argument when it points to the following emphasized language from *Lucia Mar Unified School Dist. v. Honig, supra,* 44 Cal.3d 830: "[B]ecause section 59300 shifts partial financial responsibility for the support of students in the state-operated schools from the state to school districts—*an obligation the school districts did not have at the time article XIII B was adopted*—it calls for plaintiffs to support a 'new program' within the meaning of section 6." (P. 836, fn. omitted, italics added.) It urges *Lucia Mar* reached its result *only* because the "program" requiring school district funding in that case *was not required by statute* at the effective date of ***354** article XIII B. The state then argues that the case at bench is distinguishable because it contends Alameda County had a continuing obligation *required by statute* antedating that effective date, which had only been "temporarily" [12] suspended when article XIII B became effective. I fail to see the distinction between a case—*Lucia Mar*—in which no existing statute as of 1979 imposed an obligation on the local government and one—this case—in which the statute existing in 1979 imposed no obligation on local government.

The state's argument misses the salient point. As I have explained, the application of section 6 of article XIII B does not depend upon when the program was created, but upon who had the burden of funding it when article XIII B went into effect. Our conclusion in *Lucia Mar* that the

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educational program there in issue was a "new" program as to the school districts was not based on the presence or absence of any antecedent statutory obligation therefor. *Lucia Mar* determined that whether the program was new *as to the districts* depended on *when* they were compelled to assume the obligation to partially fund an existing program which they had not funded at the time article XIII B became effective.

The state further relies on two decisions, *Madera Community Hospital v. County of Madera* (1984) 155 Cal.App.3d 136 [201 Cal.Rptr. 768] and *Cooke v. Superior Court* (1989) 213 Cal.App.3d 401 [261 Cal.Rptr. 706], which hold that the county has a statutory obligation to provide medical care for indigents, but that it need not provide precisely the same level of services as the state provided under Medi-Cal. [13] Both are correct, but irrelevant to this case. [14] The county's obligation to MIA's is defined by Welfare and Institutions Code section 17000, not by the former Medi-Cal program. [15] If the ***355** state, in transferring an obligation to the counties, permits them to provide less services than the state provided, the state need only pay for the lower level of services. But it cannot escape its responsibility entirely, leaving the counties with a state-mandated obligation and no money to pay for it.

The state's arguments are also undercut by the fact that it continues to use the approximately $1 billion in spending authority, generated by its previous total funding of the health care program in question, as a portion of its initial *base spending limit* calculated pursuant to sections 1 and 3 of article XIII B. In short, the state may maintain here that care for MIA's is a county obligation, but when it computes its appropriation limit it treats the entire cost of such care as a state program.

IV. Conclusion

This is a time when both state and county governments face great financial difficulties. The counties, however, labor under a disability not imposed on the state, for article XIII A of the Constitution severely restricts their ability to raise additional revenue. It is, therefore, particularly important to enforce the provisions of article XIII B which prevent the state from imposing additional obligations upon the counties without providing the means to comply with these obligations.

The present majority opinion disserves the public interest. It denies standing to enforce article XIII B both to those persons whom it was designed to protect—the citizens and taxpayers—and to those harmed by its violation—the medically indigent adults. And by its reliance on technical grounds to avoid coming to grips with the merits of plaintiffs' appeal, it permits the state to continue to violate article XIII B and postpones the day when the medically indigent will receive adequate health care.

Mosk, J., concurred. ***356**

Footnotes

1 The complaint also sought a declaration that the county was obliged to provide health care services to indigents that were equivalent to those available to nonindigents. This issue is not before us. The County of Alameda aligned itself with plaintiffs in the superior court and did not oppose plaintiffs' effort to enforce section 6.

2 On November 23, 1987, the County of Los Angeles filed a test claim with the Commission. San Bernardino County joined as a test claimant. The Commission ruled against the counties, concluding that no state mandate had been created. The Los Angeles County Superior Court subsequently granted the counties' petition for writ of mandate (Code Civ. Proc., § 1094.5), reversing the Commission, on April 27, 1989. (No. C-731033.) An appeal from that judgment is presently pending in the Court of Appeal. (*County of Los Angeles v. State of California,* No. B049625.)

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3 Plaintiffs argue that they seek only a declaration that AB 799 created a state mandate and an injunction against the shift of costs until the state decides what action to take. This is inconsistent with the prayer of their complaint which sought an injunction requiring defendants to restore Medi-Cal eligibility to all medically indigent adults until the state paid the cost of full health services for them. It is also unavailing.

An injunction against enforcement of a state mandate is available only after the Legislature fails to include funding in a local government claims bill following a determination by the Commission that a state mandate exists. (Gov. Code, § 17612.) Whether plaintiffs seek declaratory relief and/or an injunction, therefore, they are seeking to enforce section 6.

All further statutory references are to the Government Code unless otherwise indicated.

4 The test claim by the County of Los Angeles was filed prior to that proposed by Alameda County. The Alameda County claim was rejected for that reason. (See § 17521.) Los Angeles County permitted San Bernardino County to join in its claim which the Commission accepted as a test claim intended to resolve the issues the majority elects to address instead in this proceeding. Los Angeles County declined a request from Alameda County that it be included in the test claim because the two counties' systems of documentation were so similar that joining Alameda County would not be of any benefit. Alameda County and these plaintiffs were, of course, free to participate in the Commission hearing on the test claim. (§ 17555.)

5 " 'Local agency' means any city, county, special district, authority, or other political subdivision of the state." (§ 17518.)

6 " 'School district' means any school district, community college district, or county superintendant of schools." (§ 17519.)

7 Plaintiffs' argument that the Legislature's failure to make provision for individual enforcement of section 6 before the Commission demonstrates an intent to permit legal actions, is not persuasive. The legislative statement of intent to relegate all mandate disputes to the Commission is clear. A more likely explanation of the failure to provide for test cases to be initiated by individuals lies in recognition that (1) because section 6 creates rights only in governmental entities, individuals lack sufficient beneficial interest in either the receipt or expenditure of reimbursement funds to accord them standing; and (2) the number of local agencies having a direct interest in obtaining reimbursement is large enough to ensure that citizen interests will be adequately represented.

8 Plaintiffs are not without a remedy if the county fails to provide adequate health care, however. They may enforce the obligation imposed on the county by Welfare and Institutions Code sections 17000 and 17001, and by judicial action. (See, e.g., *Mooney v. Pickett* (1971) 4 Cal.3d 669 [94 Cal.Rptr. 279, 483 P.2d 1231].)

9 For this reason, it would be inappropriate to address the merits of plaintiff's claim in this proceeding. (Cf. *Dix v. Superior Court* (1991) 53 Cal.3d 442 [279 Cal.Rptr. 834, 807 P.2d 1063].) Unlike the dissent, we do not assume that in representing the state in this proceeding, the Attorney General necessarily represented the interests and views of these officials.

1 The majority states that "Plaintiffs are not without a remedy if the county fails to provide adequate health care .... They may enforce the obligation imposed on the county by Welfare and Institutions Code sections 17000 and 17001, and by judicial action." (Maj. opn., *ante,* p. 336, fn. 8*ante,* p. 336, fn. 8)

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The majority fails to note that plaintiffs have already tried this remedy, and met with the response that, owing to the state's inadequate subvention funds, the county cannot afford to provide adequate health care.

2 It is of no importance that plaintiffs did not request issuance of a writ of mandate. In *Taschner v. City Council* (1973) 31 Cal.App.3d 48, 56 [107 Cal.Rptr. 214] (overruled on other grounds in *Associated Home Builders etc., Inc. v. City of Livermore* (1976) 18 Cal.3d 582, 596 [135 Cal.Rptr. 41, 557 P.2d 473, 92 A.L.R.3d 1038]), the court said that "[a]s against a general demurrer, a complaint for declaratory relief may be treated as a petition for mandate [citations], and where a complaint for declaratory relief alleges facts sufficient to entitle plaintiff to mandate, it is error to sustain a general demurrer without leave to amend."

In the present case, the trial court ruled on a motion for summary judgment, but based that ruling not on the evidentiary record (which supported plaintiffs' showing of irreparable injury) but on the issues as framed by the pleadings. This is essentially equivalent to a ruling on demurrer, and a judgment denying standing could not be sustained on the narrow ground that plaintiffs asked for the wrong form of relief without giving them an opportunity to correct the defect. (See *Residents of Beverly Glen, Inc. v. City of Los Angeles* (1973) 34 Cal.App.3d 117, 127-128 [109 Cal.Rptr. 724].)

3 The majority's argument assumes that the state will comply with a judgment for plaintiffs by providing increased subvention funds. If the state were instead to comply by restoring Medi-Cal coverage for MIA's, or some other method of taking responsibility for their health needs, plaintiffs would benefit directly.

4 The majority emphasizes the statement of purpose of Government Code section 17500: "The Legislature finds and declares that the existing system for reimbursing local agencies and school districts for the costs of state-mandated local programs has not provided for the effective determination of the state's responsibilities under section 6 of article XIII B of the California Constitution. The Legislature finds and declares that the failure of the existing process to adequately and consistently resolve the complex legal questions involved in the determination of state-mandated costs has led to an increasing reliance by local agencies and school districts on the judiciary, and, therefore, in order to relieve unnecessary congestion of the judicial system, it is necessary to create a mechanism which is capable of rendering sound quasi-judicial decisions and providing an effective means of resolving disputes over the existence of state-mandated local programs."

The "existing system" to which Government Code section 17500 referred was the Property Tax Relief Act of 1972 (Rev. & Tax. Code, §§ 2201-2327), which authorized local agencies and school boards to request reimbursement from the state Controller. Apparently dissatisfied with this remedy, the agencies and boards were bypassing the Controller and bringing actions directly in the courts. (See, e.g., *County of Contra Costa v. State of California* (1986) 177 Cal.App.3d 62 [222 Cal.Rptr. 750].) The legislative declaration refers to this phenomena. It does not discuss suits by individuals.

5 "(a) The initial decision by a county to opt into the system pursuant to Section 77300 *shall constitute a waiver of all claims for reimbursement for state-mandated local programs not theretofore approved by the State Board of Control, the Commission on State Mandates, or the courts to the extent the Governor, in his discretion, determines that waiver to be appropriate*; provided, that a decision by a county to opt into the system pursuant to Section 77300 beginning with the second half of the 1988-89 fiscal year shall not constitute a waiver of a claim for reimbursement based on a statute chaptered on or before the date the act which added this chapter is chaptered, which is filed in acceptable form on or before the date the act which added this chapter is chaptered. A county may petition the Governor to exempt any such claim from this waiver requirement; and the Governor, in his discretion, may grant the exemption in whole or in part. The waiver shall not apply to or otherwise affect any claims accruing after initial notification. Renewal, renegotiation, or subsequent

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notification to continue in the program shall not constitute a waiver. [¶] (b) The initial decision by a county to opt into the system pursuant to Section 77300 shall constitute a waiver of any claim, cause of action, or action whenever filed, with respect to the Trial Court Funding Act of 1985, Chapter 1607 of the Statutes of 1985, or Chapter 1211 of the Statutes of 1987." (Gov. Code, § 77203.5, italics added.)

"As used in this chapter, 'state-mandated local program' *means any and all reimbursements owed or owing by operation of either Section 6 of Article XIII B of the California Constitution,* or Section 17561 of the Government Code, or both." (Gov. Code, § 77005, italics added.)

6 It is true that these officials would participate in a proceeding before the Commission on State Mandates, but they would do so as members of an administrative tribunal. On appellate review of a commission decision, its members, like the members of the Public Utilities Commission or the Workers' Compensation Appeals Board, are not respondents and do not appear to present their individual views and positions. For example, in *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830 [244 Cal.Rptr. 677, 750 P.2d 318], in which we reviewed a commission ruling relating to subvention payments for education of handicapped children, the named respondents were the state Superintendent of Public Instruction, the Department of Education, and the Commission on State Mandates. The individual members of the commission were not respondents and did not participate.

7 Welfare and Institutions Code section 17000 provides that "[e]very county ... shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions."

8 Article XIII B, section 1 provides: "The total annual appropriations subject to limitation of the state and of each local government shall not exceed the appropriations limit of such entity of government for the prior year adjusted for changes in the cost of living and population except as otherwise provided in this Article."

9 Section 3 of article XIII B reads in relevant part: "The appropriations limit for any fiscal year ... shall be adjusted as follows:

"(a) In the event that the financial responsibility of providing services is transferred, in whole or in part ... from one entity of government to another, then for the year in which such transfer becomes effective the appropriation limit of the transferee entity shall be increased by such reasonable amount as the said entities shall mutually agree and the appropriations limit of the transferor entity shall be decreased by the same amount. ..."

10 Section 6 of article XIII B further provides that the "Legislature may, but need not, provide such subvention of funds for the following mandates: (a) Legislative mandates requested by the local agency affected; (b) Legislation defining a new crime or changing an existing definition of a crime; or (c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975." None of these exceptions apply in the present case.

11 The state notes that, in contrast to the program at issue in *Lucia Mar,* it has not retained administrative control over aid to MIA's. But the quoted language from *Lucia Mar,* while appropriate to the facts of that case, was not intended to establish a rule limiting article XIII B, section 6, to instances in which the state retains administrative control over the program that it requires the counties to fund. The constitutional language admits of no such limitation, and its recognition would permit the Legislature to evade the constitutional requirement.

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12 The state's repeated emphasis on the “temporary” nature of its funding is a form of post hoc reasoning. At the time article XIII B was enacted, the voters did not know which programs would be temporary and which permanent.

13 It must, however, provide a *comparable* level of services. (See *Board of Supervisors v. Superior Court* (1989) 207 Cal.App.3d 552, 564 [254 Cal.Rptr. 905].)

14 Certain language in *Madera Community Hospital v. County of Madera, supra,* 155 Cal.App.3d 136, however, is questionable. That opinion states that the “Legislature intended that County bear an obligation to its poor and indigent residents, *to be satisfied from county funds,* notwithstanding federal or state programs which exist concurrently with County's obligation and alleviate, to a greater or lesser extent, County's burden.” (P. 151.) Welfare and Institutions Code section 17000 by its terms, however, requires the county to provide support to residents only “when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions.” Consequently, to the extent that the state or federal governments provide care for MIA's, the county's obligation to do so is reduced pro tanto.

15 The county's right to subvention funds under article XIII B arises because its duty to care for MIA's is a state-mandated responsibility; if the county had no duty, it would have no right to funds. No claim is made here that the funding of medical services for the indigent shifted to Alameda County is not a program “ 'mandated' ” by the state; i.e., that Alameda County has any option other than to pay these costs. (*Lucia Mar Unified School Dist. v. Honig, supra,* 44 Cal.3d at pp. 836-837.)

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West's Annotated California Codes
Government Code (Refs & Annos)
Title 2. Government of the State of California
Division 4. Fiscal Affairs (Refs & Annos)
Part 7. State-Mandated Local Costs (Refs & Annos)
Chapter 1. Legislative Intent (Refs & Annos)

West's Ann.Cal.Gov.Code § 17500

§ 17500. Legislative findings and declarations

Effective: January 1, 2005
Currentness

The Legislature finds and declares that the existing system for reimbursing local agencies and school districts for the costs of state-mandated local programs has not provided for the effective determination of the state's responsibilities under Section 6 of Article XIIIB of the California Constitution. The Legislature finds and declares that the failure of the existing process to adequately and consistently resolve the complex legal questions involved in the determination of state-mandated costs has led to an increasing reliance by local agencies and school districts on the judiciary and, therefore, in order to relieve unnecessary congestion of the judicial system, it is necessary to create a mechanism which is capable of rendering sound quasi-judicial decisions and providing an effective means of resolving disputes over the existence of state-mandated local programs.

It is the intent of the Legislature in enacting this part to provide for the implementation of Section 6 of Article XIIIB of the California Constitution. Further, the Legislature intends that the Commission on State Mandates, as a quasi-judicial body, will act in a deliberative manner in accordance with the requirements of Section 6 of Article XIIIB of the California Constitution.

Credits
(Added by Stats.1984, c. 1459, § 1. Amended by Stats.2004, c. 890 (A.B.2856), § 2.)

Notes of Decisions (10)

West's Ann. Cal. Gov. Code § 17500, CA GOVT § 17500
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West's Ann.Cal.Gov.Code § 17514

§ 17514. Costs mandated by the state

Currentness

"Costs mandated by the state" means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates 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.

Credits

(Added by Stats.1984, c. 1459, § 1.)

Notes of Decisions (16)

West's Ann. Cal. Gov. Code § 17514, CA GOVT § 17514
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KeyCite Yellow Flag - Negative Treatment
Unconstitutional or Preempted Prior Version Held Unconstitutional by California School Boards Assn. v. State of California, Cal.App. 3 Dist., Mar. 09, 2009

West's Ann.Cal.Gov.Code § 17556

§ 17556. Findings; costs not mandated upon certain conditions

Effective: October 19, 2010
Currentness

The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds any one of the following:

(a) The claim is submitted by a local agency or school district that requests or previously requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district that requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this subdivision. This subdivision applies regardless of whether the resolution from the governing body or a letter from a delegated representative of the governing body was adopted or sent prior to or after the date on which the statute or executive order was enacted or issued.

(b) The statute or executive order affirmed for the state a mandate that has been declared existing law or regulation by action of the courts. This subdivision applies regardless of whether the action of the courts occurred prior to or after the date on which the statute or executive order was enacted or issued.

(c) The statute or executive order imposes a requirement that is mandated by a federal law or regulation and results in costs mandated by the federal government, unless the statute or executive order mandates costs that exceed the mandate in that federal law or regulation. This subdivision applies regardless of whether the federal law or regulation was enacted or adopted prior to or after the date on which the state statute or executive order was enacted or issued.

(d) 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. This subdivision applies regardless of whether the authority to levy charges, fees, or assessments was enacted or adopted prior to or after the date on which the statute or executive order was enacted or issued.

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(e) The statute, executive order, or an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies or school districts that 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. This subdivision applies regardless of whether a statute, executive order, or appropriation in the Budget Act or other bill that either provides for offsetting savings that result in no net costs or provides for additional revenue specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate was enacted or adopted prior to or after the date on which the statute or executive order was enacted or issued.

(f) The statute or executive order imposes duties that are necessary to implement, or are expressly included in, a ballot measure approved by the voters in a statewide or local election. This subdivision applies regardless of whether the statute or executive order was enacted or adopted before or after the date on which the ballot measure was approved by the voters.

(g) 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.

Credits

(Added by Stats.1984, c. 1459, § 1. Amended by Stats.1986, c. 879, § 4; Stats.1989, c. 589, § 1; Stats.2004, c. 895 (A.B.2855), § 14; Stats.2005, c. 72 (A.B.138), § 7, eff. July 19, 2005; Stats.2006, c. 538 (S.B.1852), § 279; Stats.2010, c. 719 (S.B.856), § 31, eff. Oct. 19, 2010.)

Editors' Notes

VALIDITY

A prior version of this section was held unconstitutional as impermissibly broad, in the decision of California School Boards Assn. v. State of California (App. 3 Dist. 2009) 90 Cal.Rptr.3d 501, 171 Cal.App.4th 1183.

Notes of Decisions (35)

West's Ann. Cal. Gov. Code § 17556, CA GOVT § 17556
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West's Annotated California Codes
Government Code (Refs & Annos)
Title 2. Government of the State of California
Division 4. Fiscal Affairs (Refs & Annos)
Part 7. State-Mandated Local Costs (Refs & Annos)
Chapter 4. Identification and Payment of Costs Mandated by the State (Refs & Annos)
Article 1. Commission Procedure (Refs & Annos)

West's Ann.Cal.Gov.Code § 17564

§ 17564. Claims under specified dollar amount; claims for direct and indirect costs

Effective: January 1, 2008
Currentness

(a) No claim shall be made pursuant to Sections 17551, 17561, or 17573, nor shall any payment be made on claims submitted pursuant to Sections 17551 or 17561, or pursuant to a legislative determination under Section 17573, unless these claims exceed one thousand dollars ($1,000). However, a county superintendent of schools or county may submit a combined claim on behalf of school districts, direct service districts, or special districts within their county if the combined claim exceeds one thousand dollars ($1,000) even if the individual school district's, direct service district's, or special district's claims do not each exceed one thousand dollars ($1,000). The county superintendent of schools or the county shall determine if the submission of the combined claim is economically feasible and shall be responsible for disbursing the funds to each school, direct service, or special district. These combined claims may be filed only when the county superintendent of schools or the county is the fiscal agent for the districts. All subsequent claims based upon the same mandate shall only be filed in the combined form unless a school district, direct service district, or special district provides to the county superintendent of schools or county and to the Controller, at least 180 days prior to the deadline for filing the claim, a written notice of its intent to file a separate claim.

(b) Claims for direct and indirect costs filed pursuant to Section 17561 shall be filed in the manner prescribed in the parameters and guidelines or reasonable reimbursement methodology and claiming instructions.

(c) Claims for direct and indirect costs filed pursuant to a legislatively determined mandate pursuant to Section 17573 shall be filed and paid in the manner prescribed in the Budget Act or other bill, or claiming instructions, if applicable.

Credits
(Added by Stats.1986, c. 879, § 9. Amended by Stats.1992, c. 1041 (A.B.1690), § 4; Stats.1999, c. 643 (A.B.1679), § 6; Stats.2002, c. 1124 (A.B.3000), § 30.9, eff. Sept. 30, 2002; Stats.2004, c. 890 (A.B.2856), § 23; Stats.2007, c. 329 (A.B.1222), § 9.)

West's Ann. Cal. Gov. Code § 17564, CA GOVT § 17564
Current with all laws through Ch. 997 of 2022 Reg.Sess.

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West's Annotated California Codes
Government Code (Refs & Annos)
Title 2. Government of the State of California
Division 4. Fiscal Affairs (Refs & Annos)
Part 7. State-Mandated Local Costs (Refs & Annos)
Chapter 4. Identification and Payment of Costs Mandated by the State (Refs & Annos)
Article 1.5. Legislatively Determined Mandate Procedure (Refs & Annos)

West's Ann.Cal.Gov.Code § 17573

§ 17573. Requests regarding reimbursements; limitations tolled; joint requests; contents; time period; term; statute adoption requirements; notice of actions taken; stay of proceedings

Effective: January 1, 2008
Currentness

(a) Notwithstanding Section 17551, the Department of Finance and a local agency, school district, or statewide association may jointly request of the chairpersons of the committees in each house of the Legislature that consider appropriations, and the chairpersons of the committees and appropriate subcommittees in each house of the Legislature that consider the State Budget, that the Legislature (1) determine that a statute or executive order, or portion thereof, mandates a new program or higher level of service requiring reimbursement of local governments pursuant to Section 6 of Article XIII B of the California Constitution, (2) establish a reimbursement methodology, and (3) appropriate funds for reimbursement of costs. For purposes of this section, "statewide association" includes a statewide association representing local agencies or school districts, as defined in Sections 17518 and 17519.

(b) The statute of limitations specified in Section 17551 shall be tolled from the date a local agency, school district, or statewide association contacts the Department of Finance or responds to a Department of Finance request to initiate a joint request for a legislatively determined mandate pursuant to subdivision (a), to (1) the date that the Budget Act for the subsequent fiscal year is adopted if a joint request is submitted pursuant to subdivision (a), or (2) the date on which the Department of Finance, or a local agency, school district, or statewide association notifies the other party of its decision not to submit a joint request. A local agency, school district, or statewide association, or the Department of Finance shall provide written notification to the commission of each of these dates.

(c) A joint request made under subdivision (a) shall be in writing and include all of the following:

(1) Identification of those provisions of the statute or executive order, or portion thereof, that mandate a new program or higher level of service requiring reimbursement of local agencies or school districts pursuant to Section 6 of Article XIII B of the California Constitution, a proposed reimbursement methodology, and the period of reimbursement.

(2) A list of eligible claimants and a statewide estimate for the initial claiming period and annual dollar amount necessary to reimburse local agencies or school districts to comply with that statute or executive order that mandates a new program or higher level of service.

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(3) Documentation of significant support among local agencies or school districts for the proposed reimbursement methodology, including, but not limited to, endorsements by statewide associations and letters of approval from local agencies or school districts.

(d) A joint request authorized by this section may be submitted to the Legislature pursuant to subdivision (a) at any time after enactment of a statute or issuance of an executive order, regardless of whether a test claim on the same statute or executive order is pending with the commission. If a test claim is pending before the commission, the period of reimbursement established by that filing shall apply to a joint request filed pursuant to this section.

(e)(1) If the Legislature accepts the joint request and determines that those provisions of the statute or executive order, or portion thereof, mandate a new program or higher level of service requiring reimbursement of local agencies or school districts pursuant to Section 6 of Article XIII B of the California Constitution, it shall adopt a statute declaring that the statute or executive order, or portion thereof, is a legislatively determined mandate and specify the term and period of reimbursement and methodology for reimbursing eligible local agencies or school districts. If no term is specified in the statute, then the term shall be five years, beginning July 1 of the year in which the statute is enacted.

(2) For the purpose of this subdivision, "term" means the number of years specified in the statute adopted pursuant to this subdivision for reimbursing eligible local agencies or school districts for a legislatively determined mandate.

(f) When the Legislature adopts a statute pursuant to paragraph (1) of subdivision (e) on a mandate subject to subdivision (b) of Section 6 of Article XIIIB of the California Constitution, the Legislature shall do either of the following:

(1) Appropriate in the Budget Act the full payable amount for reimbursement to local agencies that has not been previously paid.

(2) Suspend the operation of the mandate pursuant to Section 17581 or repeal the mandate.

(g) The Department of Finance, or a local agency, school district, or statewide association shall notify the commission of actions taken pursuant to this section, as specified below:

(1) Provide the commission with a copy of any communications regarding development of a joint request under this section and a copy of a joint request when it is submitted to the Legislature.

(2) Notify the commission of the date of (A) the Legislature's action on a joint request in the Budget Act, or (B) the Department of Finance's decision not to submit a joint request on a specific statute or executive order.

(h) Upon receipt of notice that a joint request has been submitted to the Legislature on the same statute or executive order as a pending test claim, the commission may stay its proceedings on the pending test claim upon the request of any party.

(i) Upon enactment of a statute declaring a legislatively determined mandate, enactment of a reimbursement methodology, and appropriation for reimbursement of the full payable amount that has not been previously paid in the Budget Act, all of the following shall apply:

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(1) The Controller shall prepare claiming instructions pursuant to Section 17558, if applicable.

(2) The commission shall not adopt a statement of decision, parameters and guidelines, or statewide cost estimate on the same statute or executive order unless a local agency or school district that has rejected the amount of reimbursement files a test claim or takes over a withdrawn test claim on the same statute or executive order.

(3) A local agency or school district accepting payment for the statute or executive order, or portion thereof, that mandates a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution shall not be required to submit parameters and guidelines if it is the successful test claimant pursuant to Section 17557.

Credits
(Added by Stats.2007, c. 329 (A.B.1222), § 11.)

West's Ann. Cal. Gov. Code § 17573, CA GOVT § 17573
Current with all laws through Ch. 997 of 2022 Reg.Sess.

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DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On July 9, 2026, I served the:

- **Current Mailing List dated July 9, 2026**
- **Notice of Complete Test Claim, Schedule for Comments, and Notice of Tentative Hearing Date issued July 9, 2026**
- **Test Claim filed by the County of Sacramento on June 30, 2026**

  Housing, 25-TC-05
  Statutes 2025, Chapter 22, Sections 33 and 36 (AB 130); Health and Safety Code Sections 17974.1 and 17974.5, effective July 1, 2025
  County of Sacramento, Claimant

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on July 9, 2026 at Sacramento, California.

Jill Magee
_____

Jill Magee
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 7/9/26

Claim Number: 25-TC-05

Matter: Housing

Claimant: County of Sacramento

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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