OFFICE OF THE GOVERNOR

January 6, 2005

Diane F. Boyer-Vine, Esq.
Legislative Counsel of California
State Capitol, Room 3021
Sacramento, CA 95814

Dear Ms. Boyer-Vine:

This letter transmits the accompanying Governor's Reorganization Plan Number 1 (GRP 1) and Governor's Reorganization Plan Number 2 (GRP 2), which are hereby submitted to your offices pursuant to the Executive Reorganization Law (Government Code § 12080 et seq.).

The GRP 1 eliminates several boards and commissions in state government. Some are abolished outright, and in other cases, duties, responsibilities and functions are transferred to another entity in state government. The GRP 2 reorganizes the Youth and Adult Correctional Agency and related entities, creating a Department of Corrections and Rehabilitation.

Consistent with Government Code § 8523 (b), these plans are presented to Legislative Counsel in order that they may be submitted to the Legislature in the form and language suitable for enactment in the statutes at large, prior to transmittal of the plans to the Commission on California State Government Organization and Economy.

Should you have any general questions, please feel free to contact me. For specific questions regarding these proposals, please contact Jennifer Shaffer 916-358-2438, or Paul Donahue at 916-220-3114.

Sincerely,

RICHARD COSTIGAN
Secretary for Legislative Affairs

GRP 1 of 2005
All Codes Version (Updated 1-6-05)

UNCODIFIED PROVISIONS

SECTION 1. (a) The following agencies, boards, commissions and agencies are abolished:

(1) Advisory Committee on Managed Health Care;
(2) Agriculture Bargaining Association Advisory Committee [Food and Ag. Code § 54442]
(3) Asian and Pacific Islander American Affairs Commission
(4) Bipartisan California Commission on Internet Political Practices;
(5) Brown v. Board of Education of Topeka Advisory Committee;
(6) California Quality Education Commission;
(7) California Small Business Reform Task Force;
(8) Campus Sexual Assault Task Force;
(9) Child Development Policy and Advisory Committee;
(10) Commission for Economic Development;
(11) Commission of the Californias;
(12) Commission on Uniform State Laws;
(13) Credit Union Advisory Committee (DFI) (Fin. Code 14380);
(14) Electronic Commerce Advisory Council of California;
(15) Heritage Preservation Commission;
(16) Inspection and Maintenance Review Committee (BAR);
(17) Interagency Aquatic Invasive Species Council;
(18) Mortgage Bankers Advisory Committee;
(19) Racial Profiling Panel;
(20) Real Estate Advisory Commission;

(b) The affairs of the abolished entities shall be terminated as follows:
(1) On and after the effective date of this section, the unexpended balance of all funds available for use by the abolished entities or any of their predecessors shall revert to the General Fund, unless the funds were derived from a special fund, in which case the funds shall revert to the special fund.
(2) All books, documents, and records of the abolished entities shall be transferred to the custody and control of the Department of General Services for disposition according to law.
(3) All property of the abolished entities shall be disposed of by the Department of General Services according to law.
(4) Positions filled by appointment by the Governor in the abolished entities shall be terminated.
(5) Any officer or employee of the abolished entities who is serving in the state civil service, other than as a temporary employee, shall be reappointed according to law.

SEC. 2. (a) The Department of General Services succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the following entities, which no longer exist:

(1) 911 Advisory Board
(2) Building Standards Commission;
(3) Seismic Safety Commission;
(4) Vietnam Veterans Memorial Commission;
(5) Mexican American Veterans' Memorial Beautification and Enhancement Commission.

For purposes of this section, the above entities shall be known as predecessor entities.

(b) All regulations and orders adopted by the predecessor entities and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the predecessor entities or any of their predecessors shall mean the Department of General Services. Any action by or against the predecessor entities or any of their predecessors shall not abate but shall continue in the name of the Department of General Services, and the Department of General Services shall be substituted for the predecessor entities and any of their predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the predecessor entities or any of their predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the Department of General Services assuming all of the rights, obligations, liabilities, and duties of the predecessor entities and any of their predecessors. That assumption by the Department of General Services shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the predecessor entities or any of their predecessors, shall become the indebtedness of the Department of General Services. Any on-going obligations or responsibilities of the predecessor entities for managing and maintaining bond issuances shall be transferred to the Department of General Services without impairment to any security contained in the bond instrument.

(d) The unexpended balance of all funds available for use by the predecessor entities or any of their predecessors in carrying out any functions transferred to the Department of General Services shall be available for use by the Department of General Services. All books, documents, records, and property of the predecessor entities shall be transferred to the Department of General Services.

(e) Positions filled by appointment by the Governor in the predecessor entities shall be transferred to the Department of General Services. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Director of General Services with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(f) Any officer or employee of the predecessor entities who is performing a function transferred to the Department of General Services and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Department of General Services pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the predecessor entities shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of General Services, as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC. 3. (a) The California Transportation Commission hereby succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the High Speed Rail Authority, which shall no longer exist.

(b) All regulations and orders adopted by the High Speed Rail Authority and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed**,** or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the High Speed Rail Authority or any of its predecessors shall mean the California Transportation Commission. Any action by or against the High Speed Rail Authority or any of its predecessors shall not abate but shall continue in the name of the California Transportation Commission, and the California Transportation Commission shall be substituted for the High Speed Rail Authority and any of its predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the High Speed Rail Authority or any of its predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the California Transportation Commission assuming all of the rights, obligations, liabilities, and duties of the High Speed Rail Authority and any of its predecessors. That assumption by the California Transportation Commission shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the High Speed Rail Authority or any of its predecessors on or before the effective date of this section, shall become the indebtedness of the California Transportation Commission. Any on-going obligations or responsibilities of the High Speed Rail Authority for managing and maintaining bond issuances shall be transferred to the California Transportation Commission without impairment to any security contained in the bond instrument.

(d) On and after the effective date of this section, the unexpended balance of all funds available for use by the High Speed Rail Authority or any of its predecessors in carrying out any functions transferred to the California Transportation Commission shall be available for use by the California Transportation Commission. All books, documents, records, and property of the High Speed Rail Authority shall be transferred to the California Transportation Commission.

(e) On and after the effective date of this section, positions filled by appointment by the Governor in the High Speed Rail Authority shall be transferred to the California Transportation Commission. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the California Transportation Commission with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(f) Any officer or employee of the High Speed Rail Authority who is performing a function transferred to the California Transportation Commission and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the California Transportation Commission pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the High Speed Rail Authority shall not be affected by the transfer and shall be retained by the person as an officer or employee of the California Transportation Commission, as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC 4. (a) The California Environmental Protection Agency succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the California Integrated Waste Management Board, which shall no longer exist. In exercising this authority, the Secretary of the California Environmental Protection Agency shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) All regulations and orders adopted by the California Integrated Waste Management Board and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the California Integrated Waste Management Board or any of its predecessors shall mean the California Environmental Protection Agency. Any action by or against the California Integrated Waste Management Board or any of its predecessors shall not abate but shall continue in the name of the California Environmental Protection Agency, and the California Environmental Protection Agency shall be substituted for the California Integrated Waste Management Board and any of its predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the California Integrated Waste Management Board or any of its predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the California Environmental Protection Agency assuming all of the rights, obligations, liabilities, and duties of the California Integrated Waste Management Board and any of its predecessors. That assumption by the California Environmental Protection Agency shall not in any way affect the rights of the parties

to the contract, lease, license, or agreement. Bonds issued by the California Integrated Waste Management Board or any of its predecessors, shall become the indebtedness of the California Environmental Protection Agency. Any on-going obligations or responsibilities of the California Integrated Waste Management Board for managing and maintaining bond issuances shall be transferred to the California Environmental Protection Agency without impairment to any security contained in the bond instrument.

(d) The unexpended balance of all funds available for use by the California Integrated Waste Management Board or any of its predecessors in carrying out any functions transferred to the California Environmental Protection Agency shall be available for use by the California Environmental Protection Agency. All books, documents, records, and property of the California Integrated Waste Management Board shall be transferred to the California Environmental Protection Agency.

(e) Positions filled by appointment by the Governor in the California Integrated Waste Management Board shall be transferred to the California Environmental Protection Agency. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Secretary for Environmental Protection with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(f) Any officer or employee of the California Integrated Waste Management Board who is performing a function transferred to the California Environmental Protection Agency and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the California Environmental Protection Agency pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the California Integrated Waste Management Board shall not be affected by the transfer and shall be retained by the person as an officer or employee of the California Environmental Protection Agency, as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC 5. (a) The Department of Parks and Recreation hereby succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the following entities, which shall no longer exist:

(1) California Recreational Trails Committee
(2) Off Highway Motor Vehicle Recreational Commission

For purposes of this section, the above entities shall be known as predecessor entities.

(b) All regulations and orders adopted by the predecessor entities and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be

fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the predecessor entities or any of their predecessors shall mean the Department of Parks and Recreation. Any action by or against the predecessor entities or any of their predecessors shall not abate but shall continue in the name of the Department of Parks and Recreation, and the Department of Parks and Recreation shall be substituted for the predecessor entities and any of their predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the predecessor entities or any of their predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the Department of Parks and Recreation assuming all of the rights, obligations, liabilities, and duties of the predecessor entities and any of their predecessors. That assumption by the Department of Parks and Recreation shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the predecessor entities or any of their predecessors, shall become the indebtedness of the Department of Parks and Recreation. Any on-going obligations or responsibilities of the predecessor entities for managing and maintaining bond issuances shall be transferred to the Department of Parks and Recreation without impairment to any security contained in the bond instrument.

(d) The unexpended balance of all funds available for use by the predecessor entities or any of their predecessors in carrying out any functions transferred to the Department of Parks and Recreation shall be available for use by the Department of Parks and Recreation. All books, documents, records, and property of the predecessor entities shall be transferred to the Department of Parks and Recreation.

(e) Positions filled by appointment by the Governor in the predecessor entities shall be transferred to the Department of Parks and Recreation. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Director of Parks and Recreation with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(f) Any officer or employee of the predecessor entities who is performing a function transferred to the Department of Parks and Recreation and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Department of Parks and Recreation pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the predecessor entities shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of Parks and Recreation, as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC 6. (a) The Emergency Medical Services Authority succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Commission on Emergency Medical Services, which shall no longer exist.

(b) All regulations and orders adopted by the Commission on Emergency Medical Services and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed**,** or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the Commission on Emergency Medical Services or any of its predecessors shall mean the Emergency Medical Services Authority. Any action by or against the Commission on Emergency Medical Services or any of its predecessors shall not abate but shall continue in the name of the Emergency Medical Services Authority, and the Emergency Medical Services Authority shall be substituted for the Commission on Emergency Medical Services and any of its predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the Commission on Emergency Medical Services or any of its predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the Emergency Medical Services Authority assuming all of the rights, obligations, liabilities, and duties of the Commission on Emergency Medical Services and any of its predecessors. That assumption by the Emergency Medical Services Authority shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the Commission on Emergency Medical Services or any of its predecessors, shall become the indebtedness of the Emergency Medical Services Authority. Any on-going obligations or responsibilities of the Commission on Emergency Medical Services for managing and maintaining bond issuances shall be transferred to the Emergency Medical Services Authority without impairment to any security contained in the bond instrument.

(d) The unexpended balance of all funds available for use by the Commission on Emergency Medical Services or any of its predecessors in carrying out any functions transferred to the Emergency Medical Services Authority shall be available for use by the Emergency Medical Services Authority. All books, documents, records, and property of the Commission on Emergency Medical Services shall be transferred to the Emergency Medical Services Authority.

(e) Positions filled by appointment by the Governor in the Commission on Emergency Medical Services shall be transferred to the Emergency Medical Services Authority. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Director of Health Services with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(f) Any officer or employee of the Commission on Emergency Medical Services who is performing a function transferred to the Emergency Medical Services Authority and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the

Emergency Medical Services Authority pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the Commission on Emergency Medical Services shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Emergency Medical Services Authority, as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC. 7. (a) The Department of Transportation hereby succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Departmental Transportation Advisory Committee, which shall no longer exist.

(b) All regulations and orders adopted by the Departmental Transportation Advisory Committee and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed**,** or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the Departmental Transportation Advisory Committee or any of its predecessors shall mean the Department of Transportation. Any action by or against the Departmental Transportation Advisory Committee or any of its predecessors shall not abate but shall continue in the name of the Department of Transportation, and the Department of Transportation shall be substituted for the Departmental Transportation Advisory Committee and any of its predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the Departmental Transportation Advisory Committee or any of its predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the Department of Transportation assuming all of the rights, obligations, liabilities, and duties of the Departmental Transportation Advisory Committee and any of its predecessors. That assumption by the Department of Transportation shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the Departmental Transportation Advisory Committee or any of its predecessors on or before the effective date of this section, shall become the indebtedness of the Department of Transportation. Any on-going obligations or responsibilities of the Departmental Transportation Advisory Committee for managing and maintaining bond issuances shall be transferred to the Department of Transportation without impairment to any security contained in the bond instrument.

(d) On and after the effective date of this section, the unexpended balance of all funds available for use by the Departmental Transportation Advisory Committee or any of its predecessors in carrying out any functions transferred to the Department of Transportation shall be available for use by the Department of Transportation. All books, documents, records, and property of the Departmental Transportation Advisory Committee shall be transferred to the Department of Transportation.

(e) On and after the effective date of this section, positions filled by appointment by the Governor in the Departmental Transportation Advisory Committee shall be transferred to the Department of Transportation. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Department of Transportation with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(f) Any officer or employee of the Departmental Transportation Advisory Committee who is performing a function transferred to the Department of Transportation and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Department of Transportation pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the Departmental Transportation Advisory Committee shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of Transportation, as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC. 8. (a) The Labor and Workforce Development Agency succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the following entities, which shall no longer exist:

(1) Commission on Health and Safety and Workers' Compensation;
(2) Industrial Welfare Commission.

For purposes of this section, the above entities shall be known as predecessor entities. In exercising this authority, the Secretary of the Labor and Workforce Development Agency shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) All regulations and orders adopted by the predecessor entities and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the predecessor entities or any of their predecessors shall mean the Labor and Workforce Development Agency. Any action by or against the predecessor entities or any of their predecessors shall not abate but shall continue in the name of the Labor and Workforce Development Agency, and the Labor and Workforce Development Agency shall be substituted for the predecessor entities and any of their predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the predecessor entities or any of their predecessors are a party shall be void or voidable by reason of this act, but shall

continue in full force and effect, with the Labor and Workforce Development Agency assuming all of the rights, obligations, liabilities, and duties of the predecessor entities and any of their predecessors. That assumption by the Labor and Workforce Development Agency shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the predecessor entities or any of their predecessors, shall become the indebtedness of the Labor and Workforce Development Agency. Any on-going obligations or responsibilities of the predecessor entities for managing and maintaining bond issuances shall be transferred to the Labor and Workforce Development Agency without impairment to any security contained in the bond instrument.

(d) The unexpended balance of all funds available for use by the predecessor entities or any of their predecessors in carrying out any functions transferred to the Labor and Workforce Development Agency shall be available for use by the Labor and Workforce Development Agency. All books, documents, records, and property of the predecessor entities shall be transferred to the Labor and Workforce Development Agency.

(e) Positions filled by appointment by the Governor in the predecessor entities shall be transferred to the Labor and Workforce Development Agency. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Secretary for Labor and Workforce Development with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(f) Any officer or employee of the predecessor entities who is performing a function transferred to the Labor and Workforce Development Agency and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Labor and Workforce Development Agency pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the predecessor entities shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Labor and Workforce Development Agency, as the case may be, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC. 9. (a) The Department of Water Resources succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the following entities, which shall no longer exist:

(1) Reclamation Board;
(2) California Water Commission;
(3) Colorado River Board of California;

For purposes of this section, the above entities shall be known as predecessor entities.

(b) All regulations and orders adopted by the predecessor entities and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the predecessor entities or any of their predecessors shall mean the Department of Water Resources . Any action by or against the predecessor entities or any of their predecessors shall not abate but shall continue in the name of the Department of Water Resources , and the Department of Water Resources shall be substituted for the predecessor entities and any of their predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the predecessor entities or any of their predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the Department of Water Resources assuming all of the rights, obligations, liabilities, and duties of the predecessor entities and any of their predecessors. That assumption by the Department of Water Resources shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the predecessor entities or any of their predecessors, shall become the indebtedness of the Department of Water Resources . Any on-going obligations or responsibilities of the predecessor entities for managing and maintaining bond issuances shall be transferred to the Department of Water Resources without impairment to any security contained in the bond instrument.

(d) The unexpended balance of all funds available for use by the predecessor entities or any of their predecessors in carrying out any functions transferred to the Department of Water Resources shall be available for use by the Department of Water Resources . All books, documents, records, and property of the predecessor entities shall be transferred to the Department of Water Resources .

(e) Positions filled by appointment by the Governor in the predecessor entities shall be transferred to the Department of Water Resources . Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Department of Water Resources with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(f) Any officer or employee of the predecessor entities who is performing a function transferred to the Department of Water Resources and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Department of Water Resources pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the predecessor entities shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of Water Resources , as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC 10. (a) The Energy Commission succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the following entities, which shall no longer exist:

(1) Consumer Power and Conservation Financing Authority;
(2) Electricity Oversight Board.

For purposes of this section, the above entities shall be known as predecessor entities.

(b) All regulations and orders adopted by the predecessor entities and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the predecessor entities or any of their predecessors shall mean the Energy Commission. Any action by or against the predecessor entities or any of their predecessors shall not abate but shall continue in the name of the Energy Commission, and the Energy Commission shall be substituted for the predecessor entities and any of their predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the predecessor entities or any of their predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the Energy Commission assuming all of the rights, obligations, liabilities, and duties of the predecessor entities and any of their predecessors. That assumption by the Energy Commission shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the predecessor entities or any of their predecessors, shall become the indebtedness of the Energy Commission. Any on-going obligations or responsibilities of the predecessor entities for managing and maintaining bond issuances shall be transferred to the Energy Commission without impairment to any security contained in the bond instrument.

(d) The unexpended balance of all funds available for use by the predecessor entities or any of their predecessors in carrying out any functions transferred to the Energy Commission shall be available for use by the Energy Commission. All books, documents, records, and property of the predecessor entities shall be transferred to the Energy Commission.

(e) Positions filled by appointment by the Governor in the predecessor entities shall be transferred to the Energy Commission. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Energy Commission with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(f) Any officer or employee of the predecessor entities who is performing a function transferred to the Energy Commission and who is serving in the state civil service, other than as a temporary

employee, shall be transferred to the Energy Commission pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the predecessor entities shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Energy Commission, as the case may be, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC 11. (a) The Department of Conservation hereby succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the State Mining and Geology Board, which shall no longer exist.

(b) All regulations and orders adopted by the State Mining and Geology Board and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed**,** or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the State Mining and Geology Board or any of its predecessors shall mean the Department of Conservation. Any action by or against the State Mining and Geology Board or any of its predecessors shall not abate but shall continue in the name of the Department of Conservation, and the Department of Conservation shall be substituted for the State Mining and Geology Board and any of its predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the State Mining and Geology Board or any of its predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the Department of Conservation assuming all of the rights, obligations, liabilities, and duties of the State Mining and Geology Board and any of its predecessors. That assumption by the Department of Conservation shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the State Mining and Geology Board or any of its predecessors on or before the effective date of this section, shall become the indebtedness of the Department of Conservation. Any on-going obligations or responsibilities of the State Mining and Geology Board for managing and maintaining bond issuances shall be transferred to the Department of Conservation without impairment to any security contained in the bond instrument.

(d) On and after the effective date of this section, the unexpended balance of all funds available for use by the State Mining and Geology Board or any of its predecessors in carrying out any functions transferred to the Department of Conservation shall be available for use by the Department of Conservation. All books, documents, records, and property of the State Mining and Geology Board shall be transferred to the Department of Conservation.

(e) On and after the effective date of this section, positions filled by appointment by the Governor in the State Mining and Geology Board shall be transferred to the Department of

Conservation. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Department of Conservation with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(f) Any officer or employee of the State Mining and Geology Board who is performing a function transferred to the Department of Conservation and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Department of Conservation pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the State Mining and Geology Board shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of Conservation, as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC 12. (a) The Department of Consumer Affairs succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the following entities, which shall no longer exist:

(1) Acupuncture Board;
(2) Alarm Company Operator Disciplinary Review Commission;
(3) Architects Board;
(4) State Board of Barbering and Cosmetology;
(5) Board for Geologists and Geophysicists;
(6) Board of Accountancy;
(7) Board of Behavioral Sciences;
(8) Dental Board of California;
(9) Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun;
(10) Board of Podiatric Medicine;
(11) Board of Psychology;
(12) Board of Registered Nursing;
(13) California State Board of Pharmacy;
(14) Committee on Dental Auxiliaries;
(15) Contractors State License Board;
(16) Court Reporters Board;
(17) Board of Professional Engineers and Land Surveyors;
(18) Landscape Architects Technical Committee;
(19) Medical Board of California;
(20) Occupational Therapy Board;
(21) Physical Therapy Board;
(22) Physician Assistant Examining Committee;
(23) Private Security Disciplinary Review Commission (North);
(24) Private Security Disciplinary Review Commission (South);

(25) Registered Veterinary Technicians Committee;
(26) Respiratory Care Board of California;
(27) Service Agency Advisory Committee;
(28) Speech-Language Pathology and Audiology Board;
(29) State Board of Guide Dogs for the Blind;
(30) State Board of Optometry;
(31) Structural Pest Control Board;
(32) Veterinary Medical Board;
(33) Vocational Nursing and Psychiatric Technicians Board.

For purposes of this section, the above entities shall be known as predecessor entities.

(b) All regulations and orders adopted by the predecessor entities and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the predecessor entities or any of their predecessors shall mean the Department of Consumer Affairs. Any action by or against the predecessor entities or any of their predecessors shall not abate but shall continue in the name of the Department of Consumer Affairs, and the Department of Consumer Affairs shall be substituted for the predecessor entities and any of their predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the predecessor entities or any of their predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the Department of Consumer Affairs assuming all of the rights, obligations, liabilities, and duties of the predecessor entities and any of their predecessors. That assumption by the Department of Consumer Affairs shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the predecessor entities or any of their predecessors, shall become the indebtedness of the Department of Consumer Affairs. Any on-going obligations or responsibilities of the predecessor entities for managing and maintaining bond issuances shall be transferred to the Department of Consumer Affairs without impairment to any security contained in the bond instrument.

(d) The unexpended balance of all funds available for use by the predecessor entities or any of their predecessors in carrying out any functions transferred to the Department of Consumer Affairs shall be available for use by the Department of Consumer Affairs. All books, documents, records, and property of the predecessor entities shall be transferred to the Department of Consumer Affairs.

(e) Positions filled by appointment by the Governor in the predecessor entities shall be transferred to the Department of Consumer Affairs. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Director of Consumer Affairs with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(f) Any officer or employee of the predecessor entities who is performing a function transferred to the Department of Consumer Affairs and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Department of Consumer Affairs pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the predecessor entities shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of Consumer Affairs, as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC 13. (a) The Department of Veterans Affairs succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Governor's Commission on Veterans Cemeteries, which shall no longer exist.

(b) All regulations and orders adopted by the Governor's Commission on Veterans Cemeteries and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed**,** or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the Governor's Commission on Veterans Cemeteries or any of its predecessors shall mean the Department of Veterans Affairs. Any action by or against the Governor's Commission on Veterans Cemeteries or any of its predecessors shall not abate but shall continue in the name of the Department of Veterans Affairs, and the Department of Veterans Affairs shall be substituted for the Governor's Commission on Veterans Cemeteries and any of its predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the Governor's Commission on Veterans Cemeteries or any of its predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the Department of Veterans Affairs assuming all of the rights, obligations, liabilities, and duties of the Governor's Commission on Veterans Cemeteries and any of its predecessors. That assumption by the Department of Veterans Affairs shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the Governor's Commission on Veterans Cemeteries or any of its predecessors, shall become the indebtedness of the Department of Veterans Affairs. Any on-going obligations or responsibilities of the Governor's Commission on Veterans Cemeteries for managing and maintaining bond issuances shall be transferred to the Department of Veterans Affairs without impairment to any security contained in the bond instrument.

(d) The unexpended balance of all funds available for use by the Governor's Commission on Veterans Cemeteries or any of its predecessors in carrying out any functions transferred to the Department of Veterans Affairs shall be available for use by the Department of Veterans Affairs. All books, documents, records, and property of the Governor's Commission on Veterans Cemeteries shall be transferred to the Department of Veterans Affairs.

(e) Positions filled by appointment by the Governor in the Governor's Commission on Veterans Cemeteries shall be transferred to the Department of Veterans Affairs. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Director of Veterans Affairs with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(f) Any officer or employee of the Governor's Commission on Veterans Cemeteries who is performing a function transferred to the Department of Veterans Affairs and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Department of Veterans Affairs pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the Governor's Commission on Veterans Cemeteries shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of Veterans Affairs, as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC.14. (a) The Department of Forestry and Fire Protection succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the following entities, which shall no longer exist:

(1) Board of Fire Services;
(2) Board of Forestry and Fire Protection;

For purposes of this section, the above entities shall be known as predecessor entities.

(b) All regulations and orders adopted by the predecessor entities and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the predecessor entities or any of their predecessors shall mean the Department of Forestry and Fire Protection. Any action by or against the predecessor entities or any of their predecessors shall not abate but shall continue in the name of the Department of Forestry and Fire Protection, and the Department of Forestry and Fire Protection shall be substituted for the predecessor entities and any of their predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the predecessor entities or any of their predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the Department of Forestry and Fire Protection assuming all of the rights, obligations, liabilities, and duties of the predecessor entities and any of their

predecessors. That assumption by the Department of Forestry and Fire Protection shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the predecessor entities or any of their predecessors, shall become the indebtedness of the Department of Forestry and Fire Protection. Any on-going obligations or responsibilities of the predecessor entities for managing and maintaining bond issuances shall be transferred to the Department of Forestry and Fire Protection without impairment to any security contained in the bond instrument.

(d) The unexpended balance of all funds available for use by the predecessor entities or any of their predecessors in carrying out any functions transferred to the Department of Forestry and Fire Protection shall be available for use by the Department of Forestry and Fire Protection. All books, documents, records, and property of the predecessor entities shall be transferred to the Department of Forestry and Fire Protection.

(e) Positions filled by appointment by the Governor in the predecessor entities shall be transferred to the Department of Forestry and Fire Protection. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Department of Forestry and Fire Protection with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(f) Any officer or employee of the predecessor entities who is performing a function transferred to the Department of Forestry and Fire Protection and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Department of Forestry and Fire Protection pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the predecessor entities shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of Forestry and Fire Protection, as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC 15. (a) The Office of Statewide Health Planning and Development hereby succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Health Policy and Data Advisory Commission, which shall no longer exist.

(b) All regulations and orders adopted by the Health Policy and Data Advisory Commission and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed**,** or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the Health Policy and Data Advisory Commission or any of its predecessors shall mean the Office of Statewide Health Planning and Development. Any action by or against the Health Policy and Data Advisory Commission or any of its predecessors shall not abate but shall continue in the name of the Office of Statewide Health Planning and Development, and the Office of Statewide Health Planning and Development shall be substituted for the Health Policy and Data Advisory Commission and any

of its predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the Health Policy and Data Advisory Commission or any of its predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the Office of Statewide Health Planning and Development assuming all of the rights, obligations, liabilities, and duties of the Health Policy and Data Advisory Commission and any of its predecessors. That assumption by the Office of Statewide Health Planning and Development shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the Health Policy and Data Advisory Commission or any of its predecessors on or before the effective date of this section, shall become the indebtedness of the Office of Statewide Health Planning and Development. Any on-going obligations or responsibilities of the Health Policy and Data Advisory Commission for managing and maintaining bond issuances shall be transferred to the Office of Statewide Health Planning and Development without impairment to any security contained in the bond instrument.

(d) On and after the effective date of this section, the unexpended balance of all funds available for use by the Health Policy and Data Advisory Commission or any of its predecessors in carrying out any functions transferred to the Office of Statewide Health Planning and Development shall be available for use by the Office of Statewide Health Planning and Development. All books, documents, records, and property of the Health Policy and Data Advisory Commission shall be transferred to the Office of Statewide Health Planning and Development.

(e) On and after the effective date of this section, positions filled by appointment by the Governor in the Health Policy and Data Advisory Commission shall be transferred to the Office of Statewide Health Planning and Development. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Department of Health Services with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(f) Any officer or employee of the Health Policy and Data Advisory Commission who is performing a function transferred to the Office of Statewide Health Planning and Development and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Office of Statewide Health Planning and Development pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the Health Policy and Data Advisory Commission shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Office of Statewide Health Planning and Development, as the case may be, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC.16. (a) The Department of Health Services succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the following entities, which shall no longer exist:

(1) Heart Disease and Stroke Prevention and Treatment Task Force;
(2) Rural Health Policy Council;

For purposes of this section, the above entities shall be known as predecessor entities.

(b) All regulations and orders adopted by the predecessor entities and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the predecessor entities or any of their predecessors shall mean the Department of Health Services. Any action by or against the predecessor entities or any of their predecessors shall not abate but shall continue in the name of the Department of Health Services, and the Department of Health Services shall be substituted for the predecessor entities and any of their predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the predecessor entities or any of their predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the Department of Health Services assuming all of the rights, obligations, liabilities, and duties of the predecessor entities and any of their predecessors. That assumption by the Department of Health Services shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the predecessor entities or any of their predecessors, shall become the indebtedness of the Department of Health Services. Any on-going obligations or responsibilities of the predecessor entities for managing and maintaining bond issuances shall be transferred to the Department of Health Services without impairment to any security contained in the bond instrument.

(d) The unexpended balance of all funds available for use by the predecessor entities or any of their predecessors in carrying out any functions transferred to the Department of Health Services shall be available for use by the Department of Health Services. All books, documents, records, and property of the predecessor entities shall be transferred to the Department of Health Services.

(e) Positions filled by appointment by the Governor in the predecessor entities shall be transferred to the Department of Health Services. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Director of Health Services with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(f) Any officer or employee of the predecessor entities who is performing a function transferred to the Department of Health Services and who is serving in the state civil service, other than as a

temporary employee, shall be transferred to the Department of Health Services pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the predecessor entities shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of Health Services , as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC 17. (a) The Department of Boating and Waterways succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Boating and Waterways Commission, which shall no longer exist.

(b) All regulations and orders adopted by the Boating and Waterways Commission and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed**,** or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the Boating and Waterways Commission or any of its predecessors shall mean the Department of Boating and Waterways. Any action by or against the Boating and Waterways Commission or any of its predecessors shall not abate but shall continue in the name of the Department of Boating and Waterways, and the Department of Boating and Waterways shall be substituted for the Boating and Waterways Commission and any of its predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the Boating and Waterways Commission or any of its predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the Department of Boating and Waterways assuming all of the rights, obligations, liabilities, and duties of the Boating and Waterways Commission and any of its predecessors. That assumption by the Department of Boating and Waterways shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the Boating and Waterways Commission or any of its predecessors, shall become the indebtedness of the Department of Boating and Waterways. Any on-going obligations or responsibilities of the Boating and Waterways Commission for managing and maintaining bond issuances shall be transferred to the Department of Boating and Waterways without impairment to any security contained in the bond instrument.

(d) The unexpended balance of all funds available for use by the Boating and Waterways Commission or any of its predecessors in carrying out any functions transferred to the Department of Boating and Waterways shall be available for use by the Department of Boating and Waterways. All books, documents, records, and property of the Boating and Waterways Commission shall be transferred to the Department of Boating and Waterways.

(e) Positions filled by appointment by the Governor in the Boating and Waterways Commission shall be transferred to the Department of Boating and Waterways. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions

transferred pursuant to this section shall be determined by the Director of Veterans Affairs with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(f) Any officer or employee of the Boating and Waterways Commission who is performing a function transferred to the Department of Boating and Waterways and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Department of Boating and Waterways pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the Boating and Waterways Commission shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of Boating and Waterways, as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC. 18. (a) The Department of Managed Health Care hereby succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Clinical Advisory Panel, which shall no longer exist.

(b) All regulations and orders adopted by the Clinical Advisory Panel and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed**,** or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the Clinical Advisory Panel or any of its predecessors shall mean the Department of Managed Health Care. Any action by or against the Clinical Advisory Panel or any of its predecessors shall not abate but shall continue in the name of the Department of Managed Health Care, and the Department of Managed Health Care shall be substituted for the Clinical Advisory Panel and any of its predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the Clinical Advisory Panel or any of its predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the Department of Managed Health Care assuming all of the rights, obligations, liabilities, and duties of the Clinical Advisory Panel and any of its predecessors. That assumption by the Department of Managed Health Care shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the Clinical Advisory Panel or any of its predecessors on or before the effective date of this section, shall become the indebtedness of the Department of Managed Health Care. Any on-going obligations or responsibilities of the Clinical Advisory Panel for managing and maintaining bond issuances shall be transferred to the Department of Managed Health Care without impairment to any security contained in the bond instrument.

(d) On and after the effective date of this section, the unexpended balance of all funds available for use by the Clinical Advisory Panel or any of its predecessors in carrying out any functions

transferred to the Department of Managed Health Care shall be available for use by the Department of Managed Health Care. All books, documents, records, and property of the Clinical Advisory Panel shall be transferred to the Department of Managed Health Care.

(e) On and after the effective date of this section, positions filled by appointment by the Governor in the Clinical Advisory Panel shall be transferred to the Department of Managed Health Care. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Department of Managed Health Care with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(f) Any officer or employee of the Clinical Advisory Panel who is performing a function transferred to the Department of Managed Health Care and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Department of Managed Health Care pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the Clinical Advisory Panel shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of Managed Health Care, as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC. 19. (a) The Board of Directors of the California Infrastructure and Economic Development Bank, created pursuant to Government Code Section 63021.5, hereby succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Public Library Construction and Renovation Board, which shall no longer exist.

(b) All regulations and orders adopted by the Public Library Construction and Renovation Board and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed**,** or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the Public Library Construction and Renovation Board or any of its predecessors shall mean the Board of Directors of the California Infrastructure and Economic Development Bank created pursuant to Government Code Section 63021.5. Any action by or against the Public Library Construction and Renovation Board or any of its predecessors shall not abate but shall continue in the name of the Board of Directors of the California Infrastructure and Economic Development Bank and the Board shall be substituted for the Public Library Construction and Renovation Board and any of its predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(c) No contract, lease, license, bond, or any other agreement to which the Public Library Construction and Renovation Board or any of its predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the Board of

Directors of the California Infrastructure and Economic Development Bank assuming all of the rights, obligations, liabilities, and duties of the Public Library Construction and Renovation Board and any of its predecessors. That assumption by the Board of Directors of the California Infrastructure and Economic Development Bank shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the Public Library Construction and Renovation Board or any of its predecessors on or before the effective date of this section, shall become the indebtedness of the Board of Directors of the California Infrastructure and Economic Development Bank. Any on-going obligations or responsibilities of the Public Library Construction and Renovation Board for managing and maintaining bond issuances shall be transferred to the Board of Directors of the California Infrastructure and Economic Development Bank without impairment to any security contained in the bond instrument.

(d) On and after the effective date of this section, the unexpended balance of all funds available for use by the Public Library Construction and Renovation Board or any of its predecessors in carrying out any functions transferred to the Board of Directors of the California Infrastructure and Economic Development Bank shall be available for use by the Board of Directors of the California Infrastructure and Economic Development Bank. All books, documents, records, and property of the Public Library Construction and Renovation Board shall be transferred to the Board of Directors of the California Infrastructure and Economic Development Bank.

(e) On and after the effective date of this section, positions filled by appointment by the Governor in the Public Library Construction and Renovation Board shall be transferred to the California Infrastructure and Economic Development Bank. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Board of Directors of the California Infrastructure and Economic Development Bank with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(f) Any officer or employee of the Public Library Construction and Renovation Board who is performing a function transferred to the California Infrastructure and Economic Development Bank and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the California Infrastructure and Economic Development Bank pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the Public Library Construction and Renovation Board shall not be affected by the transfer and shall be retained by the person as an officer or employee of the California Infrastructure and Economic Development Bank, as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

SEC. 20. This act shall take effect July 1, 2005.

SEC. 21. [severability clause]

Business & Professions Code

27. (a) ~~Every~~ The Department of Consumer Affairs and every entity specified in subdivision (b), on or after July 1, 2001, shall provide on the Internet information regarding the status of every license issued by the Department or that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the Department or entity and other related enforcement action taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the Department or entity. In providing information on the Internet, the Department or each entity shall comply with the Department of Consumer Affairs Guidelines for Access to Public Records. The information may not include personal information, including home telephone number, date of birth, or social security number. ~~Each~~ The Department and each entity shall disclose a licensee's address of record. However, the Department and each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude the Department or an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the Department or the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

~~(1) The Acupuncture Board shall disclose information on its licensees.~~

~~(2) The Board of Behavioral Sciences shall disclose information on its licensees, including marriage and family therapists, licensed clinical social workers, and licensed educational psychologists.~~

~~(3) The Dental Board of California shall disclose information on its licensees.~~

~~(4) The State Board of Optometry shall disclose information regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of their licensees.~~

~~(5) The Board for Professional Engineers and Land Surveyors shall disclose information on its registrants and licensees.~~

~~(6) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.~~

~~(7)~~ (1) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

~~(8)~~ (2) The Bureau of Electronic and Appliance Repair shall disclose information on its licensees, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.
~~(9)~~ (3) The Cemetery Program shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, crematories, and cremated remains disposers.
~~(10)~~ (4) The Funeral Directors and Embalmers Program shall disclose information on its licensees, including embalmers, funeral establishments, and funeral directors.
~~(11)~~ (5) The ~~Contractors' State License Board~~ Department shall disclose information on its licensees in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the ~~board~~ Department shall also disclose information provided to the ~~board~~ Department by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.
~~(12)~~ (6) The ~~Board of Psychology~~ Department shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.
(c) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (e) of Section 17538.

101. The department is comprised of:
~~(a) The Dental Board of California.~~
~~(b) The Medical Board of California.~~
~~(c) The State Board of Optometry.~~
~~(d) The California State Board of Pharmacy.~~
~~(e) The Veterinary Medical Board.~~
~~(f) The California Board of Accountancy.~~
~~(g) The California Architects Board.~~
~~(h) The Bureau of Barbering and Cosmetology.~~
~~(i) The Board for Professional Engineers and Land Surveyors.~~
~~(j) The Contractors' State License Board.~~
~~(k)~~ (a) The Bureau for Private Postsecondary and Vocational Education.

~~(l) The Structural Pest Control Board.~~
(~~m~~c) The Bureau of Home Furnishings and Thermal Insulation.
~~(n) The Board of Registered Nursing.~~
~~(o) The Board of Behavioral Sciences.~~
(~~p~~b) The State Athletic Commission.
~~(q)~~ (c) The Cemetery and Funeral Bureau.
~~(r) The State Board of Guide Dogs for the Blind.~~
(s) (d) The Bureau of Security and Investigative Services.
~~(t) The Court Reporters Board of California.~~
~~(u) The Board of Vocational Nursing and Psychiatric Technicians.~~
~~(v) The Landscape Architects Technical Committee.~~
~~(w)~~ (e) The Bureau of Electronic and Appliance Repair.
~~(x)~~ (f) The Division of Investigation.
~~(y)~~ (g) The Bureau of Automotive Repair.
~~(z) The State Board of Registration for Geologists and Geophysicists.~~

~~(aa) The Respiratory Care Board of California.~~
~~(ab) The Acupuncture Board.~~
~~(ac) The Board of Psychology.~~
~~(ad) The California Board of Podiatric Medicine.~~
~~(ae) The Physical Therapy Board of California.~~
~~(af)~~ (h) The Arbitration Review Program.
~~(ag) The Committee on Dental Auxiliaries.~~
~~(ah)~~ (i)The Hearing Aid Dispensers Bureau.
~~(ai) The Physician Assistant Committee.~~
~~(aj) The Speech-Language Pathology and Audiology Board.~~
~~(ak) The California Board of Occupational Therapy.~~
~~(al)~~ (j) The Osteopathic Medical Board of California.
~~(am)~~ (k) The Bureau of Naturopathic Medicine.
~~(an)~~ (l) Any other boards, offices, or officers subject to its jurisdiction by law~~.~~ , including any bureau or office that may be created upon dissolution of any board the functions of which the department succeeds to. Any bureau so created is under the supervision and control of the director.

102.2. (a) ~~If the Structural Pest Control Board does not comply with the contingencies specified in paragraphs (a) to (d), inclusive, of Provision 1 of Item 1530-001-0775 of the Budget Act of 1995 by January 1, 1996, as determined by~~ Effective on July 1, 2006, the Department of Consumer Affairs, ~~then the department may succeed~~ succeeds to and is vested with all the duties, powers, purpose, responsibilities, and jurisdiction of the Structural Pest Control Board ~~board~~, including the employment of one executive director for the purposes of performing the department obligations herein.
~~(b) If the department elects to not exercise control over the board pursuant to subdivision (a), the department shall monitor the board on a monthly basis and the Controller shall, on a monthly basis, transfer the necessary amount of funds, not to exceed one-sixth of the amount of the appropriation for each fund identified in subdivision (c), to the board for the purpose of this subdivision. If at any time the department determines that the board is not meeting satisfactory progress toward the obligations set forth in subdivision (a), the department may invoke privileges of succession as allowed by subdivision (a).~~
~~Monitoring shall include a monthly report from the board, the status of meeting the obligations set forth in subdivisions (a) through (d), inclusive, of Provision 1 of Item 1530-001-0775 of the Budget Act of 1995 in addition to other statutory obligations as prescribed by law.~~
~~(c) Notwithstanding Section 107, any provision of law authorizing the appointment of an executive officer by the Structural Pest Control Board shall not be implemented and shall have no force or effect while the board is inoperative or repealed. This subdivision shall be in effect only if the Department of Consumer Affairs invokes privileges of succession pursuant to subdivision (a).~~
~~(d) In the event that the Structural Pest Control Board does not comply with Provision 1 of Item 1530-001-0775 of the Budget Act of 1995 by January 1, 1996, as determined by the department, the sum of one million three hundred fifty-five thousand dollars ($1,355,000) is~~

~~thereupon appropriated from the Structural Pest Control Fund to the department, and the sum of one hundred three thousand dollars ($103,000) is thereupon appropriated from the Structural Pest Control Education and Enforcement Fund to the department, for purposes of this section.~~

112. Notwithstanding any other provision of this code, no agency in the department~~, with the exception of the Board for Professional Engineers and Land Surveyors,~~ shall be required to compile, publish, sell, or otherwise distribute a directory. When an agency deems it necessary to compile and publish a directory, the agency shall cooperate with the director in determining its form and content, the time and frequency of its publication, the persons to whom it is to be sold or otherwise distributed, and its price if it is sold. Any agency that requires the approval of the director for the compilation, publication, or distribution of a directory, under the law in effect at the time the amendment made to this section at the 1970 Regular Session of the Legislature becomes effective, shall continue to require that approval. As used in this section, "directory" means a directory, roster, register, or similar compilation of the names of persons who hold a license, certificate, permit, registration, or similar indicia of authority from the agency.

116. (a) The director may audit and review, upon his or her own initiative, or upon the request of a consumer or licensee, inquiries and complaints regarding licensees, dismissals of disciplinary cases, the opening, conduct, or closure of investigations, informal conferences, and discipline short of formal accusation by ~~the Medical Board of California,~~ the allied health professional boards~~, and the California Board of Podiatric Medicine~~. The director may make recommendations for changes to the disciplinary system to the appropriate board, the Legislature, or both.

(b) The director shall report to the Chairpersons of the Senate Business and Professions Committee and the Assembly Health Committee annually, commencing March 1, 1995, regarding his or her findings from any audit, review, or monitoring and evaluation conducted pursuant to this section.

120. (a) Subdivision (a) of Section 119 shall not apply to a surviving spouse having in his or her possession or displaying a deceased spouse's canceled certified public accountant certificate or canceled public accountant certificate that has been canceled by official action of the ~~California Board of Accountancy~~ Department.

(b) Notwithstanding Section 119, any person who has received a certificate of certified public accountant or a certificate of public

accountant from the ~~board~~ Department may possess and may display the certificate received unless the person's certificate, permit, or registration has been suspended or revoked.

123.5. Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of Section 123, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of a board, the Department, the Attorney General or the district attorney of the county.

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

The remedy provided for by this section shall be in addition to, and not a limitation on, the authority provided for in any other provision of law.

124. Notwithstanding subdivision (c) of Section 11505 of the Government Code, whenever written notice, including a notice, order, or document served pursuant to Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), or Chapter 5 (commencing with Section 11500), of Part 1 of Division 3 of Title 2 of the Government Code, is required to be given by the Department or any board in the department, the notice may be given by regular mail addressed to the last known address of the licentiate or by personal service, at the option of the board or Department.

125.3. (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before the Department or any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licentiate that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of

the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the Department or board to increase the cost award. The Department or board may reduce or eliminate the cost award, or remand to the administrative law judge where the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) Where an order for recovery of costs is made and timely payment is not made as directed in the Department or board's decision, the Department or board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the Department or board may have as to any licentiate to pay costs.

(f) In any action for recovery of costs, proof of the Department or board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the Department or board shall not renew or reinstate the license of any licentiate who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the Department or board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licentiate who demonstrates financial hardship and who enters into a formal agreement with the Department or board to reimburse the Department or board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the Department or board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude the Department or a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

125.3. (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before the Department or any board within the department or before the Osteopathic Medical Board or the board created by the Chiropractic Initiative Act, the Department or board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licentiate that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney

General.

(d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the Department or board to increase the cost award. The Department or board may reduce or eliminate the cost award, or remand to the administrative law judge where the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) Where an order for recovery of costs is made and timely payment is not made as directed in the Department or board's decision, the Department or board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the Department or board may have as to any licentiate to pay costs.

(f) In any action for recovery of costs, proof of the Department or board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the Department or board shall not renew or reinstate the license of any licentiate who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the Department or board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licentiate who demonstrates financial hardship and who enters into a formal agreement with the Department or board to reimburse the Department or board within that one-year period for the unpaid costs.

(h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the Department or board recovering the costs to be available upon appropriation by the Legislature.

(i) Nothing in this section shall preclude the Department or a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

(j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.

125.5. (a) The superior court for the county in which any person has engaged or is about to engage in any act which constitutes a violation of a chapter of this code administered or enforced by a board within the department may, upon a petition filed by the board with the approval of the director, issue an injunction or other appropriate order restraining such conduct. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. As used in this section, "board" includes Department, commission, bureau, division, agency and a medical quality review committee.

(b) The superior court for the county in which any person has

engaged in any act which constitutes a violation of a chapter of this code administered or enforced by a board within the department may, upon a petition filed by the board with the approval of the director, order such person to make restitution to persons injured as a result of such violation.

(c) The court may order a person subject to an injunction or restraining order, provided for in subdivision (a) of this section, or subject to an order requiring restitution pursuant to subdivision (b), to reimburse the petitioning board for expenses incurred by the board in its investigation related to its petition.

(d) The remedy provided for by this section shall be in addition to, and not a limitation on, the authority provided for in any other section of this code.

126. Notwithstanding any other provision of this **code**, the Department, any board, commission, examining committee, or other similarly constituted agency within the department required prior to the effective date of this section to submit reports to the Governor under any provision of this **code** shall not be required to submit such reports.

128.5. (a) Notwithstanding any other provision of law, if at the end of any fiscal year, an agency within the Department of Consumer Affairs~~, except the agencies referred to in subdivision (b),~~ has unencumbered funds in an amount that equals or is more than the agency's operating budget for the next two fiscal years, the agency shall reduce license or other fees, whether the license or other fees be fixed by statute or may be determined by the agency within limits fixed by statute, during the following fiscal year in an amount that will reduce any surplus funds of the agency to an amount less than the agency's operating budget for the next two fiscal years.

~~(b) Notwithstanding any other provision of law, if at the end of any fiscal year, the California Architects Board, the Board of Behavioral Science Examiners, the Veterinary Medical Board, the Court Reporters Board of California, the Medical Board of California, the Board of Vocational Nursing and Psychiatric Technicians, or the Bureau of Security and Investigative Services has unencumbered funds in an amount that equals or is more than the agency's operating budget for the next two fiscal years, the agency shall reduce license or other fees, whether the license or other fees be fixed by statute or may be determined by the agency within limits fixed by statute, during the following fiscal year in an amount that will reduce any surplus funds of the agency to an amount less than the agency's operating budget for the next two fiscal years.~~

144. (a) Notwithstanding any other provision of law, an agency designated in subdivision (b), or the Department of Consumer Affairs as the successor entity to the agency designated in

subdivision (b), shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b), or the Department of Consumer Affairs as the successor entity to the agency designated in subdivision (b), may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following:

(1) California Board of Accountancy.

(2) State Athletic Commission.

(3) Board of Behavioral Sciences.

(4) Court Reporters Board of California.

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

(6) California State Board of Pharmacy.

(7) Board of Registered Nursing.

(8) Veterinary Medical Board.

(9) Registered Veterinary Technician Committee.

(10) Board of Vocational Nursing and Psychiatric Technicians.

(11) Respiratory Care Board of California.

(12) Hearing Aid Dispensers Advisory Commission.

(13) Physical Therapy Board of California.

(14) Physician Assistant Committee of the Medical Board of California.

(15) Speech-Language Pathology and Audiology Board.

(16) Medical Board of California.

(17) State Board of Optometry.

(18) Acupuncture Board.

(19) Cemetery and Funeral Bureau.

(20) Bureau of Security and Investigative Services.

(21) Division of Investigation.

(22) Board of Psychology.

(23) The California Board of Occupational Therapy.

(24) Structural Pest Control Board.

(25) Contractors' State License Board.

(26) Bureau of Naturopathic Medicine.

(c) The provisions of paragraph (24) of subdivision (b) shall become operative on July 1, 2004. The provisions of paragraph (25) of subdivision (b) shall become operative on the date on which sufficient funds are available for the Contractors' State License Board and the Department of Justice to conduct a criminal history record check pursuant to this section or on July 1, 2005, whichever occurs first.

149. (a) If, upon investigation, an agency designated in subdivision (e), or the Department of Consumer Affairs as the successor entity to the agency designated in subdivision (e), has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services, without being properly licensed by or

registered with the agency to offer or perform those services, the Department or agency may issue a citation under Section 148 containing an order of correction that requires the violator to do both of the following:

(1) Cease the unlawful advertising.

(2) Notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(b) This action is stayed if the person to whom a citation is issued under subdivision (a) notifies the agency in writing that he or she intends to contest the citation. The agency shall afford an opportunity for a hearing, as specified in Section 125.9.

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.

(e) Subdivision (a) shall apply to the following boards, bureaus, committees, commissions, or programs, or the Department of Consumer Affairs as the successor entity to the agency designated below:

(1) The Bureau of Barbering and Cosmetology.

(2) The Funeral Directors and Embalmers Program.

(3) The Veterinary Medical Board.

(4) The Hearing Aid Dispensers Advisory Commission.

(5) The Landscape Architects Technical Committee.

(6) The California Board of Podiatric Medicine.

(7) The Respiratory Care Board of California.

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

(9) The Bureau of Security and Investigative Services.

(10) The Bureau of Electronic and Appliance Repair.

(11) The Bureau of Automotive Repair.

(12) The Tax Preparers Program.

(13) The California Architects Board.

(14) The Speech-Language Pathology and Audiology Board.

(15) The Board for Professional Engineers and Land Surveyors.

(16) The Board of Behavioral Sciences.

(17) The State Board for Geologists and Geophysicists.

(18) The Structural Pest Control Board.

(19) The Acupuncture Board.

(20) The Board of Psychology.

(21) The California Board of Accountancy.
(22) The Bureau of Naturopathic Medicine.

473.3. (a) Prior to the termination, continuation, or reestablishment of any board or any of the board's functions, the Joint Committee on Boards, Commissions, and Consumer Protection shall, during the interim recess preceding the date upon which a board becomes inoperative, hold public hearings to receive testimony from the Director of Consumer Affairs, the board involved, and the public and regulated industry. In that hearing, each board shall have the burden of demonstrating a compelling public need for the continued existence of the board or regulatory program, and that its licensing function is the least restrictive regulation consistent with the public health, safety, and welfare.
(b) In addition to subdivision (a), in 2002 and every four years thereafter, the committee, in cooperation with the ~~California Postsecondary Education Commission~~ Office of Higher Education and Financial Aid, shall hold a public hearing to receive testimony from the Director of Consumer Affairs, the Bureau for Private Postsecondary and Vocational Education, private postsecondary educational institutions regulated by the bureau, and students of those institutions. In those hearings, the bureau shall have the burden of demonstrating a compelling public need for the continued existence of the bureau and its regulatory program, and that its function is the least restrictive regulation consistent with the public health, safety, and welfare.
(c) The committee, in cooperation with the ~~California Postsecondary Education Commission~~ Office of Higher Education and Financial Aid, shall evaluate and review the effectiveness and efficiency of the Bureau for Private Postsecondary and Vocational Education, based on factors and minimum standards of performance that are specified in Section 473.4. The committee shall report its findings and recommendations as specified in Section 473.5. The bureau shall prepare an analysis and submit a report to the committee as specified in Section 473.2.
(d) In addition to subdivision (a), in 2003 and every four years thereafter, the committee shall hold a public hearing to receive testimony from the Director of Consumer Affairs and the Bureau of Automotive Repair. In those hearings, the bureau shall have the burden of demonstrating a compelling public need for the continued existence of the bureau and its regulatory program, and that its function is the least restrictive regulation consistent with the public health, safety, and welfare.
(e) The committee shall evaluate and review the effectiveness and efficiency of the Bureau of Automotive Repair based on factors and minimum standards of performance that are specified in Section 473.4. The committee shall report its findings and recommendations as specified in Section 473.5. The bureau shall prepare an analysis and submit a report to the committee as specified in Section 473.2.

Dental Board of California

1601.1. (a) ~~There shall be in the Department of Consumer Affairs the Dental Board of California~~ Any reference to the "board" in this chapter, or to the Dental Board of California or the Board of Dental Examiners in any law or regulation, shall refer to the Department of Consumer Affairs, or, if appropriate, to the Director of Consumer Affairs, in which the administration of this chapter is vested, including examinations, enforcement, disciplinary actions undertaken by the previous board, and other subjects as the Director deems

appropriate. ~~The board shall consist of eight practicing dentists, one registered dental hygienist, one registered dental assistant, and four public members. Of the eight practicing dentists, one shall be a member of a faculty of any California dental college and one shall be a dentist practicing in a nonprofit community clinic. The appointing powers, described in Section 1603, may appoint to the board a person who was a member of the prior board. The board shall be organized into standing committees dealing with examinations, enforcement, and other subjects as the board deems appropriate.~~

~~(b) For purposes of this chapter, any reference in this chapter to the Board of Dental Examiners shall be deemed to refer to the Dental Board of California.~~

~~(c) The board shall have all authority previously vested in the existing board under this chapter. The board may enforce all disciplinary actions undertaken by the previous board.~~

(d) This section shall become operative on January 1, 2002.

(e) This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute that is enacted before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

1616.5. (a) The ~~board, by and with the approval of the~~ director, may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the ~~board~~ director and vested in him or her by this chapter.

(b) This section shall become operative on January 1, 2002.

(c) This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute that is enacted before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.

1618.5. (a) The ~~board~~ Department of Consumer Affairs shall provide to the Director of the Department of Managed Health Care copy of any accusation filed with the Office of Administrative Hearings pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, when the accusation is filed, for a violation of this chapter relating to the quality of care of any dental provider of a health care service plan, as defined in Section 1345 of the Health and Safety Code. There shall be no liability on the part of, and no cause of action shall arise against, the State of California, ~~the Board of Dental Examiners,~~ the Department of Managed Health Care, the director of that department, or any officer, agent, employee, consultant, or contractor of the state ~~or the board~~ or the

department for the release of any false or unauthorized information pursuant to this section, unless the release is made with knowledge and malice.

(b) The ~~board and its executive officer and staff~~ Department of Consumer Affairs shall maintain the confidentiality of any nonpublic reports provided by the Director of the Department of Managed Health Care pursuant to subdivision (i) of Section 1380 of the Health and Safety Code.

1619. The examination papers of any applicant shall be kept for the period of one year and may then be destroyed, but they shall be open to inspection only by ~~members of the board, by~~ the applicant or by someone appointed by the latter to inspect them, by a court of competent jurisdiction in a proceeding where the question of the contents of the papers is properly involved, or by the director in accordance with Section 110 or 153.

1620.1. The Department of Consumer Affairs ~~in conjunction with the board~~ and the Joint Legislative Sunset Review Committee, shall review the scope of practice for dental auxiliaries. The department shall employ the services of an independent consultant to perform this comprehensive analysis. The department shall be authorized to enter into an interagency agreement or be exempted from obtaining sole source approval for a sole source contract. ~~The board shall pay for all of the costs associated with this comprehensive analysis. The department shall report its findings and recommendations to the Legislature by September 1, 2002.~~

Committee on Dental Auxiliaries

1741. As used in this article:

(a) ~~"Board" means the Dental Board of California.~~ Any reference to “board” in this article or to the “Dental Board” or “Dental Board of California” in any law or regulation, shall refer to the Department of Consumer Affairs.

(b) ~~"Committee" means the Committee on Dental Auxiliaries.~~ Any reference to “committee” in this article or to the “Committee on Dental Auxillaries”shall refer to the Director of the Department of Consumer Affairs.

(c) "Direct supervision" means supervision of dental procedures based on instructions given by a licensed dentist, who must be physically present in the treatment facility during the performance of those procedures.

(d) "General supervision" means supervision of dental procedures based on instructions given by a licensed dentist but not requiring

the physical presence of the supervising dentist during the performance of those procedures.

(e) "Dental auxiliary" means a person who may perform dental assisting or dental hygiene procedures authorized by this article. Dental auxiliary also means a registered dental hygienist in alternative practice, who may provide authorized services by prescription provided by a dentist or physician and surgeon licensed to practice in this state. "Dental auxiliary" includes all of the following:

(1) A dental assistant pursuant to Section 1750.

(2) A registered dental assistant pursuant to Section 1753.

(3) A registered dental assistant in extended functions pursuant to Section 1756.

(4) A registered dental hygienist pursuant to Section 1766.

(5) A registered dental hygienist in extended functions pursuant to Section 1768.

(6) A registered dental hygienist in alternative practice pursuant to Section 1774

1742. ~~(a) There is within the jurisdiction of the board a Committee on Dental Auxiliaries.~~

~~(b)~~ (a) The ~~Committee on Dental Auxiliaries~~ Director shall have the following areas of responsibility and duties:

(1) The ~~committee~~ Director shall have the following duties and authority related to education programs and curriculum:

(A) Shall evaluate all dental auxiliary programs applying for ~~board~~ Department approval in accordance with ~~board~~ Department rules governing the programs.

(B) May appoint ~~board members~~ qualified persons to any evaluation committee. ~~Board members~~ Persons so appointed shall not make a final decision on the issue of program or course approval.

(C) ~~Shall report and make recommendations to the board as to whether a program or course qualifies for approval.~~ The ~~board~~ Director retains the final authority to grant or deny approval to a program or course.

(D) Shall review and document any alleged deficiencies that might warrant ~~board~~ action to withdraw or revoke approval of a program or course~~, at the request of the board~~.

~~(E) May review and document any alleged deficiencies that might warrant board action to withdraw or revoke approval of a program or course, at its own initiation.~~

(2) The ~~committee~~ Director shall have the following duties and authority related to applications:

(A) Shall review and evaluate all applications for licensure in the various dental auxiliary categories to ascertain whether a candidate meets the appropriate licensing requirements specified by

statute and ~~board~~ Department regulations.

(B) Shall maintain application records, cashier application fees, and perform any other ministerial tasks as are incidental to the application process.

(C) May delegate any or all of the functions in this paragraph to its staff.

(D) Shall issue auxiliary licenses in all cases, except where there is a question as to a licensing requirement. The ~~board~~ Director retains final authority to interpret any licensing requirement. ~~If a question arises in the area of interpreting any licensing requirement, it shall be presented by the committee to the board for resolution.~~

(3) The ~~committee~~ Director shall have the following duties and authority regarding examinations:

(A) Shall ~~advise the board as to~~ determine the type of license examination it deems appropriate for the various dental auxiliary license categories.

(B) Shall~~, at the direction of the board,~~ develop ~~or cause to be developed,~~ and administer~~, or both,~~ examinations ~~in accordance with the board's instructions and periodically report to the board on the progress of those examinations~~. ~~The following shall apply to the examination procedure:~~

~~(i) The examination shall be submitted to the board for its approval prior to its initial administration.~~

~~(ii) Once an examination has been approved by the board, no further approval is required unless a major modification is made to the examination.~~

~~(iii) The committee shall report to the board on the results of each examination and shall, where appropriate, recommend pass points.~~

(iv) The ~~board~~ Director shall set pass points for all dental auxiliary licensing examinations.

~~(C) May appoint board members to any examination committee established pursuant to subparagraph (B).~~

(4) The ~~committee~~ Director shall set ~~periodically report and make recommendations to the board concerning~~ the level of fees for dental auxiliaries and the need for any legislative fee increase. ~~However, the board retains final authority to set all fees.~~

(5) The ~~committee~~ Director shall be responsible for all aspects of the license renewal process, which shall be accomplished in accordance with this chapter and ~~board~~ Department regulations. The ~~committee~~ Director may delegate any or all of its functions under this paragraph to its staff.

(6) ~~The committee shall have no authority with respect to the approval of continuing education providers; the board retains all of this authority.~~ The Director shall have the authority to approve continuing education providers.

(7) The ~~committee~~ Director shall set the ~~advise the board as to~~ appropriate

standards of conduct for auxiliaries, the proper ordering of enforcement priorities, and any other enforcement-related matters ~~that the board may, in the future, delegate to the committee~~. The ~~board~~ Director shall retain all authority with respect to the enforcement actions, including, but not limited to, complaint resolution, investigation, and disciplinary action against auxiliaries.

(8) The ~~committee~~ Department shall have the following duties regarding regulations:

(A) To review and evaluate all suggestions or requests for regulatory changes related to dental auxiliaries.

~~(B) To report and make recommendations to the board, after consultation with departmental legal counsel and the board's executive officer.~~

~~(C)~~ (B) ~~To include in any report regarding a proposed regulatory change, at a minimum, the specific language of the proposed changes and the reasons for and facts supporting the need for the change.~~ The ~~board~~ Department has the final rulemaking authority.

~~(c) This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute which becomes effective on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the committee subject to the review required by Division 1.2 (commencing with Section 473).~~

~~1743. The committee shall consist of the following nine members:~~

~~(a) One member who is a public member of the board, one member who is a licensed dentist and who has been appointed by the board as an examiner pursuant to Section 1621, one member who is a licensed dentist who is neither a board member nor appointed by the board as an examiner pursuant to Section 1621, three members who are licensed as registered **dental** hygienists, at least one of whom is actively employed in a private **dental** office, and three members who are licensed as registered **dental** assistants. If available, an individual licensed as a registered **dental hygienist** in extended functions shall be appointed in place of one of the members licensed as a registered **dental hygienist**. If available, an individual licensed as a registered **dental** assistant in extended functions shall be appointed in place of one of the members licensed as a registered **dental** assistant.~~

~~(b) The public member of the board shall not have been licensed under Chapter 4 (commencing with Section 1600) of the Business and **Professions Code** within five years of the appointment date and shall not have any current financial interest in a **dental**-related business.~~

~~1744. (a) The members of the committee shall be appointed by the Governor. The terms of the member who is a board member and the~~

~~member who has been appointed by the board as an examiner pursuant to Section 1621 shall expire December 31, 1976. The terms of the member who is a licensed dentist and one member who is a **dental** assistant and one member who is licensed as a registered **dental hygienist** shall expire on December 31, 1977. The terms of all other members shall expire on December 31, 1978. Thereafter, appointments shall be for a term of four years.~~

~~(b) No member shall serve as a member of the committee for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired terms. The committee shall annually elect one of its members as chairperson.~~

~~(c) The Governor shall have the power to remove any member of the committee from office for neglect of any duty required by law or for incompetence or unprofessional or dishonorable conduct.~~

~~1745. Each member of the committee shall receive a per diem and expenses as provided in Section 103.~~

1746. The ~~committee~~ Director may employ such employees as it may deem necessary to carry out the functions and responsibilities prescribed by this article.

~~1746.1. The committee shall evaluate all suggestions or requests for regulatory changes related to auxiliaries. The committee shall have the authority to hold informational hearings in order to report and make appropriate recommendations to the board, after consultation with departmental legal counsel and the board's chief executive officer. The committee shall include in any report regarding a proposed regulatory change, at a minimum, the specific language or the proposed change or changes and the reasons therefor and any facts supporting the need for the change.~~

~~1748. Recommendations by the committee pursuant to this article shall be approved, modified, or rejected by the board within 90 days of submission of the recommendation to the board. If the board rejects or significantly modifies the intent or scope of the recommendation, the committee may request that the board provide its reasons in writing for rejecting or significantly modifying the recommendation.~~

~~1749. (a) The committee shall meet at least four times annually. The committee shall conduct additional meetings as are necessary in appropriate locations to conclude its business. Special meetings may be held at the time and place the committee designates.~~

~~(b) Notice of each meeting of the committee shall be given at least two weeks in advance to those persons and organizations who~~

~~express an interest in receiving such notification.~~
~~(c) The committee shall obtain permission of the director to meet more than six times annually. The director shall approve the meetings that are necessary for the committee to fulfill its legal responsibilities.~~

Medical Board of California

~~2001. There is in the Department of Consumer Affairs a Medical Board of California that consists of 21 members, nine of whom shall be public members.~~
~~The Governor shall appoint 19 members to the board, subject to confirmation by the Senate, seven of whom shall be public members. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies that occur on or after January 1, 1983.~~
~~This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

2002. ~~Unless otherwise expressly provided, the term "board" as used in this chapter means the Medical Board of California.~~ Any reference to "board" in this chapter, or to the Medical Board of California in any law or regulation, shall refer to the Department of Consumer Affairs or, if appropriate, to the Director of the Department of Consumer Affairs.

~~2003. The board shall consist of the following two divisions: a Division of Medical Quality, and a Division of Licensing. This section shall become operative on July 1, 1994.~~
Any reference to "division" in this chapter, or to the Division of Medical Quality or to the Division of Licensing in any law or regulation, shall refer to the Department of Consumer Affairs or, if appropriate, to the Director of the Department of Consumer Affairs.

~~2007. Members of the board shall only be appointed from persons who have been citizens of this state for at least five years next preceding their appointment. Members of the board, except the public members, shall only be appointed from persons licensed as physicians and surgeons in this state. No person who in any manner owns any interest in any college, school, or institution engaged in medical~~

~~instruction shall be appointed to the board. Four of the physician members of the board shall hold faculty appointments in a clinical department of an approved medical school in the state, but not more than four members of the board may hold full-time appointments to the faculties of such medical schools.~~

~~The public members shall not be licentiates of the board.~~

~~2008. The Division of Medical Quality shall consist of 14 members of the board, six of whom shall be public members. The Division of Licensing shall consist of seven members, three of whom shall be public members.~~

~~Each member appointed to the board shall be assigned by the Governor to a specific division, except that, commencing July 1, 1994, those members of the board who prior to July 1, 1994, were assigned to the Division of Allied Health Professions shall be members of the Division of Medical Quality.~~

~~2009. All persons who, at the time this chapter goes into effect, hold office under any of the acts repealed by this chapter, which offices are continued by this chapter, continue to hold the same according to the former tenure thereof.~~

~~2010. Each member of the board shall be appointed for a term of four years.~~

~~Vacancies occuring on the board shall be filled by appointment of the appointing power for the unexpired term.~~

~~2011. The appointing power may remove any member of the board for neglect of duty required by this chapter, incompetency, or unprofessional conduct.~~

~~2012. Each division of the board shall elect a president, a vice president, and a secretary from its members. The board may also elect a president, vice president, and secretary.~~

~~2013. (a) The board and each division may convene from time to time as deemed necessary by the board or a division.~~

~~(b) Eight members of the Division of Medical Quality, and four members of the Division of Licensing, shall constitute a quorum for the transaction of business at any division meeting. Four members of a panel of the Division of Medical Quality shall constitute a quorum for the transaction of business at any meeting of the panel. Eleven members shall constitute a quorum for the transaction of business at any board meeting.~~

~~(c) It shall require the affirmative vote of a majority of those members present at a division, panel, or board meeting, those members~~

~~constituting at least a quorum, to pass any motion, resolution, or measure. A decision by a panel of the Division of Medical Quality to discipline a physician and surgeon shall require an affirmative vote, at a meeting or by mail, of a majority of the members of that panel; except that a decision to revoke the certificate of a physician and surgeon shall require the affirmative vote of four members of that panel.~~

~~2014. Notice of each meeting of the board or a division shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Part 1 of Division 3 of Title 2 of the Government Code).~~

~~2015. The president of the board and each division may call meetings of any duly appointed and created committee of the **board** or division at a specified time and place.~~

~~2016. Each member of the board and its committees shall receive per diem and travel expenses as provided in Section 103.~~

~~2019. The office of the board shall be in the City of Sacramento. Suboffices may be established in the Cities of Los Angeles, San Diego, and San Francisco or the environs of such cities. Legal proceedings against the board shall be instituted in any one of these four cities. The board may also establish other suboffices as it may deem necessary and such records as may be necessary may be transferred temporarily to any suboffices.~~

2020. The ~~board~~ Department may employ an executive director exempt from the provisions of the Civil Service Act and may also employ investigators, legal counsel, medical consultants, and other assistance as it may deem necessary to carry into effect this chapter. The ~~board~~ Department may fix the compensation to be paid for services subject to the provisions of applicable state laws and regulations and may incur other expenses as it may deem necessary. Investigators employed by the ~~board~~ Department shall be provided special training in investigating medical practice activities.

The Attorney General shall act as legal counsel for the ~~board~~ Department for any judicial and administrative proceedings and his or her services shall be a charge against it.

This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

Board of Podiatric Medicine

2460. ~~There is created within the jurisdiction of the Medical Board of California and its divisions the California Board of Podiatric Medicine.~~The Department of Consumer Affairs succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Medical Board of California and its divisions and the California Board of Podiatric Medicine, which shall no longer exist.

This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the California Board of Podiatric Medicine subject to the review required by Division 1.2 (commencing with Section 473).

2460.1. Protection of the public shall be the highest priority for the ~~California Board of Podiatric Medicine~~ Department of Consumer Affairs in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

2461. As used in this article:

(a) "Division" means the ~~Division of Licensing of the Medical Board of California~~Department of Consumer Affairs.

(b) "Board" means the ~~California Board of Podiatric Medicine~~ Department of Consumer Affairs.

(c) "Podiatric licensing authority" refers to any officer, board, commission, committee, or department of another state that may issue a license to practice podiatric medicine.

~~2462. The board shall consist of seven members, three of whom shall be public members. Not more than one member of the board shall be a full-time faculty member of a college or school of podiatric medicine. The Governor shall give consideration to recommendations of the board after the division has consulted with the board, except with regard to the public members.~~

~~The Governor shall appoint the four members qualified as provided in Section 2463 and one public member. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.~~

2463. Each member of the board, except the public members, shall be appointed from persons having all of the following qualifications:

(a) Be a citizen of this state for at least five years next preceding his or her appointment.

(b) Be a graduate of a recognized school or college of podiatric medicine.

(c) Have a valid certificate to practice podiatric medicine in this state.

(d) Have engaged in the practice of podiatric medicine in this state for at least five years next preceding his or her appointment.

2464. The public members shall be appointed from persons having all of the following qualifications:

(a) Be a citizen of this state for at least five years next preceding his or her appointment.

(b) Shall not be an officer or faculty member of any college, school, or other institution engaged in podiatric medical instruction.

(c) Shall not be a licentiate of the board or of any board under this division or of any board created by an initiative act under this division.

2465. No person who directly or indirectly owns any interest in any college, school, or other institution engaged in podiatric medical instruction shall be appointed to the board or shall any incumbent member of the board have or acquire any interest, direct or indirect, in any such college, school, or institution.

2466. All members of the board shall be appointed for terms of four years. Vacancies shall immediately be filled by the appointing power for the unexpired portion of the terms in which they occur. In filling vacancies, the Governor shall consider recommendations as provided in Section 2462. No person shall serve as a member of the board for more than two consecutive terms.

2467. (a) The board may convene from time to time as it deems necessary.

(b) Four members of the board constitute a quorum for the transaction of business at any meeting.

(c) It shall require the affirmative vote of a majority of those members present at a meeting, those members constituting at least a quorum, to pass any motion, resolution, or measure.

~~(d) The board shall annually elect one of its members to act as president and a member to act as vice president who shall hold their respective positions at the pleasure of the board. The president may call meetings of the board and any duly appointed committee at a specified time and place.~~

~~2468. Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).~~

~~2469. Each member of the board shall receive per diem and expenses as provided in Section 2016.~~

2470. The ~~board~~ Department of Consumer Affairs may adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act, regulations necessary to enable the ~~board~~ Department of Consumer Affairs to carry into effect the provisions of law relating to the practice of podiatric medicine.

2475.2. As used in this article, "podiatric residency" means a program of supervised postgraduate clinical training, one year or more in duration, approved by the ~~board~~ Department of Consumer Affairs.

2475.3. (a) The ~~board~~ Department of Consumer Affairs shall approve podiatric residency programs, as defined in Section 2475.2, in the field of podiatric medicine, for persons who are applicants for or have been issued a certificate to practice podiatric medicine pursuant to this article.

(b) The ~~board~~ Department of Consumer Affairs may only approve a podiatric residency that it determines meets all of the following requirements:

(1) Reasonably conforms with the Accreditation Council for Graduate Medical Education's Institutional Requirements of the Essentials of Accredited Residencies in Graduate Medical Education: Institutional and Program Requirements.

(2) Is approved by the Council on Podiatric Medical Education.

(3) Complies with the requirements of this state.

2479. The ~~division~~ Department of Consumer Affairs shall issue~~, upon the recommendation of the board,~~ a certificate to practice podiatric medicine to each applicant who meets the requirements of this chapter. Every applicant for a certificate to practice podiatric medicine shall comply with the provisions of Article 4 (commencing with Section 2080) which are not specifically applicable to applicants for a physician's and surgeon's certificate, in addition to the provisions of this article.

2480. The ~~board~~ Department of Consumer Affairs shall have full authority to investigate and to evaluate each applicant applying for a certificate to practice podiatric medicine and to make a determination of the admission of the applicant to the examination and the issuance of a certificate in accordance with the provisions and requirements of this chapter.

2481. Each applicant who commenced professional instruction in podiatric medicine after September 1, 1959, shall show by an official transcript or other official evidence submitted directly to the ~~board~~ Department of Consumer Affairs by the academic institution that he or she has completed two years of preprofessional postsecondary education, or its equivalent, including the subjects of chemistry, biology or other biological science, and physics or mathematics, before completing the resident course of professional instruction.

2483. (a) Each applicant for a certificate to practice podiatric medicine shall show by an official transcript or other official evidence satisfactory to the ~~board~~ Department of Consumer Affairs that is submitted directly to the ~~board~~ Department of Consumer Affairs by the academic institution that he or she has successfully completed a medical curriculum extending over a period of at least four academic years, or 32 months of actual instruction, in a college or school of podiatric medicine approved by the ~~board~~ Department of Consumer Affairs. The total number of hours of all courses shall consist of a minimum of 4,000 hours.

The ~~board~~ Department of Consumer Affairs, by regulation, shall adopt standards for determining equivalent training authorized by this section.

(b) The curriculum for all applicants shall provide for adequate instruction related to podiatric medicine in the following:

Alcoholism and other chemical substance detection

Local anesthesia
Anatomy, including embryology, histology, and neuroanatomy
Behavioral science
Biochemistry
Biomechanics-foot and ankle
Child abuse detection
Dermatology
Geriatric medicine
Human sexuality
Infectious diseases
Medical ethics
Neurology
Orthopedic surgery
Pathology, microbiology, and immunology
Pediatrics
Pharmacology, including materia medica and toxicology
Physical and laboratory diagnosis
Physical medicine
Physiology
Podiatric medicine
Podiatric surgery
Preventive medicine, including nutrition
Psychiatric problem detection
Radiology and radiation safety
Spousal or partner abuse detection
Therapeutics
Women's health

2484. In addition to any other requirements of this chapter, before a certificate to practice podiatric medicine may be issued, each applicant shall show by evidence satisfactory to the ~~board~~ Department of Consumer Affairs that he or she has satisfactorily completed one year of approved postgraduate podiatric medical and podiatric surgical training in a general acute care hospital.

2486. The ~~division~~ Department of Consumer Affairs shall issue~~, upon the recommendation of the board,~~ a certificate to practice podiatric medicine if the applicant meets all of the following requirements:

(a) The applicant has graduated from an approved school or college of podiatric medicine and meets the requirements of Section 2483.

(b) The applicant, within the past 10 years, has passed parts I, II, and III of the examination administered by the National Board of

Podiatric Medical Examiners of the United States or has passed a written examination that is recognized by the ~~board~~ Department of Consumer Affairs to be the equivalent in content to the examination administered by the National Board of Podiatric Medical Examiners of the United States.

(c) The applicant has satisfactorily completed the postgraduate training required by Section 2484.

(d) The applicant has passed within the past 10 years any oral and practical examination that may be required of all applicants by the ~~board~~ Department of Consumer Affairs to ascertain clinical competence.

(e) The applicant has committed no acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475).

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

(g) A disciplinary databank report regarding the applicant has been directly presented to the ~~board~~ Department of Consumer Affairs from the Federation of Podiatric Medical Boards.

2488. Notwithstanding any other provision of law, the ~~division~~ Department of Consumer Affairs shall issue~~, upon the recommendation of the board,~~ a certificate to practice podiatric medicine by credentialing if the applicant is licensed as a doctor of podiatric medicine in any other state and meets all of the following requirements:

(a) The applicant has graduated from an approved school or college of podiatric medicine.

(b) The applicant, within the past 10 years, has passed either part III of the examination administered by the National Board of Podiatric Medical Examiners of the United States or a written examination that is recognized by the ~~board~~ Department of Consumer Affairs to be the equivalent in content to the examination administered by the National Board of Podiatric Medical Examiners of the United States.

(c) The applicant has satisfactorily completed a postgraduate training program approved by the Council on Podiatric Medical Education.

(d) The applicant, within the past 10 years, has passed any oral and practical examination that may be required of all applicants by the ~~board~~ Department of Consumer Affairs to ascertain clinical competence.

(e) The applicant has committed no acts or crimes constituting

grounds for denial of a certificate under Division 1.5 (commencing with Section 475).

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

(g) A disciplinary data bank report regarding the applicant has been submitted to the ~~board~~ Department of Consumer Affairs directly from the Federation of Podiatric Medical Boards.

2492. (a) The ~~board~~ Department of Consumer Affairs shall examine every applicant for a certificate to practice podiatric medicine at the time and place designated by the ~~board~~ Department of Consumer Affairs in its discretion, but at least twice a year.

(b) Unless the applicant meets the requirements of Section 2486, applicants shall be required to have taken and passed the examination administered by the National Board of Podiatric Medical Examiners.

(c) The ~~board~~ Department of Consumer Affairs may appoint qualified persons to give the whole or any portion of any examination as provided in this article, who shall be designated as examination commissioners. The ~~board~~ Department of Consumer Affairs may fix the compensation of those persons subject to the provisions of applicable state laws and regulations.

(d) The provisions of Article 9 (commencing with Section 2170) shall apply to examinations administered by the ~~board~~ Department of Consumer Affairs except where those provisions are in conflict with or inconsistent with the provisions of this article. In respect to applicants under this article any references to the "Division of Licensing" or "division" shall be deemed to apply to the ~~board~~ Department of Consumer Affairs.

2493. (a) Applicants for a certificate to practice podiatric medicine shall pass an examination in the following subjects:

(1) Anatomy and histology.

(2) Dermatology.

(3) Orthopedics and surgery, roentgenologic technique, and radiation safety.

(4) Pathology and bacteriology.

(5) Physiology, chemistry, and public health.

(6) Podiatry and therapeutics.
(7) Medical ethics.
(b) Any applicant for a certificate to practice podiatric medicine who obtains a score of 75 percent or more in five subjects shall be reexamined in those subjects only in which he or she failed.

2495. Notwithstanding any other provision of this chapter, the ~~board~~ Department of Consumer Affairs may delegate to officials of the ~~board~~ Department of Consumer Affairs the authority to approve the admission of applicants to the examination and to approve the issuance of certificates to practice podiatric medicine to applicants who have met the specific requirements therefor in routine cases where applicants clearly meet the requirements of this chapter.

2496. In order to ensure the continuing competence of persons licensed to practice podiatric medicine, the ~~board~~ Department of Consumer Affairs shall adopt and administer regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) requiring continuing education of those licensees. The ~~board~~ Department of Consumer Affairs shall require those licensees to demonstrate satisfaction of the continuing education requirements and one of the following requirements at each license renewal:
(a) Passage of an examination administered by the ~~board~~ Department of Consumer Affairs within the past 10 years.
(b) Passage of an examination administered by an approved specialty certifying board within the past 10 years.
(c) Current diplomate, board-eligible, or board-qualified status granted by an approved specialty certifying board within the past 10 years.
(d) Recertification of current status by an approved specialty certifying board within the past 10 years.
(e) Successful completion of an approved residency or fellowship program within the past 10 years.
(f) Granting or renewal of current staff privileges within the past five years by a health care facility that is licensed, certified, accredited, conducted, maintained, operated, or otherwise approved by an agency of the federal or state government or an organization approved by the ~~Medical Board of California~~ Department of Consumer Affairs.
(g) Successful completion within the past five years of an extended course of study approved by the ~~board~~ Department of Consumer Affairs.
(h) Passage within the past 10 years of Part III of the

examination administered by the National Board of Podiatric Medical Examiners.

2497. (a) The ~~board~~ Department of Consumer Affairs may order the denial of an application for, or the suspension of, or the revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric medicine for any of the causes set forth in Article 12 (commencing with Section 2220) in accordance with Section 2222.

(b) The ~~board~~ Department of Consumer Affairs may hear all matters, including but not limited to, any contested case or may assign any such matters to an administrative law judge. The proceedings shall be held in accordance with Section 2230. If a contested case is heard by the ~~board~~ Department of Consumer Affairs itself, the administrative law judge who presided at the hearing shall be present during the ~~board~~ Department of Consumer Affairs's consideration of the case and shall assist and advise the ~~board~~ Department of Consumer Affairs.

2497.5. (a) The ~~board~~ Department of Consumer Affairs may request the administrative law judge, under his or her proposed decision in resolution of a disciplinary proceeding before the ~~board~~ Department of Consumer Affairs, to direct any licensee found guilty of unprofessional conduct to pay to the ~~board~~ Department of Consumer Affairs a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in any event be increased by the ~~board~~ Department of Consumer Affairs. When the ~~board~~ Department of Consumer Affairs does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of any costs assessed in the proposed decision.

(c) When the payment directed in the ~~board~~ Department of Consumer Affairs 's order for payment of costs is not made by the licensee, the ~~board~~ Department of Consumer Affairs may enforce the order for payment by bringing an action in any appropriate court. This right of enforcement shall be in addition to any other rights the ~~board~~ Department of Consumer Affairs may have as to any licensee directed to pay costs.

(d) In any judicial action for the recovery of costs, proof of the ~~board~~ Department of Consumer Affairs 's decision shall be conclusive proof of the validity of the

order of payment and the terms for payment.

(e) (1) Except as provided in paragraph (2), the ~~board~~ Department of Consumer Affairs shall not renew or reinstate the license of any licensee who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the ~~board~~ Department of Consumer Affairs may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licensee who demonstrates financial hardship and who enters into a formal agreement with the ~~board~~ Department of Consumer Affairs to reimburse the ~~board~~ Department of Consumer Affairs within that one year period for those unpaid costs.

(f) All costs recovered under this section shall be deposited in the Podiatry Fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the ~~board~~ Department of Consumer Affairs may direct.

2498. (a) The ~~board~~ Department of Consumer Affairs shall have the responsibility for reviewing the quality of podiatric medical practice carried out by persons licensed to practice podiatric medicine.

(b) ~~Each member of the board~~ The Department of Consumer Affairs, or any licensed podiatrist appointed by the ~~board~~ Department of Consumer Affairs, shall additionally have the authority to inspect, or require reports from, a general or specialized hospital and the podiatric staff thereof, with respect to the podiatric care, services, or facilities provided therein, and may inspect podiatric patient records with respect to the care, services, or facilities. The authority to make inspections and to require reports as provided by this section shall not be delegated by ~~a member of the board~~ Department of Consumer Affairs to any person other than a podiatrist and shall be subject to the restrictions against disclosure described in Section 2263.

2499. There is in the State Treasury the Board of Podiatric Medicine Fund. Notwithstanding Section 2445, the division shall report to the Controller at the beginning of each calendar month for the month preceding the amount and source of all revenue received by it on behalf of the ~~board~~ Department of Consumer Affairs, pursuant to this chapter, and shall pay the entire amount thereof to the Treasurer for deposit into the fund.

On and after July 1, 1981, all revenue received by the ~~board~~ Department of Consumer Affairs and the division from fees authorized to be charged relating to the practice of podiatric medicine shall be deposited in the fund as provided in this section, and shall be continuously appropriated to

the ~~board~~ Department of Consumer Affairs to carry out the provisions of this chapter relating to the
regulation of the practice of podiatric medicine.

2499.5. The following fees apply to certificates to practice podiatric medicine. The amount of fees prescribed for doctors of podiatric medicine shall be those set forth in this section unless a lower fee is established by the ~~board~~ Department of Consumer Affairs in accordance with Section
2499.6. Fees collected pursuant to this section shall be fixed by the ~~board~~ Department of Consumer Affairs in amounts not to exceed the actual costs of providing the
service for which the fee is collected.

(a) Each applicant for a certificate to practice podiatric medicine shall pay an application fee of twenty dollars ($20) at the time the application is filed. If the applicant qualifies for a certificate, he or she shall pay a fee which shall be fixed by the ~~board~~ Department of Consumer Affairs at an amount not to exceed one hundred dollars ($100) nor less
than five dollars ($5) for the issuance of the certificate.

(b) The oral examination fee shall be seven hundred dollars ($700), or the actual cost, whichever is lower, and shall be paid by each applicant. If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, and has so notified the ~~board~~ Department of Consumer Affairs 30 days prior to the examination date, only the
examination fee is returnable to the applicant. The ~~board~~ Department of Consumer Affairs may charge
an examination fee for any subsequent reexamination of the applicant.

(c) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required by this section, shall pay an initial license fee. The initial license fee shall be eight hundred dollars ($800). The initial license shall expire the second year after its issuance on the last day of the month of birth of the licensee. The ~~board~~ Department of Consumer Affairs may reduce the initial
license fee by up to 50 percent of the amount of the fee for any applicant who is enrolled in a postgraduate training program approved by the ~~board~~ Department of Consumer Affairs or who has completed a postgraduate training program
approved by the ~~board~~ Department of Consumer Affairs within six months prior to the payment of the
initial license fee.

(d) The biennial renewal fee shall be nine hundred dollars ($900).

This fee shall remain in effect only until January 1, 2006, and as of that date is reduced to eight hundred dollars ($800), unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date. Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the biennial renewal fee at the time of his or her first renewal.

(e) The delinquency fee is one hundred fifty dollars ($150).

(f) The duplicate wall certificate fee is forty dollars ($40).

(g) The duplicate renewal receipt fee is forty dollars ($40).

(h) The endorsement fee is thirty dollars ($30).

(i) The letter of good standing fee or for loan deferment is thirty dollars ($30).

(j) There shall be a fee of sixty dollars ($60) for the issuance of a resident's license under Section 2475.

(k) The application fee for ankle certification under Section 2472 for persons licensed prior to January 1, 1984, shall be fifty dollars ($50). The examination and reexamination fee for this certification shall be seven hundred dollars ($700).

(l) The filing fee to appeal the failure of an oral examination shall be twenty-five dollars ($25).

(m) The fee for approval of a continuing education course or program shall be one hundred dollars ($100).

2499.6. The fees in this article shall be fixed by the ~~board~~ Department of Consumer Affairs in accordance with Section 313.1.

2499.8. Any licensee who demonstrates to the satisfaction of the ~~board~~ Department of Consumer Affairs that he or she is unable to practice podiatry due to a disability may request a waiver of the license renewal fee. The granting of a waiver shall be at the discretion of the ~~board~~ Department of Consumer Affairs and may be terminated at any time. Waivers shall be based on the inability of a licensee to practice podiatry. A licensee whose renewal fee has been waived pursuant to this section shall not engage in the practice of podiatry unless and until the licensee pays the current renewal fee.

Speech-Language Pathology and Audiology Board

2530.2. As used in this chapter, unless the context otherwise requires:

(a) ~~"Board" means the Speech-Language Pathology and Audiology~~

~~Board or any successor.~~ Any reference to the “Board” or the Speech-Language Pathology and Audiology Board, shall refer to the Department of Consumer Affairs or, if appropriate, to the Director of the Department of Consumer Affairs, which shall administer and enforce this chapter.

(b) "Person" means any individual, partnership, corporation, limited liability company, or other organization or combination thereof, except that only individuals can be licensed under this chapter.

(c) A "speech-language pathologist" is a person who practices speech-language pathology.

(d) "The practice of speech-language pathology" means: (1) the application of principles, methods, instrumental procedures, and noninstrumental procedures for measurement, testing, screening, evaluation, identification, prediction, and counseling related to the development and disorders of speech, voice, language, or swallowing; (2) the application of principles and methods for preventing, planning, directing, conducting, and supervising programs for habilitating, rehabilitating, ameliorating, managing, or modifying disorders of speech, voice, language, or swallowing in individuals or groups of individuals; and (3) conducting hearing screenings.

(e) (1) Instrumental procedures referred to in subdivision (d) are the use of rigid and flexible endoscopes to observe the pharyngeal and laryngeal areas of the throat in order to observe, collect data, and measure the parameters of communication and swallowing as well as to guide communication and swallowing assessment and therapy.

(2) Nothing in this subdivision shall be construed as a diagnosis. Any observation of an abnormality shall be referred to a physician and surgeon.

(f) A licensed speech-language pathologist shall not perform a flexible fiberoptic nasendoscopic procedure unless he or she has received written verification from an otolaryngologist certified by the American Board of Otolaryngology that the speech-language pathologist has performed a minimum of 25 flexible fiberoptic nasendoscopic procedures and is competent to perform these procedures. The speech-language pathologist shall have this written verification on file and readily available for inspection upon request by the board. A speech-language pathologist shall pass a flexible fiberoptic nasendoscopic instrument only under the direct authorization of an otolaryngologist certified by the American Board of Otolaryngology and the supervision of a physician and surgeon.

(g) A licensed speech-language pathologist shall only perform flexible endoscopic procedures described in subdivision (e) in an acute care setting, as defined in subdivision (a) of Section 1250 of the Health and Safety Code, that requires the facility to have protocols for emergency medical backup procedures, including a physician and surgeon or other appropriate medical professionals

being readily available.

(h) "Speech-language pathology aide" means any person meeting the minimum requirements established by the board, who works directly under the supervision of a speech-language pathologist.

(i) (1) "Speech-language pathology assistant" means a person who meets the academic and supervised training requirements set forth by the board and who is approved by the board to assist in the provision of speech-language pathology under the direction and supervision of a speech-language pathologist who shall be responsible for the extent, kind, and quality of the services provided by the speech-language pathology assistant.

(2) The supervising speech-language pathologist employed or contracted for by a public school may hold a valid and current license issued by the board, a valid, current, and professional clear clinical or rehabilitative services credential in language, speech, and hearing issued by the Commission on Teacher Credentialing, or other credential authorizing service in language, speech, and hearing issued by the Commission on Teacher Credentialing that is not issued on the basis of an emergency permit or waiver of requirements. For purposes of this paragraph, a "clear" credential is a credential that is not issued pursuant to a waiver or emergency permit and is as otherwise defined by the Commission on Teacher Credentialing. Nothing in this section referring to credentialed supervising speech-language pathologists expands existing exemptions from licensing pursuant to Section 2530.5.

(j) An "audiologist" is one who practices audiology.

(k) "The practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, instruction related to auditory, vestibular, and related functions and the modification of communicative disorders involving speech, language, auditory behavior or other aberrant behavior resulting from auditory dysfunction; and the planning, directing, conducting, supervising, or participating in programs of identification of auditory disorders, hearing conservation, cerumen removal, aural habilitation, and rehabilitation, including, hearing aid recommendation and evaluation procedures including, but not limited to, specifying amplification requirements and evaluation of the results thereof, auditory training, and speech reading.

(l) "Audiology aide" means any person, meeting the minimum requirements established by the board, who works directly under the supervision of an audiologist.

(m) "Medical board" means the ~~Medical Board of California~~ Department of Consumer Affairs or a division of the ~~board~~ Department.

(n) A "hearing screening" performed by a speech-language pathologist means a binary puretone screening at a preset intensity

level for the purpose of determining if the screened individuals are in need of further medical or audiological evaluation.

(o) "Cerumen removal" means the nonroutine removal of cerumen within the cartilaginous ear canal necessary for access in performance of audiological procedures that shall occur under physician and surgeon supervision. Cerumen removal, as provided by this section, shall only be performed by a licensed audiologist. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but shall include all of the following:

(1) Collaboration on the development of written standardized protocols. The protocols shall include a requirement that the supervised audiologist immediately refer to an appropriate physician any trauma, including skin tears, bleeding, or other pathology of the ear discovered in the process of cerumen removal as defined in this subdivision.

(2) Approval by the supervising physician of the written standardized protocol.

(3) The supervising physician shall be within the general vicinity, as provided by the physician-audiologist protocol, of the supervised audiologist and available by telephone contact at the time of cerumen removal.

(4) A licensed physician and surgeon may not simultaneously supervise more than two audiologists for purposes of cerumen removal.

2531. ~~There is in the Department of Consumer Affairs a Speech-Language Pathology and Audiology Board in which the enforcement and administration of this chapter is vested. The Speech-Language Pathology and Audiology Board shall consist of nine members, three of whom shall be public members.~~

~~This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2007, deletes or extends the inoperative and repeal dates.~~

~~2531.05. The Hearing Aid Dispensers Examining Committee shall appoint one of its members to serve as liaison to the Speech-Language Pathology and Audiology Board for the purpose of coordinating the policies of the committee and board regarding the fitting or dispensing of hearing aids. The Speech-Language Pathology and Audiology Board shall notify the Hearing Aid Dispensers Examining Committee in advance of all board business concerning the fitting or dispensing of hearing aids to facilitate the participation of the liaison member.~~

~~2531.1. Each member of the board shall hold office for a term of four years, and shall serve until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. No member may serve for more than two consecutive terms.~~

~~2531.2. The membership of the board shall include three licensed speech-language pathologists, three licensed audiologists, and three public members one of whom is a licensed physician and surgeon, board certified in otolaryngology, and the remaining two public members who shall not be licentiates of the board or of any board under this division or of any board referred to in the Chiropractic Act or the Osteopathic Act.~~

~~The Governor shall appoint the physician and surgeon member and the other six licensed members qualified as provided in this section.~~

~~The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.~~

2531.3. The ~~board~~ Department of Consumer Affairs shall examine every applicant for a speech-language pathology license or an audiology license at the time and place designated by the ~~board~~ Department in its discretion, but at least once in each year; and for that purpose the Director of the Department of Consumer Affairs may appoint qualified persons to give the whole or any portion of the examination~~, who shall be designated as commissioners on examination. A commissioner on examination need not be a member of the board, but shall be subject to the same rules and regulations and shall be entitled to the same fee as if he or she were a member of the board~~.

The ~~board~~ Department shall perform all examination functions, including but not limited to, participation in uniform examination systems.

2531.4. The ~~board~~ Department of Consumer Affairs shall have full authority to investigate and to evaluate each and every applicant applying for a license to practice speech-language pathology or a license to practice audiology and to determine the admission of the applicant to the examination, ~~if administered by the board,~~ or to issue a license, in conformance with the provisions of, and qualifications required by, this chapter.

2531.5. The ~~board~~ Department of Consumer Affairs shall issue, suspend, and revoke licenses and approvals to practice speech-language pathology and audiology as authorized by this chapter.

~~2531.6. The Governor has power to remove from office any member of the board for neglect of any duty required by this chapter, for incompetency, or for unprofessional conduct.~~

~~2531.7. The board shall elect annually a chairperson and vice chairperson from among its members. The board shall hold at least one regular meeting each year. Additional meetings may be held upon call of the chairperson or at the written request of any two members of the board.~~

~~2531.75. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.~~

~~2531.8. Five members of the board shall at all times constitute a quorum.~~

~~2531.9. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

2531.95. The ~~board~~ Department of Consumer Affairs shall from time to time adopt the regulations that may be necessary to effectuate this chapter. In adopting regulations the ~~board~~ Department shall comply with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

2538. A person seeking approval as a speech-language pathology assistant shall make application to the ~~board~~ Department of Consumer Affairs for that approval.

2538.1. (a) The ~~board~~ Department of Consumer Affairs shall adopt regulations, in collaboration with the State Department of Education, the Commission on Teacher Credentialing, and the Advisory Commission on Special Education**,** that set forth standards and requirements for the adequate supervision of speech-language pathology assistants.

(b) The ~~board~~ Department shall adopt regulations as reasonably necessary to carry out the purposes of this article, that shall include, but need not be limited to, the following:

(1) Procedures and requirements for application, registration, renewal, suspension, and revocation.

(2) Standards for approval of Associate Degree Speech-Language Pathology Assistant training programs based upon standards and curriculum guidelines established by the National Council on Academic Accreditation in Audiology and Speech-Language Pathology, or the American Speech-Language-Hearing Association, or equivalent formal training programs consisting of two years of technical education, including supervised field placements. The ~~board~~ Department may impanel site review committees to conduct onsite evaluations, inspections, and investigations of a speech-language pathology assistant training program and to assess the training program's compliance with the board's laws and regulations. The members of the site review committee shall receive no compensation but shall be reimbursed for their actual travel and per diem expenses by the institution that is

the subject of the evaluation, inspection, or investigation.

(3) Standards for accreditation of a Speech-Language Pathology Assistant training program's institution by the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges or the Senior College Commission of the Western Association of Schools and Colleges, or equivalent accreditation.

(4) The scope of responsibility, duties, and functions of speech-language pathology assistants, that shall include, but not be limited to, all of the following:

(A) Conducting speech-language screening, without interpretation, and using screening protocols developed by the supervising speech-language pathologist.

(B) Providing direct treatment assistance to patients or clients under the supervision of a speech-language pathologist.

(C) Following and implementing documented treatment plans or protocols developed by a supervising speech-language pathologist.

(D) Documenting patient or client progress toward meeting established objectives, and reporting the information to a supervising speech-language pathologist.

(E) Assisting a speech-language pathologist during assessments, including, but not limited to, assisting with formal documentation, preparing materials, and performing clerical duties for a supervising speech-language pathologist.

(F) When competent to do so, as determined by the supervising speech-language pathologist, acting as an interpreter for non-English-speaking patients or clients and their family members.

(G) Scheduling activities and preparing charts, records, graphs, and data.

(H) Performing checks and maintenance of equipment, including, but not limited to, augmentative communication devices.

(I) Assisting with speech-language pathology research projects, in-service training, and family or community education.

The regulations shall provide that speech-language pathology assistants are not authorized to conduct evaluations, interpret data, alter treatment plans, or perform any task without the express knowledge and approval of a supervising speech-language pathologist.

(5) The requirements for the wearing of distinguishing name badges with the title of speech-language pathology assistant.

(6) Minimum continuing professional development requirements for the speech-language pathology assistant, not to exceed 12 hours in a two-year period. The speech-language pathology assistant's supervisor shall act as a professional development advisor. The speech-language pathology assistant's professional growth may be satisfied with successful completion of state or regional conferences, workshops, formal in-service presentations, independent

study programs, or any combination of these concerning communication and related disorders.

(7) Minimum continuing professional development requirements for the supervisor of a speech-language pathology assistant.

(8) The type and amount of direct and indirect supervision required for speech-language pathology assistants.

(9) The maximum number of assistants permitted per supervisor.

(10) A requirement that the supervising speech-language pathologist shall remain responsible and accountable for clinical judgments and decisions and the maintenance of the highest quality and standards of practice when a speech-language pathology assistant is utilized.

California Board of Occupational Therapy

2570.2. As used in this chapter, unless the context requires otherwise:

(a) "Appropriate supervision of an aide" means that the responsible occupational therapist shall provide direct in-sight supervision when the aide is providing delegated client-related tasks and shall be readily available at all times to provide advice or instruction to the aide. The occupational therapist is responsible for documenting the client's record concerning the delegated client-related tasks performed by the aide.

(b) "Aide" means an individual who provides supportive services to an occupational therapist and who is trained by an occupational therapist to perform, under appropriate supervision, delegated, selected client and nonclient-related tasks for which the aide has demonstrated competency. An occupational therapist licensed pursuant to this chapter may utilize the services of one aide engaged in patient-related tasks to assist the occupational therapist in his or her practice of occupational therapy. An occupational therapy assistant shall not supervise an aide engaged in client-related tasks.

(c) "Association" means the Occupational Therapy Association of California or a similarly constituted organization representing occupational therapists in this state.

(d) ~~"Board" means the California Board of Occupational Therapy.~~ Any reference to the "Board" in this chapter or to the California Board of Occupational Therapy in any law or regulation shall refer to the Department of Consumer Affairs or, if appropriate, to the Director of the Department of Consumer Affairs.

(e) "Examination" means an entry level certification examination for occupational therapists and occupational therapy assistants

administered by the National Board for Certification in Occupational Therapy or by another nationally recognized credentialing body.

(f) "Good standing" means that the person has a current, valid license to practice occupational therapy or assist in the practice of occupational therapy and has not been disciplined by the recognized professional certifying or standard-setting body within five years prior to application or renewal of the person's license.

(g) "Occupational therapist" means an individual who meets the minimum education requirements specified in Section 2570.6 and is licensed pursuant to the provisions of this chapter and whose license is in good standing as determined by the ~~board~~ Department to practice occupational therapy under this chapter. Only the occupational therapist is responsible for the occupational therapy assessment of a client, and the development of an occupational therapy plan of treatment.

(h) "Occupational therapy assistant" means an individual who is certified pursuant to the provisions of this chapter, who is in good standing as determined by the ~~board~~ Department, and based thereon, who is qualified to assist in the practice of occupational therapy under this chapter, and who works under the appropriate supervision of a licensed occupational therapist.

(i) "Occupational therapy services" means the services of an occupational therapist or the services of an occupational therapy assistant under the appropriate supervision of an occupational therapist.

(j) "Person" means an individual, partnership, unincorporated organization, or corporation.

(k) "Practice of occupational therapy" means the therapeutic use of purposeful and meaningful goal-directed activities (occupations) which engage the individual's body and mind in meaningful, organized, and self-directed actions that maximize independence, prevent or minimize disability, and maintain health. Occupational therapy services encompass occupational therapy assessment, treatment, education of, and consultation with, individuals who have been referred for occupational therapy services subsequent to diagnosis of disease or disorder (or who are receiving occupational therapy services as part of an Individualized Education Plan (IEP) pursuant to the federal Individuals with Disabilities Education Act (IDEA)). Occupational therapy assessment identifies performance abilities and limitations that are necessary for self-maintenance, learning, work, and other similar meaningful activities. Occupational therapy treatment is focused on developing, improving, or restoring functional daily living skills, compensating for and preventing dysfunction, or minimizing disability. Occupational therapy techniques that are used for treatment involve teaching activities of daily living (excluding speech-language skills); designing or

fabricating selective temporary orthotic devices, and applying or training in the use of assistive technology or orthotic and prosthetic devices (excluding gait training). Occupational therapy consultation provides expert advice to enhance function and quality of life. Consultation or treatment may involve modification of tasks or environments to allow an individual to achieve maximum independence. Services are provided individually, in groups, or through social groups.

(l) "Hand therapy" is the art and science of rehabilitation of the hand, wrist, and forearm requiring comprehensive knowledge of the upper extremity and specialized skills in assessment and treatment to prevent dysfunction, restore function, or reverse the advancement of pathology. This definition is not intended to prevent an occupational therapist practicing hand therapy from providing other occupational therapy services authorized under this act in conjunction with hand therapy.

(m) "Physical agent modalities" means techniques that produce a response in soft tissue through the use of light, water, temperature, sound, or electricity. These techniques are used as adjunctive methods in conjunction with, or in immediate preparation for, occupational therapy services.

~~2570.19. (a) There is hereby created a California Board of Occupational Therapy, hereafter referred to as the board. The board shall enforce and administer this chapter.~~

~~(b) The members of the board shall consist of the following:~~

~~(1) Three occupational therapists who shall have practiced occupational therapy for five years.~~

~~(2) One occupational therapy assistant who shall have assisted in the practice of occupational therapy for five years.~~

~~(3) Three public members who shall not be licentiates of the board or of any board referred to in Section 1000 or 3600.~~

~~(c) The Governor shall appoint the three occupational therapists and one occupational therapy assistant to be members of the board. The Governor, the Senate Rules Committee, and the Speaker of the Assembly shall each appoint a public member. Not more than one member of the board shall be appointed from the full-time faculty of any university, college, or other educational institution.~~

~~(d) All members shall be residents of California at the time of their appointment. The occupational therapist and occupational therapy assistant members shall have been engaged in rendering occupational therapy services to the public, teaching, or research in occupational therapy for at least five years preceding their appointments.~~

~~(e) The public members may not be or have ever been occupational therapists or occupational therapy assistants or in training to~~

become occupational therapists or occupational therapy assistants. The public members may not be related to or have a household member who is an occupational therapist or an occupational therapy assistant, and may not have had within two years of the appointment a substantial financial interest in a person regulated by the board.

(f) The Governor shall appoint two board members for a term of one year, two board members for a term of two years, and one board member for a term of three years. Appointments made thereafter shall be for four-year terms, but no person shall be appointed to serve more than two consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed by this section. Vacancies shall be filled by appointment for the unexpired term. The board shall annually elect one of its members as president.

(g) The board shall meet and hold at least one regular meeting annually in the Cities of Sacramento, Los Angeles, and San Francisco. The board may convene from time to time until its business is concluded. Special meetings of the board may be held at any time and place designated by the board.

(h) Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(i) Members of the board shall receive no compensation for their services but shall be entitled to reasonable travel and other expenses incurred in the execution of their powers and duties in accordance with Section 103.

(j) The appointing power shall have the power to remove any member of the board from office for neglect of any duty imposed by state law, for incompetency, or for unprofessional or dishonorable conduct.

(k) A loan is hereby authorized from the General Fund to the Occupational Therapy Fund on or after July 1, 2000, in an amount of up to one million dollars ($1,000,000) to fund operating, personnel, and other startup costs of the board. Six hundred ten thousand dollars ($610,000) of this loan amount is hereby appropriated to the board to use in the 2000-01 fiscal year for the purposes described in this subdivision. In subsequent years, funds from the Occupational Therapy Fund shall be available to the board upon appropriation by the Legislature in the annual Budget Act. The loan shall be repaid to the General Fund over a period of up to five years, and the amount paid shall also include interest at the rate accruing to moneys in the Pooled Money Investment Account. The loan amount and repayment period shall be minimized to the extent possible based upon actual

~~board financing requirements as determined by the Department of Finance.~~

~~(l) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute that is enacted before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

2570.20. (a) The ~~board~~ Department of Consumer Affairs and its Director shall administer, coordinate, and enforce the provisions of this chapter, evaluate the qualifications, and approve the examinations for licensure under this chapter.

(b) The ~~board~~ Department of Consumer Affairs shall adopt rules in accordance with the Administrative Procedure Act relating to professional conduct to carry out the purpose of this chapter, including, but not limited to, rules relating to professional licensure or certification and to the establishment of ethical standards of practice for persons holding a license to practice occupational therapy and for persons certified to assist in the practice of occupational therapy in this state.

(c) Proceedings under this chapter shall be conducted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

2570.21. Subject to Sections 107 and 154, the ~~board~~ Director may employ an executive officer and other officers and employees

2570.30. The ~~board~~ Department shall retain jurisdiction to proceed with any investigation, action or disciplinary proceeding against a license, or to render a decision suspending or revoking a license, regardless of the expiration, lapse, or suspension of the license by operation of law, by order or decision of the ~~board~~ Department or a court of law, or by the voluntary surrender of a license by the licensee.

Physical Therapy Board

2601. "Board" as used in this chapter means the ~~Physical Therapy Board of California~~ Department of Consumer Affairs. Any reference to the "board" or the Physical Therapy Board of California shall mean the Department of Consumer Affairs.

2602. The ~~Physical Therapy Board of California~~ Department of Consumer Affairs~~, hereafter referred to as the board,~~ shall enforce and administer this chapter.

This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, which
becomes effective on or before January 1, 2008, deletes or extends
the dates on which it becomes inoperative and is repealed.

The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

2602.1. Protection of the public shall be the highest priority for the ~~Physical Therapy Board of California~~ Department of Consumer Affairs in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. The Department of Consumer Affairs shall enforce and administer this chapter.

~~2603. The members of the board consist of the following: one physical therapist involved in the education of physical therapists, three physical therapists who shall have practiced physical therapy for five years and shall be licensed by the board, and three public members who shall not be licentiates of the board or of any other board under the Medical Board of California or of any board referred to in Sections 1000 and 3600.~~

~~2604. The members of the board shall be appointed for a term of four years, expiring on the first day of June of each year.~~

~~The Governor shall appoint one of the public members and the four physical therapist members of the board qualified as provided in Section 2603. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.~~

~~Not more than one member of the board shall be appointed from the full-time faculty of any university, college, or other educational institution.~~

~~No person may serve as a member of the board for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired term. Annually, the board shall elect one of its members as president.~~

~~The appointing power shall have the power to remove any member of the board from office for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct.~~

~~2604.5. The public members shall be appointed from persons having all of the following qualifications:~~

~~(a) Be a citizen of California.~~

~~(b) Shall not be an officer or faculty member of any college, school or institution engaged in physical therapy education.~~

~~(c) Shall not be a licentiate of the Medical Board of California or of any board under this division or of any board referred to in Sections 1000 and 3600.~~

2605. It shall be the duty of the ~~board~~ department to examine applicants for a license as provided by this chapter, at those places and times as shall be designated by the board in its discretion. It may employ physical therapists licensed pursuant to this chapter to aid it in that examination. The examination shall reasonably test the applicant's knowledge of physical therapy in areas such as: anatomy, pathology, kinesiology, physiology, psychology, physics, electrotherapy, radiation therapy, hydrotherapy, massage, therapeutic exercise, physical therapy as applied to medicine, neurology, orthopedics, surgery, psychiatry, procedures of evaluation, testing, measuring, and technical procedures in the practice of physical therapy, consultation, and program planning.

~~2606. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

2607. The ~~board~~ department may employ, subject to law, such clerical assistants and, except as provided in Section 159.5, other employees as it may deem necessary to carry out its powers and duties.

The ~~board~~ department may as necessary select and contract with physical therapy consultants who are licensed physical therapists to assist it in its programs on an intermittent basis. Notwithstanding any other provision of law, the ~~board~~ department may contract with these consultants on a sole source basis. For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any consultant under contract with the ~~board~~ department shall be considered a public employee.

2607.5. The ~~board~~ department may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the ~~board~~ department and vested in him or her by this chapter.

This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

2608.5. ~~Each member of the board~~ The department, or any licensed physical therapist appointed by the ~~board~~ department, may inspect, or require reports from, a general or specialized hospital or any other facility providing physical therapy care, treatment or services and the physical therapy staff thereof, with respect to the physical therapy care, treatment, services, or facilities provided therein, and may inspect physical therapy patient records with respect to the care, treatment, services, or facilities. The authority to make inspections and to require reports as provided by this section shall not be delegated by ~~a member of the board~~ the department to any person other than a physical therapist and shall be subject to the restrictions against disclosure described in Section 2263.

2609. The ~~board~~ department shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.

~~2611. The board shall hold at least one regular meeting annually in the Cities of Sacramento, Los Angeles and San Francisco. The board may convene from time to time until its business is concluded. Special meetings of the board may be held at any time and place as the board may designate.~~

~~2612. Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).~~

2613. The ~~board~~ department may appoint qualified persons to give the whole or any portion of any examination as provided in this chapter, who shall be designated as a commissioner on examination. ~~A commissioner on examination need not be a member of the board but shall be subject to the same rules and regulations and shall be entitled to the same fee as if he or she were a member of the board.~~

2614. (a) The ~~board~~ department shall hear all matters, including but not limited to, any contested case or any petition for reinstatement, restoration, or modification of probation. Except as otherwise provided in this chapter, all hearings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. ~~If a contested case is heard by the board the hearing officer who presided at the hearing shall be present during the board's consideration of the case and, if requested, shall assist and advise the board.~~

(b) At the conclusion of the hearing, the ~~board~~ department shall deny an application for, or suspend or revoke, or impose probation conditions upon, a license or approval.

2615. The ~~board~~ department shall from time to time adopt regulations that may be necessary to effectuate this chapter. In adopting regulations the ~~board~~ department shall comply with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

2632. All licenses for the practice of physical therapy in this state shall be issued by the ~~board~~ department, and all applications for the licenses shall be filed with the ~~board~~ department. Excepting as otherwise required by the director pursuant to Section 164, the license issued by the ~~board~~ department shall describe the licensee as a "physical therapist licensed by the Physical Therapy Board of California." Each application shall be accompanied by the application fee prescribed by Section 2688, shall be signed by the applicant, and shall contain a statement under oath of the facts entitling the applicant to receive a license without examination or to take an examination.

Board of Registered Nursing

2701. ~~There is in the Department of Consumer Affairs the Board of~~

~~Registered Nursing consisting of nine members.~~

Within the meaning of this chapter, board, or the board, refers to the ~~Board of Registered Nursing~~ the Department of Consumer Affairs. Any reference in state law to the Board of Nurse Examiners of the State of California or California Board of Nursing Education and Nurse Registration shall be construed to refer to ~~the Board of Registered Nursing~~ the Department of Consumer Affairs.

This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

~~2702. Each member of the board shall be a citizen of the United States and a resident of the State of California. Four members shall represent the public at large, and shall not be licensed under any board under this division or any board referred to in Section 1000 or 3600 and shall have no pecuniary interests in the provision of health care services. Two members shall be licensed registered nurses under the provisions of this chapter, each of whom shall be active in the practice of his or her profession engaged primarily in direct patient care with at least five continuous years of experience, and who shall not be engaged as an educator or administrator of a nursing education program under the provisions of this chapter. One member shall be a licensed registered nurse who shall be active as an advanced practice registered nurse as defined in Section 2725.5. One member shall be a licensed registered nurse under the provisions of this chapter who shall be active as an educator or administrator in an approved program to train registered nurses. One member shall be a licensed registered nurse who is an administrator of a nursing service with at least five continuous years of experience.~~

~~2703. All appointments shall be for a term of four years and vacancies shall be filled for the unexpired term. No person shall serve more than two consecutive terms.~~

~~The Governor shall appoint two of the public members and the licensed members of the board qualified as provided in Section 2702. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.~~

~~2706. The Governor has the power to remove any member of the board from office for neglect of any duty required by law, or for incompetency, or unprofessional or dishonorable conduct.~~

~~2707. The board shall annually elect from its members a president, vice president, and any other officers as it may deem necessary. The officers of the board shall hold their respective positions during its pleasure.~~

2708. The ~~board~~ department shall appoint an executive officer who shall perform the duties delegated by the ~~board~~ department and who shall be responsible to it for the accomplishment of those duties.

The executive officer shall be a nurse currently licensed under this chapter and shall possess other qualifications as determined by the board.

~~The executive officer shall not be a member of the board.~~

This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

2708.1. Protection of the public shall be the highest priority for the ~~Board of Registered Nursing~~ the Department of Consumer Affairs in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

~~2709. The board for the purpose of transacting its business shall meet at least once every three months, at times and places it designates by resolution.~~

2709.5. The ~~board~~ department shall accept in payment of any fee required by this chapter cash or any customary or generally accepted medium of exchange, including check, cashier's check, certified check or money order. For the purposes of this section, customary or generally accepted medium of exchange does not include postage stamps.

~~2710. Special meetings may be held at such times as the board may elect, or on the call of the president of the board, or of not less than three members thereof.~~

~~A written notice of the time, place and object of any special meeting shall be mailed by the executive officer to all members of the board who are not parties to the call, at least fifteen days before the day of the meeting.~~

2710.5. The ~~board, with permission of~~ the Director of the Department of Consumer Affairs~~,~~ may form advisory committees to advise the ~~board~~ department on the implementation of this chapter. Members of such advisory committees shall be entitled to a per diem and expenses as provided in Section 103.

~~2712. Five members of the board constitute a quorum for the transaction of business at any meeting.~~

2713. The ~~board~~ department shall keep a record of all its proceedings, including a register of all applicants for licenses under this chapter and the action of the ~~board~~ department upon each application.

2714. The office of the ~~board~~ department shall be in the city of Sacramento. Suboffices may be established in Los Angeles and San Francisco and such records as may be necessary may be transferred temporarily to them. Legal proceedings against the ~~board~~ department may be instituted in any county in which any of the three cities above mentioned is located.

2715. The ~~board~~ department shall prosecute all persons guilty of violating the provisions of this chapter.

Except as provided by Section 159.5, the ~~board~~ department, in accordance with the provisions of the Civil Service Law, may employ such personnel as it deems necessary to carry into effect the provisions of this chapter.

~~The board shall have and use a seal bearing the name "Board of Registered Nursing."~~ The board may adopt, amend, or repeal, in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of this chapter.

~~2716. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

2717. (a) The ~~board~~ department shall collect and analyze workforce data from its licensees for future workforce planning. The ~~board~~ department may collect the data at the time of license renewal or from a scientifically selected random sample of its licensees. The ~~board~~ department shall produce reports on the workforce data it collects, at a minimum, on a biennial basis. The ~~board~~ department shall maintain the confidentially of the information it receives from licensees under this section and shall only release information in an aggregate form that cannot be used to identify an individual. The workforce data collected by the ~~board~~ department shall include, at a minimum, employment information such as hours of work, number of positions held, time spent in direct patient care, clinical practice area, type of employer, and work location. The data shall also include future work intentions, reasons for leaving or reentering nursing, job satisfaction ratings, and demographic data.

(b) Aggregate information collected pursuant to this section shall be placed on the ~~board's~~ department's Internet Web site.

(c) The ~~board~~ department is authorized to expend the sum of one hundred forty-five thousand dollars ($145,000) from the Board of Registered Nursing Fund in the Professions and Vocations Fund for the purpose of implementing this section.

(d) This section shall be implemented by the board on or before July 1, 2003.

Vocational Nursing and Psychiatric Technicians Board

2841. ~~There is in the Department of Consumer Affairs a Board of Vocational Nursing and Psychiatric Technicians of the State of California, consisting of 11 members.~~ The Department of Consumer Affairs succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the

Board of Vocational Nursing and Psychiatric Technicians of the State of California, which shall no longer exist.

Within the meaning of this chapter, board, or the board, refers to the ~~Board of Vocational Nursing and Psychiatric Technicians of the State of California~~ the Department of Consumer Affairs.

This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the ~~board~~ Department of Consumer Affairs subject to the review required by Division 1.2 (commencing with Section 473).

2841.1. Protection of the public shall be the highest priority for the ~~Board of Vocational Nursing and Psychiatric Technicians of the State of California~~ the Department of Consumer Affairs in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

~~2842. (a) Each member of the board shall be a citizen of the United States and a resident of the State of California. The board shall have the following composition:~~

~~(1) Two members shall be duly licensed vocational nurses who have been licensed for a period of not less than three years prior to appointment.~~

~~(2) Two members shall be licensed psychiatric technicians, each of whom shall have had not less than five years' experience in a psychiatric hospital, or in a psychiatric unit of a hospital licensed by the State Department of Health Services, or a private institution licensed by the State Department of Health Services.~~

~~(3) One member shall be a licensed vocational nurse or registered nurse who shall have had not less than five years' experience as a teacher or administrator in an accredited school of vocational nursing.~~

~~(4) Six members shall be public members who are not licentiates of the board or any other board under this division or of any board referred to in Sections 1000 and 3600.~~

~~(b) No person may serve as a member of the board for more than two consecutive terms.~~

~~(c) Per diem and expenses of members of the board who are licensed psychiatric technicians shall be paid solely from revenues received pursuant to Chapter 10 (commencing with Section 4500) of Division 2.~~

~~2843. Members of the board shall be appointed for a term of four years. Vacancies occurring shall be filled by appointment for the unexpired term.~~

~~Appointments to the office shall be for a term of four years expiring on June 1st.~~

~~The Governor shall appoint four of the public members and the licensed members of the board qualified as provided in Section 2842. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.~~

~~2845. The Governor has the power to remove any member of the board from office for neglect of any duty required by law, or for incompetency, or unprofessional or dishonorable conduct.~~

~~2846. The board at its first meeting after appointment, and annually thereafter at its first meeting in each year, shall elect from its members a president, vice president, and such other officers as it may deem necessary. The officers of the board shall hold their respective positions during its pleasure.~~

~~2847. (a) The board shall select an executive officer who shall perform duties as are delegated by the board and who shall be responsible to it for the accomplishment of those duties.~~

~~(b) The person selected to be the executive officer of the board shall be a duly licensed vocational nurse under this chapter, a duly licensed professional nurse as defined in Section 2725, or a duly licensed psychiatric technician. The executive officer shall not be a member of the board.~~

~~(c) With the approval of the Director of Finance, the board shall fix the salary of the executive officer.~~

~~(d) The executive officer shall be entitled to traveling and other necessary expenses in the performance of his or her duties. He or she shall make a statement, certified before some duly authorized person, that the expenses have been actually incurred.~~

~~(e) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~2848. The board for the purpose of transacting its business shall meet at least twice each year, at times and places it designates by resolution.~~

~~2849. Special meetings may be held at such times as the board may elect, or on the call of the president of the board, or of not less than five members thereof.~~

~~A written notice of the time, place, and object of any special meeting shall be mailed by the executive officer to all members of the board who are not parties to the call, at least 15 days before the day of the meeting.~~

~~2850. Meetings may be held at any time and place by the written consent of all members of the board.~~

~~2851. Six members of the board constitute a quorum for transaction of business at any meeting.~~

~~2852. The board shall keep a record of all its proceedings, including a register of all applicants for licenses under this chapter and the action of the board upon each application.~~

~~2853. The office of the board shall be in the City of Sacramento. Suboffices may be established in Los Angeles and San Francisco and such records as may be necessary may be transferred temporarily to them. Legal proceedings against the board may be instituted in any county in which any of the three cities above mentioned is located.~~

2854. The ~~board~~ Department of Consumer Affairs shall prosecute all persons guilty of violating the provisions of this chapter.

It may employ such clerical assistance as it may deem necessary to carry into effect the provisions of this chapter. The ~~board~~ Department of Consumer Affairs may fix the compensation to be paid for such services and may incur such other expenses as it may deem necessary.

The ~~board~~ Department of Consumer Affairs may adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable it to carry into effect the provisions of this chapter. Such rules and regulations shall be

adopted in accordance with the provisions of the Administrative Procedure Act.

~~2855. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

2857. The ~~board~~ Department of Consumer Affairs shall issue a license designated as licensed vocational nurse license.

2858. The ~~board~~ Department of Consumer Affairs shall accept in payment of any fee required by this chapter cash or any customary or generally accepted medium of exchange, including check, cashier's check, certified check or postal money order. For the purposes of this section, customary or generally accepted medium of exchange does not include postage stamps.

Board of Psychology

2920. ~~The Board of Psychology shall enforce and administer this chapter. The board shall consist of nine members, four of whom shall be public members.~~ The Department of Consumer Affairs succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Board of Psychology, which shall no longer exist. This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

2920.1. Protection of the public shall be the highest priority for the ~~Board of Psychology~~ Department of Consumer Affairs in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

~~2921. Each member of the board shall hold office for a term of four years, and shall serve until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. No member may serve for more than two consecutive terms.~~

~~2922. In appointing the members of the board, except the public members, the Governor shall use his or her judgment to select psychologists who represent, as widely as possible, the varied professional interests of psychologists in California. The Governor shall appoint two of the public members and the five licensed members of the board qualified as provided in Section 2923. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.~~

~~2923. Each member of the board shall have all of the following qualifications: (a) He or she shall be a resident of this state. (b) Each member appointed, except the public members shall be a licensed psychologist. The public members shall not be licentiates of the board or of any board under this division or of any board referred to in the Chiropractic Act or the Osteopathic Act.~~

~~2924. The Governor has power to remove from office any member of the board for neglect of any duty required by this chapter, for incompetency, or for unprofessional conduct.~~

~~2925. The board shall elect annually a president and vice president from among its members.~~

~~2926. The board shall hold at least one regular meeting each year. Additional meetings may be held upon call of the chairman or at the written request of any two members of the board.~~

~~2927. Five members of the board shall at all times constitute a quorum.~~

~~2927.5. Notice of each regular meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).~~

~~2928. The board shall administer and enforce this chapter.~~

~~2929. The board shall adopt a seal, which shall be affixed to all licenses issued by the board.~~

2930. The ~~board~~ Department of Consumer Affairs shall from time to time adopt rules and regulations as may be necessary to effectuate this chapter. In adopting rules and regulations the ~~board~~ Department of Consumer Affairs shall comply with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

2930.5. (a) Any psychologist, who as a sole proprietor, or in a partnership, group, or professional corporation, desires to practice under any name that would otherwise be a violation of subdivision (r) of Section 2960 may practice under that name if the proprietor, partnership, group, or corporation obtains and maintains in current status a fictitious-name permit issued by the committee under this section. (b) The committee shall issue a fictitious-name permit authorizing the holder thereof to use the name specified in the permit in connection with his, her, or its practice if the committee finds to its satisfaction that: (1) The applicant or applicants or shareholders of the professional corporation hold valid and current licenses and no charges of unprofessional conduct are pending against any such licensed person. (2) The place, or portion thereof, in which the applicant's or applicants' practice, is owned or leased by the applicant or applicants. (3) The professional practice of the applicant or applicants is wholly owned and entirely controlled by the applicant or applicants. (4) The name under which the applicant or applicants propose to practice contains one of the following designations: "psychology group" or "psychology clinic." (c) Fictitious-name permits issued by the committee shall be subject to Article 7 (commencing with Section 2980) pertaining to renewal of licenses. (d) The committee may revoke or suspend any permit issued if it finds that the holder or holders of the permit are not in compliance with this section or any regulations adopted pursuant to this section. A proceeding to revoke or suspend a fictitious-name permit shall be conducted in accordance with Section 2965. (e) The committee may also proceed to revoke the fictitious-name permit of a licensee whose license has been revoked, but no proceeding may be commenced unless and until the charges of unprofessional conduct against the licensee have resulted in revocation of the license. (f) The committee may delegate to the executive director, or to another official of the ~~board~~ Department of Consumer Affairs, its authority to review and approve applications for fictitious-name permits and to issue those permits.

2931. The ~~board~~ Department of Consumer Affairs shall examine and pass upon the qualifications of the applicants for a license as provided by this chapter.

2933. Except as provided by Section 159.5, the ~~board~~ Department of Consumer Affairs shall employ and shall make available to the ~~board~~ Department of Consumer Affairs within the limits of the funds received by the ~~board~~ Department of Consumer Affairs all personnel necessary to carry out this chapter. The ~~board~~ Department of Consumer Affairs may employ, exempt from the State Civil Service Act, an executive officer to ~~the Board of Psychology~~ carry out the functions described in this chapter. The ~~board~~ Department of Consumer Affairs shall make all expenditures to carry out this chapter. ~~The board may accept contributions to effectuate the purposes of this chapter.~~ This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

2934. Notwithstanding Section 112, the ~~board~~ Department of Consumer Affairs may issue, biennially, a current geographical directory of licensed psychologists. The directory may be sent to licensees and to other interested parties at cost.

~~2935. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

2936. The ~~board~~ Department of Consumer Affairs shall adopt a program of consumer and professional education in matters relevant to the ethical practice of psychology. The ~~board~~ Department of Consumer Affairs shall establish as its standards of ethical conduct relating to the practice of psychology, the code of ethics adopted and published by the American Psychological Association (APA). Those standards shall be applied by the ~~board~~ Department of Consumer Affairs as the accepted standard of care in all licensing examination development and in all ~~board~~ Department of Consumer Affairs enforcement policies and disciplinary case evaluations. To facilitate consumers in receiving appropriate psychological services, all licensees and registrants shall be required to post, in a conspicuous location in their principal psychological business office, a notice which reads as follows: "NOTICE: The Department of Consumer Affairs receives questions and complaints regarding the practice of psychology. If you have any questions or complaints, you may contact this department by calling (insert appropriate regional number) or (insert appropriate telephone number), or by writing to the following address: ~~Board of Psychology~~ Department of Consumer Affairs 1422 Howe Avenue, Ste. 22 Sacramento, California 95825-3236"

State Board of Optometry

3010.1. Protection of the public shall be the highest priority for the ~~State Board of Optometry~~ Department of Consumer Affairs in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. Department of Consumer Affairs shall enforce and administer this chapter.

~~3010.5. (a) There is in the Department of Consumer Affairs a State Board of Optometry in which the enforcement of this chapter is vested. The board consists of 11 members, five of whom shall be public members.~~

~~Six members of the board shall constitute a quorum.~~

~~(b) The board shall, with respect to conducting investigations, inquiries, and disciplinary actions and proceedings, have the authority previously vested in the board as created pursuant to Section 3010. The board may enforce any disciplinary actions undertaken by that board.~~

(c) This section shall remain in effect only until July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted

statute, that is enacted before January 1, 2009, deletes or extends that date.

~~3011. Members of the board, except the public members, shall be appointed only from persons who are registered optometrists of the State of California and actually engaged in the practice of optometry at the time of appointment or who are members of the faculty of a school of optometry. The public members shall not be a licentiate of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600.~~

~~No person, including the public members, shall be eligible to membership in the board who is a stockholder in or owner of or a member of the board of trustees of any school of optometry or who shall be financially interested, directly or indirectly, in any concern manufacturing or dealing in optical supplies at wholesale.~~

~~No person, including the public members, shall serve as a member of the board for more than two consecutive terms.~~

~~A member of the faculty of a school of optometry may be appointed to the board; however, no more than two faculty members of schools of optometry may be on the board at any one time. Faculty members of the board shall not serve as public members.~~

~~3012. No member of the board shall be financially interested in any purchase or contract in which the board is interested nor shall he be financially interested in the sale of any property or optical supplies to any prospective candidate for examination before the board.~~

~~3013. (a) Each member of the board shall hold office for a term of four years, and shall serve until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs.~~

~~(b) Vacancies occurring shall be filled by appointment for the unexpired term.~~

~~(c) The Governor shall appoint three of the public members and the six members qualified as provided in Section 3011. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.~~

~~(d) No board member serving between January 1, 2000, and June 1, 2002, inclusive, shall be eligible for reappointment.~~

~~(e) For initial appointments made on or after January 1, 2003, one of the public members appointed by the Governor and two of the professional members shall serve terms of one year. One of the public members appointed by the Governor and two of the professional members shall serve terms of three years. The remaining public member appointed by the Governor and the remaining two professional members shall serve terms of four years. The public members appointed by the Senate Committee on Rules and the Speaker of the Assembly shall each serve for a term of four years.~~

~~3014. The board shall organize and elect from its membership a president, a vice president and a secretary who shall hold office for one year or until the election and qualification of a successor.~~

3014.6. (a) The ~~board~~ department may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the ~~board~~ department and vested in him or her by this chapter.

(b) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

3015. The executive officer shall keep all the records of the ~~board~~ department and discharge such other duties as the ~~board~~ department shall from time to time prescribe.

~~3016. The secretary shall be entitled to his traveling and other necessary expenses.~~

~~The secretary shall not receive a salary for acting in such capacity.~~

~~Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

3017. The ~~board~~ department shall hold ~~regular meetings at least once a year at which~~ an examination of applicants for certificates of registration shall be given.

~~Special meetings shall be held upon request of a majority of the members of the board or upon the call of the president.~~

3018. The ~~board~~ department shall keep an accurate record of all of its proceedings ~~and of all its meetings~~.

3019. The ~~board~~ department shall also keep a record of all prosecutions for violations of this chapter and of all examinations held for applicants for certificates of registration together with the names and addresses of all persons taking examinations and of their success or failure to pass them.

3020. The ~~board~~ department shall keep an accurate inventory of all property of the ~~board~~ department and of the state in the possession of the ~~board~~ department and it shall obtain a receipt therefor from its successor.

3021. The ~~board~~ department may keep a register of optometrists which shall contain the names and addresses of all persons to whom certificates of registration have been issued in the State of California. It shall also contain the date of the issuance of each certificate and the place or places of business in which each optometrist is engaged and in addition, all the renewals, revocations and suspensions of certificates.

In each odd-numbered year the ~~board~~ department may print and circulate to all optometrists in this state a yearbook containing their names and addresses.

3022. The ~~board~~ department shall publish and distribute a syllabus of the educational requirements and the examination requirements for the obtainment of a certificate to practice optometry within this State.

3023. The ~~board~~ department may visit and examine schools, colleges and universities or their divisions or departments in this state which provide optometric education.

For the purposes of this chapter, it shall accredit schools, colleges and universities or their divisions or departments in or out of this state providing optometric education, which it finds giving a sufficient program of study for the preparation of optometrists.

3023.1. After January 1, 1972, the ~~board~~ department may adopt such rules and regulations as are, in its judgment, reasonable and necessary to insure that optometrists have the knowledge to adequately protect the public health and safety by establishing educational requirements which applicants shall have satisfied for admission to an examination for certificates of registration as optometrists and by governing its accreditation of schools, colleges and universities or their divisions or departments which provide optometric education. In promulgating such rules and regulations or in extending its accreditation, the ~~board~~ department may, to the extent that it deems consistent with the purposes of this chapter, recognize, accept or adopt the advice, recommendation, accreditation or approval of a nationally recognized accrediting agency or organization.

3024. The ~~board~~ department may grant or refuse to grant certificates of registration as provided in this chapter and may revoke or suspend the certificate of registration of any optometrist for any of the causes specified in this chapter.

It shall have the power to administer oaths and to take testimony in the exercise of these functions.

3025. The ~~board~~ department may make and promulgate rules and regulations governing procedure of the ~~board~~ department, the admission of applicants for examination for certificates of registration as optometrists, and the practice of optometry. All such rules and regulations shall be in accordance with and not inconsistent with the provisions of this chapter. Such rules and regulations shall be adopted, amended, or repealed in accordance with the provisions of the Administrative Procedure Act.

3025.5. The ~~board~~ department may adopt regulations prescribing minimum

standards governing the optometric services offered or performed, the equipment, or the sanitary conditions, in all offices for the practice of optometry, which are necessary to protect the health and safety of persons availing themselves of the services offered or performed in such offices.

3025.6. The ~~board~~ department may adopt regulations clarifying the level of training and the level of supervision of assistants.

3026. The ~~board~~ department may adopt and use a common seal and establish a permanent office or offices.

3026.5. In the process of hearing, investigating, and reviewing complaints, the ~~board~~ department shall separate those complaints that concern the actions of any optometrist acting within the scope of practice as it existed prior to the effective date of the act adding this section from complaints relating to an optometrist's actions within the expanded scope of practice created by the act adding this section.

3027. Except as provided by Section 159.5, and in lieu of Section 3016, the ~~board~~ department shall employ an executive officer and other necessary assistance in the carrying out of the provisions of this chapter.

The executive officer shall perform such duties as are delegated by the ~~board~~ department and shall be responsible to it for the accomplishment of such duties~~. The executive officer shall not be a member of the board.~~ With the approval of the Director of Finance, the ~~board~~ department shall fix the salary of the executive officer. The executive officer shall be entitled to traveling and other necessary expenses in the performance of his duties.

The Attorney General shall act as the legal counsel for the ~~board~~ department in litigation on matters subject to this chapter and his services shall be a charge against it.

3027.5. With respect to the practices set forth in subdivisions (b), (d), and (e) of Section 3041, optometrists diagnosing or treating eye disease shall be held to the same standard of care to

which physicians and surgeons and osteopathic physicians and surgeons are held.

3029. Except as provided in Sections 3129 and 3130, nothing contained in Section 651.3 shall be construed as authorizing the ~~board~~ department to adopt, amend, or repeal rules and regulations relating to price fixing or advertising of commodities.

Hearing Aid Dispensers Advisory Committee

3300. For the purposes of this chapter, the following definitions shall apply:

(a) "Person" includes any individual, partnership, corporation, limited liability company, or other organization, or any combination thereof.

(b) "Advertise" and its variants include the use of a newspaper, magazine, or other publication, book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, tag, window display, store sign, radio, or television announcement, or any other means or methods now or hereafter employed to bring to the attention of the public the practice of fitting or selling of hearing aids.

(c) "Department" means the Department of Consumer Affairs.

(d) "Bureau" means the Hearing Aid Dispensers Bureau.

(e) "~~Advisory committee" or "committee" means the Hearing Aid Dispensers Advisory Committee.~~

(f) "License" includes a temporary license.

(g) "Licensee" means a person holding a license.

(h) "Hearing aid" means any wearable instrument or device designed for, or offered for the purpose of, aiding or compensating for impaired human hearing.

(i) "Director" means the Director of Consumer Affairs.

(j) "Chief" means the Chief of the Hearing Aid Dispensers Bureau.

~~3321. (a) There is within the bureau a Hearing Aid Dispensers Advisory Committee. The committee shall consist of seven members; three of whom shall be licensed hearing aid dispensers and four of whom shall be public members. Only one of the licensed members may also be licensed as an audiologist.~~

~~(b) Each member of the committee shall hold office for a term of four years. Each member shall hold office until the appointment and~~

~~qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs.~~

~~(c) Vacancies occurring shall be filled by appointment for the unexpired term. Each member of the committee shall be eligible for reappointment in the discretion of the appointing power, provided that reappointed members shall, at the time of the reappointment, hold a valid license under this chapter. No person may serve as a member of the committee for more than two consecutive terms.~~

~~(d) The Governor shall appoint two of the public members and the three licensees. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member. When appointing the public members, consideration shall be given to appointing a hearing-impaired individual.~~

~~(e) Every member of the committee shall receive per diem and expenses as provided in Section 103 and 113.~~

~~(f) The advisory committee shall:~~

~~(1) Examine the functions and policies of the bureau and make recommendations with respect to policies, practices, and regulations as may be deemed important and necessary by the director or the chief to promote the interests of consumers or that otherwise promote the welfare of the public.~~

~~(2) Consider and make appropriate recommendations to the bureau in all matters relating to hearing aid dispensing in this state.~~

~~(3) Provide assistance as may be requested by the bureau in the exercise of its powers or duties.~~

~~(g) The bureau shall meet and consult with the committee regarding general policy issues related to hearing aid dispensing.~~

3325. Notice of each meeting of the committee shall be given in ~~accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Part 1 of Division 3 of Title 2 of the Government Code).~~

Physician Assistant Committee of the Medical Board

3501. As used in this chapter:

(a) "Board" means the ~~Division of Licensing of the Medical Board of California~~ Department of Consumer Affairs.

(b) "Approved program" means a program for the education of physician assistants which has been formally approved by the committee.

(c) "Trainee" means a person who is currently enrolled in an approved program.

(d) "Physician assistant" means a person who meets the requirements of this chapter and is licensed by the committee.

(e) "Supervising physician" means a physician and surgeon licensed by the board or by the Osteopathic Medical Board of California who supervises one or more physician assistants, who possesses a current valid license to practice medicine, and who is not currently on disciplinary probation for improper use of a physician assistant.
(f) "Supervision" means that a licensed physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by a physician assistant.
(g) "Committee" or "examining committee" means the Physician Assistant Committee. (h) "Regulations" means the rules and regulations as contained in Chapter 13.8 (commencing with Section 1399.500) of Title 16 of the California Code of Regulations. (i) "Routine visual screening" means uninvasive nonpharmacological simple testing for visual acuity, visual field defects, color blindness, and depth perception.

~~3504. There is established a Physician Assistant Committee of the Medical Board of California. The committee consists of nine members.~~ The Department of Consumer Affairs shall administer this chapter.

This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the committee subject to the review required by Division 1.2 (commencing with Section 473).

3504.1. Protection of the public shall be the highest priority for the ~~Physician Assistant Committee of the Medical Board of California~~ Department of Consumer Affairs in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. The Department of Consumer Affairs shall administer this chapter.

~~3505. The members of the committee shall include one member of the Medical Board of California, a physician representative of a California medical school, an educator participating in an approved program for the training of physician assistants, a physician who is an approved supervising physician of a physician assistant and who is not a member of any division of the Medical Board of California, three physician assistants, and two public members. Upon the first expiration of the term of the member who is a member of the Medical Board of California, that position shall be filled by a member of the Medical Board of California who is a physician member. Upon the~~

first expiration of the term of the member who is a physician representative of a California medical school, that position shall be filled by a public member. Upon the first expiration of the term of the member who is an educator participating in an approved program for the training of physician assistants, that position shall be filled by a physician assistant. Upon the first expiration of the term of the member who is an approved supervising physician of a physician assistant and not a member of any division of the Medical Board of California, that position shall be filled by a public member. Following the expiration of the terms of the members described above, the committee shall include four physician assistants, one physician who is also a member of the Medical Board of California, and four public members.

Each member of the committee shall hold office for a term of four years expiring on January 1st, and shall serve until the appointment and qualification of a successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs. No member shall serve for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired terms.

The Governor shall appoint the licensed members qualified as provided in this section and two public members. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.

3506. Each member of the committee shall receive a per diem and expenses as provided in Section 103.

3507. The appointing power has power to remove from office any member of the committee, as provided in Section 106.

3508. (a) The committee may convene from time to time as deemed necessary by the committee.

(b) Notice of each meeting of the committee shall be given at least two weeks in advance to those persons and organizations who express an interest in receiving notification.

(c) The committee shall receive permission of the director to meet more than six times annually. The director shall approve meetings that are necessary for the committee to fulfill its legal responsibilities.

3509. It shall be the duty of the ~~committee~~ department to:

(a) Establish standards and issue licenses of approval for programs for the education and training of physician assistants.

(b) Make recommendations to the board concerning the scope of practice for physician assistants.

(c) Make recommendations to the board concerning the formulation of guidelines for the consideration of applications by licensed physicians to supervise physician assistants and approval of such applications.

(d) Require the examination of applicants for licensure as a physician assistant who meet the requirements of this chapter.

~~3509.5. The committee shall elect annually a chairperson and a vice chairperson from among its members.~~

3510. The ~~committee~~ department may adopt, amend, and repeal regulations as may be necessary to enable it to carry into effect the provisions of this chapter~~; provided, however, that the board shall adopt, amend, and repeal such regulations as may be necessary to enable it to implement the provisions of this chapter under its jurisdiction~~. All regulations shall be in accordance with, and not inconsistent with, the provisions of this chapter. Such regulations shall be adopted, amended, or repealed in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

~~3511. Five members shall constitute a quorum for transacting any business. The affirmative vote of a majority of those present at a meeting of the committee shall be required to carry any motion.~~

3512. Except as provided in Sections 159.5 and 2020, the ~~committee~~ department shall employ within the limits of the Physician Assistant Fund all personnel necessary to carry out the provisions of this chapter including an executive officer who shall be exempt from civil service. The ~~board and committee~~ department shall make all necessary expenditures to carry out the provisions of this chapter from the funds established by Section 3520. The ~~committee~~ department may accept

contributions to effect the purposes of this chapter.

Respiratory Care Board

3704. As used in this chapter, these terms shall be defined as follows:

(a) ~~"Board" means the Respiratory Care Board of California~~ Any reference to the "board" or Respiratory Care Board of California shall mean the Department of Consumer Affairs.

(b) "Department" means the Department of Consumer Affairs.

(c) "Medical director" means a physician and surgeon who is a member of a health care facility's active medical staff and who is knowledgeable in respiratory care.

(d) "Respiratory care" includes "respiratory therapy" or "inhalation therapy," where those terms mean respiratory care.

(e) "Respiratory therapy school" means a program reviewed and approved by the ~~board~~ department.

3710. The ~~Respiratory Care Board of California, hereafter referred to as the board,~~ Department of Consumer Affairs shall enforce and administer this chapter.

This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

3710.1. Protection of the public shall be the highest priority for the ~~Respiratory Care Board of California~~ Department of Consumer Affairs in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection ofthe public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. The Department of Consumer Affairs shall enforce and administer this chapter.

~~3711. The members of the board shall be the following: one physician and surgeon, four respiratory care practitioners, each of whom shall have practiced respiratory care and four public members~~

who shall not be licensed by the board.

3712. The members of the board shall be appointed as follows:
(a) Two respiratory care practitioners and one public member shall be appointed by the Speaker of the Assembly.
(b) One physician and surgeon, one respiratory care practitioner, and one public member shall be appointed by the Senate Rules Committee.
(c) One respiratory care practitioner, and two public members shall be appointed by the Governor.
Appointments shall be made for four-year terms, expiring on the first day of June of each year, and vacancies shall be filled for the unexpired term.
No member shall serve for more than two consecutive terms. Not more than two members of the board shall be appointed from the full-time faculty of any university, college, or other educational institution.
Annually, the board shall elect one of its members as president.
The appointing power shall have the authority to remove any member of the board from office for neglect of any duty required by law or for incompetency or unprofessional or dishonorable conduct.

3713. (a) The public members shall be appointed from persons having the following qualifications:
(1) Be a citizen of the United States of America.
(2) Be a resident of the State of California.
(3) Shall not be an officer or faculty member of any college, school, or institution engaged in respiratory therapy education.
(4) Shall not be licensed by the board or by any board under this division.
(5) Shall have no pecuniary interests in the provision of health care.
(b) The respiratory care practitioner members shall be appointed from persons licensed as respiratory care practitioners having the following qualifications:
(1) Be a citizen of the United States of America.
(2) Be a resident of the State of California.
(3) One respiratory care practitioner shall be an officer or faculty member of any college, school, or institution engaged in respiratory therapy education.
(4) Three respiratory care practitioners shall be involved in direct patient care.
(5) Have at least five years' experience in respiratory care or

~~respiratory therapy education, and have been actively engaged therein for at least three years immediately preceding appointment.~~

~~(c) The physician and surgeon member shall be appointed from persons having the following qualifications:~~

~~(1) Be a citizen of the United States of America.~~

~~(2) Be a resident of the State of California.~~

~~(3) Be a licensed practicing physician and surgeon in the State of California.~~

~~(4) Be knowledgeable in respiratory care.~~

~~3715. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

3716. The ~~board~~ department may employ an executive officer exempt from civil service and, subject to the provisions of law relating to civil service, clerical assistants and, except as provided in Section 159.5, other employees as it may deem necessary to carry out its powers and duties.

This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

3717. (a) The ~~board~~ department, or any licensed respiratory care practitioner, enforcement staff, or investigative unit appointed by the ~~board~~ department, may inspect, or require reports from, a general or specialized hospital or any other facility or corporation providing respiratory care, treatment, or services and the respiratory care staff thereof, with respect to the respiratory care, treatment, services, or facilities provided therein, or the employment of staff providing the respiratory care, treatment, or services, and may inspect and copy respiratory care patient records with respect to that care, treatment, services, or facilities. The authority to make inspections and to require reports as provided by this section is subject to the restrictions against disclosure contained in Section 2225. Those persons may also inspect and copy employment records relevant to an official investigation provided that the written request to inspect the records specifies the portion of the records

to be inspected.

(b) The failure of an employer to provide documents as required by this section is punishable by an administrative fine not to exceed ten thousand dollars ($10,000) per violation. This penalty shall be in addition to, and not in lieu of, any other civil or criminal remedies.

3718. The ~~board~~ department shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.

3719. Each person renewing his or her license shall submit proof satisfactory to the ~~board~~ department that, during the preceding two-year period, he or she completed the required number of continuing education hours established by regulation of the ~~board~~ department. Required continuing education shall not exceed 30 hours every two years.

Successful completion of an examination approved by the ~~board~~ department may be submitted by a licensee for a designated portion of continuing education credit. The ~~board~~ department shall determine the hours of credit to be granted for the passage of particular examinations.

~~3720. The board department shall hold at least one regular meeting annually. The board department may convene from time to time until its business is concluded. Special meetings may be held at the time and place the board department may designate. Additional meetings may be held upon call of the president or at the written request of any two members of the board department.~~

3722. The ~~board~~ department shall adopt any regulations as may be necessary to effectuate this chapter. In adopting rules and regulations, the ~~board~~ department shall comply with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

California State Board of Pharmacy

4001. ~~(a) There is in the Department of Consumer Affairs a California State Board of Pharmacy in which the administration and enforcement of this chapter is vested. The board consists of 13 members.~~ Any reference to the "board" in this chapter or to the California State Board of Pharmacy in any law or regulation shall refer to the Department of Consumer Affairs or, if appropriate, to the Director of the Department of Consumer Affairs.

~~(b) The Governor shall appoint seven competent pharmacists who reside in different parts of the state to serve as members of the board. The Governor shall appoint four public members, and the Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member who shall not be a licensee of the board, any other board under this division, or any board referred to in Section 1000 or 3600.~~

~~(c) At least five of the seven pharmacist appointees to the board shall be pharmacists who are actively engaged in the practice of pharmacy. Additionally, the membership of the board shall include at least one pharmacist representative from each of the following practice settings: an acute care hospital, an independent community pharmacy, a chain community pharmacy, and a long-term health care or skilled nursing facility. The pharmacist appointees shall also include a pharmacist who is a member of a labor union that represents pharmacists. For the purposes of this subdivision, a "chain community pharmacy" means a chain of 75 or more stores in California under the same ownership, and an "independent community pharmacy" means a pharmacy owned by a person or entity who owns no more than four pharmacies in California.~~

~~(d) Members of the board shall be appointed for a term of four years. No person shall serve as a member of the board for more than two consecutive terms. Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs. Vacancies occurring shall be filled by appointment for the unexpired term.~~

~~(e) Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

~~(f) In accordance with Sections 101.1 and 473.1, this section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2009~~6, deletes or extends the dates on which it becomes inoperative and is repealed. ~~The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

4003. (a) The ~~board~~ Director may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the ~~board~~ Director and vested in him or her by this chapter. ~~The executive officer may or~~

~~may not be a member of the board as the board may determine.~~

(b) The executive officer shall receive the compensation as established by the ~~board~~ Director with the approval of the Director of Finance. The executive officer shall also be entitled to travel and other expenses necessary in the performance of his or her duties.

(c) The executive officer shall maintain and update in a timely fashion records containing the names, titles, qualifications, and places of business of all persons subject to this chapter.

(d) The executive officer shall give receipts for all money received by him or her and pay it to the Department of Consumer Affairs, taking its receipt therefor. Besides the duties required by this chapter, the executive officer shall perform other duties pertaining to the office as may be required of him or her by the board.

(e) In accordance with Sections 101.1 and 473.1, this section shall become inoperative on July 1, 2008~~5~~, and, as of January 1, 2009~~6~~, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2009~~6~~, deletes or extends the dates on which it becomes inoperative and is repealed.

4115. (a) Notwithstanding any other provision of law, a pharmacy technician may perform packaging, manipulative, repetitive, or other nondiscretionary tasks, only while assisting, and while under the direct supervision and control of, a pharmacist.

(b) This section does not authorize the performance of any tasks specified in subdivision (a) by a pharmacy technician without a pharmacist on duty, nor does this section authorize the use of a pharmacy technician to perform tasks specified in subdivision (a) except under the direct supervision and control of a pharmacist.

(c) This section does not authorize a pharmacy technician to perform any act requiring the exercise of professional judgment by a pharmacist.

(d) The board shall adopt regulations to specify tasks pursuant to subdivision (a) that a pharmacy technician may perform under the direct supervision and control of a pharmacist. Any pharmacy that employs a pharmacy technician to perform tasks specified in subdivision (a) shall do so in conformity with the regulations adopted by the board pursuant to this subdivision.

(e) (1) No person shall act as a pharmacy technician without first being registered with the board as a pharmacy technician as set forth in Section 4202.

(2) The registration requirements in paragraph (1) and Section 4202 shall not apply during the first year of employment for a person employed or utilized as a pharmacy technician to assist in the filling of prescriptions for an inmate of a correctional facility of the Department of the Youth Authority or the Department of

Corrections, or for a person receiving treatment in a facility operated by the State Department of Mental Health, the State Department of Developmental Services, or the Department of Veterans Affairs.

(f) The performance of duties by a pharmacy technician shall be under the direct supervision and control of a pharmacist. The pharmacist on duty shall be directly responsible for the conduct of a pharmacy technician. A pharmacy technician may perform the duties, as specified in subdivision (a), only under the immediate, personal supervision and control of a pharmacist. Any pharmacist responsible for a pharmacy technician shall be on the premises at all times, and the pharmacy technician shall be within the pharmacist's view. A pharmacist shall indicate verification of the prescription by initialing the prescription label before the medication is provided to the patient.

This subdivision shall not apply to a person employed or utilized as a pharmacy technician to assist in the filling of prescriptions for an inpatient of a hospital or for an inmate of a correctional facility. Notwithstanding the exemption in this subdivision, the requirements of subdivisions (a) and (b) shall apply to a person employed or utilized as a pharmacy technician to assist in the filling of prescriptions for an inpatient of a hospital or for an inmate of a correctional facility.

(g) (1) A pharmacy with only one pharmacist shall have no more than one pharmacy technician performing the tasks specified in subdivision (a). The ratio of pharmacy technicians performing the tasks specified in subdivision (a) to any additional pharmacist shall not exceed 2:1, except that this ratio shall not apply to personnel performing clerical functions pursuant to Section 4116 or 4117. This ratio is applicable to all practice settings, except for an inpatient of a licensed health facility, a patient of a licensed home health agency, as specified in paragraph (2), an inmate of a correctional facility of the Department of the Youth Authority or the Department of Corrections, and for a person receiving treatment in a facility operated by the State Department of Mental Health, the State Department of Developmental Services, or the Department of Veterans Affairs.

(2) The board may adopt regulations establishing the ratio of pharmacy technicians performing the tasks specified in subdivision (a) to pharmacists applicable to the filling of prescriptions of an inpatient of a licensed health facility and for a patient of a licensed home health agency. Any ratio established by the board pursuant to this subdivision shall allow, at a minimum, at least one pharmacy technician for a single pharmacist in a pharmacy and two pharmacy technicians for each additional pharmacist, except that this ratio shall not apply to personnel performing clerical functions

pursuant to Section 4116 or 4117.

(3) A pharmacist scheduled to supervise a second pharmacy technician may refuse to supervise a second pharmacy technician if the pharmacist determines, in the exercise of his or her professional judgment, that permitting the second pharmacy technician to be on duty would interfere with the effective performance of the pharmacist's responsibilities under this chapter. A pharmacist assigned to supervise a second pharmacy technician shall notify the pharmacist in charge in writing of his or her determination, specifying the circumstances of concern with respect to the pharmacy or the pharmacy technician that have led to the determination, within a reasonable period, but not to exceed 24 hours, after the posting of the relevant schedule. No entity employing a pharmacist may discharge, discipline, or otherwise discriminate against any pharmacist in the terms and conditions of employment for exercising or attempting to exercise in good faith the right established pursuant to this paragraph.

(h) Notwithstanding subdivisions (b) and (f), the board shall by regulation establish conditions to permit the temporary absence of a pharmacist for breaks and lunch periods pursuant to Section 512 of the Labor Code and the orders of the ~~Industrial Welfare Commission~~ Labor and Workforce Development Agency without closing the pharmacy. During these temporary absences, a pharmacy technician may, at the discretion of the pharmacist, remain in the pharmacy but may only perform nondiscretionary tasks. The pharmacist shall be responsible for a pharmacy technician and shall review any task performed by a pharmacy technician during the pharmacist's temporary absence. Nothing in this subdivision shall be construed to authorize a pharmacist to supervise pharmacy technicians in greater ratios than those described in subdivision (g).

4116. (a) No person other than a pharmacist, an intern pharmacist, an authorized officer of the law, or a person authorized to prescribe shall be permitted in that area, place, or premises described in the license issued by the board wherein controlled substances or dangerous drugs or dangerous devices are stored, possessed, prepared, manufactured, derived, compounded, dispensed, or repackaged. However, a pharmacist shall be responsible for any individual who enters the pharmacy for the purposes of receiving consultation from the pharmacist or performing clerical, inventory control, housekeeping, delivery, maintenance, or similar functions relating to the pharmacy if the pharmacist remains present in the pharmacy during all times as the authorized individual is present.

(b) (1) The board may, by regulation, establish reasonable security measures consistent with this section in order to prevent unauthorized persons from gaining access to the area, place, or

premises or to the controlled substances or dangerous drugs or dangerous devices therein.

(2) The board shall, by regulation, establish conditions for the temporary absence of a pharmacist for breaks and lunch periods pursuant to Section 512 of the Labor Code and the orders of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency without closing the pharmacy and removing authorized personnel from the pharmacy. These conditions shall ensure the security of the pharmacy and its operations during the temporary absence of the pharmacist and shall allow, at the discretion of the pharmacist, nonpharmacist personnel to remain and perform any lawful activities during the pharmacist's temporary absence.

Vocational Nursing and Psychiatric Techicians Board (Cont'd)

4501. (a) "Board," as used in this chapter, means the ~~Board of Vocational Nursing and Psychiatric Technicians~~ Department of Consumer Affairs. The Department of Consumer Affairs succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Board of Vocational Nursing and Psychiatric Technicians of the State of California, which shall no longer exist.

(b) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

4501.1. Protection of the public shall be the highest priority for the ~~board~~ Department of Consumer Affairs in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

4502.2. A psychiatric technician, when prescribed by a physician and surgeon, may withdraw blood from a patient with a mental illness or developmental disability if the psychiatric technician has received certification from the ~~board~~ Department of Consumer Affairs that the psychiatric technician has completed a prescribed course of instruction approved by the ~~board~~ Department of Consumer Affairs or has demonstrated competence to the satisfaction of the ~~board~~ Department of Consumer Affairs.

4503. (a) The ~~board~~ Department of Consumer Affairs shall administer and enforce this chapter.

(b) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

4504. The ~~board~~ Department of Consumer Affairs may adopt rules and regulations to carry out the provisions of this chapter.

4505. Except as provided by Section 159.5, the ~~board~~ Department of Consumer Affairs may employ whatever personnel is necessary for the administration of this chapter.

4507. This chapter shall not apply to the following:

(a) Physicians and surgeons licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2.

(b) Psychologists licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2.

(c) Registered nurses licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2.

(d) Vocational nurses licensed pursuant to Chapter 6.5 (commencing with Section 2840) of Division 2.

(e) Social workers or clinical social workers licensed pursuant to Chapter 17 (commencing with Section 9000) of Division 3.

(f) Marriage and family therapists licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2.

(g) Teachers credentialed pursuant to Chapter 1.5 (commencing with Section 13101) of Division 10 of the Education Code.

(h) Occupational therapists as specified in Chapter 5.6 (commencing with Section 2570) of Division 2.

(i) Art therapists, dance therapists, music therapists, and recreation therapists, as defined in Division 5 (commencing with Section 70001) of Title 22 of the California Administrative Code, who are personnel of health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(j) Any other categories of persons the ~~board~~ Department of Consumer Affairs determines are entitled to exemption from this chapter because they have complied with other licensing provisions of this code or because they are deemed by statute or by regulations contained in the California Administrative Code to be adequately trained in their respective occupations. The exemptions shall apply only to a given specialized

area of training within the specific discipline for which the exemption is granted.

4509.5. Nothing in this chapter shall be construed to prevent persons from performing services described in Section 4502 for purposes of training to qualify for licensure under a program approved by the ~~board~~ Department of Consumer Affairs or for training in another allied professional field.

Veterinary Medical Board

4800. ~~There is in the Department of Consumer Affairs a Veterinary Medical Board in which the administration of this chapter is vested. The board consists of seven members, three of whom shall be public members.~~

~~This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~The repeal of this section renders the board subject to the review provided for by Division 1.2 (commencing with Section 473).~~

4800.1. Protection of the public shall be the highest priority for the ~~Veterinary Medical Board~~ Department of Consumer Affairs in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. The Department of Consumer Affairs shall enforce and administer this chapter.

~~4801. Each member, except the public members, shall be a graduate of some veterinary college authorized by law to confer degrees, a bona fide resident of this state for a period of at least five years immediately preceding his or her appointment, a veterinarian licensed by the state, and shall have been actually engaged in the practice of his or her profession in this state during this period. The public members shall have been residents of this state for a period of at least five years last past before their appointment and shall not be licentiates of the board or of any other board under this division or of any board referred to in Sections 1000 and 3600.~~

~~No person shall serve as a member of the board for more than two~~

~~consecutive terms.~~

~~4802. The members of the board shall hold office for a term of four years. Each member shall serve until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. A member may be reappointed subject to the limitation contained in Section 4801.~~

~~Vacancies occurring shall be filled by appointment for the unexpired term, within 90 days after they occur.~~

~~The Governor shall appoint the four members qualified as provided in Section 4801. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.~~

~~4803. The Governor may, in his judgment, remove any member of the board for neglect of duty or other sufficient cause, after due notice and hearing.~~

~~4804. The board shall elect a president, vice president, and any other officers of the board as shall be necessary, from its membership. The Attorney General shall act as counsel for the board and the members thereof in their official or individual capacity for any act done under the color of official right.~~

~~4804.5. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.~~

~~This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed~~.

~~4805. The executive officer of the board may administer oaths or affirmations upon matters pertaining to the business of the board. Any person willfully making any false oath or affirmation is guilty of perjury.~~

~~4806. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

~~4807. Four members of the board constitute a quorum for transaction of business at any meeting of the board.~~

4808. The ~~board~~ Department of Consumer Affairs may in accordance with the provisions of the Administrative Procedure Act, adopt, amend, or repeal such rules and regulations as are reasonably necessary to carry into effect the provisions of this chapter. ~~The board may hold such meetings as are necessary for the transaction of business~~. ~~It~~ The Department of Consumer Affairs shall issue all licenses to practice veterinary medicine in this State.

4809. The ~~board~~ Department of Consumer Affairs ~~shall keep an official record of its meetings, and it~~ shall ~~also~~ keep an official register of all applicants for licenses. The register shall be prima facie evidence of all matters contained therein.

4809.5. The ~~board~~ Department of Consumer Affairs may at any time inspect the premises in which veterinary medicine, veterinary dentistry, or veterinary surgery is being practiced.

4809.6. The enforcement of Sections 4809.5 and 4854 of this chapter is a function exclusively reserved to the ~~Veterinary Medical Board~~ Department of Consumer Affairs and the state has preempted and occupied this field of enforcing the cleanliness and sanitary requirements of this chapter.

4809.7. The ~~board~~ Department of Consumer Affairs shall establish a regular inspection program which will provide for random, unannounced inspections.

4810. As used in this chapter:

(a) "Board" ~~means the~~ or "Veterinary Medical Board" means the Department of Consumer Affairs.

(b) "Committee" or "examining committee" means the ~~Registered Veterinary Technician Examining Committee~~ the Department of Consumer Affairs.

(c) "Regulations" means the rules and regulations set forth in Division 20 (commencing with Section 2000) of Title 16 of the California Code of Regulations.

(d) As used in this chapter "Executive Officer" means the Director of the Department of Consumer Affairs or his designee.

4826. Any person practices veterinary medicine, surgery, and dentistry, and the various branches thereof, when he or she does any one of the following:

(a) Represents himself or herself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry in any of its branches.

(b) Diagnoses or prescribes a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure or relief of a wound, fracture, bodily injury, or disease of animals.

(c) Administers a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals, except where the drug, medicine, appliance, application, or treatment is administered by a registered veterinary technician or an unregistered assistant at the direction of and under the direct supervision of a licensed veterinarian subject to Article 2.5 (commencing with Section 4832). However, no person, other than a licensed veterinarian, may induce anesthesia unless authorized by regulation of the ~~board.~~Department of Consumer Affairs.

(d) Performs a surgical or dental operation upon an animal.

(e) Performs any manual procedure for the diagnosis of pregnancy, sterility, or infertility upon livestock or Equidae.

(f) Uses any words, letters or titles in such connection or under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry. This use shall be prima facie evidence of the intention to represent himself or herself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry.

4828. All veterinarians actually engaged and employed as veterinarians by the state, or a county, city, corporation, firm or individual are practicing veterinary medicine and shall secure a

license issued by the ~~board~~ Department of Consumer Affairs.

4830. This chapter does not apply to:

(a) Veterinarians while serving in any armed branch of the military service of the United States or the United States Department of Agriculture while actually engaged and employed in their official capacity.

(b) Regularly licensed veterinarians in actual consultation from other states.

(c) Regularly licensed veterinarians actually called from other states to attend cases in this state, but who do not open an office or appoint a place to do business within this state.

(d) Veterinarians employed by the University of California while engaged in the performance of duties in connection with the College of Agriculture, the Agricultural Experiment Station, the School of Veterinary Medicine or the agricultural extension work of the university or employed by the Western University of Health Sciences while engaged in the performance of duties in connection with the College of Veterinary Medicine or the agricultural extension work of the university.

(e) Students in the School of Veterinary Medicine of the University of California or the College of Veterinary Medicine of the Western University of Health Sciences who participate in diagnosis and treatment as part of their educational experience, including those in off-campus educational programs under the direct supervision of a licensed veterinarian in good standing, as defined in paragraph (1) of subdivision (b) of Section 4848, appointed by the University of California, Davis, or the Western University of Health Sciences.

(f) A veterinarian who is employed by the Meat and Poultry Inspection Branch of the California Department of Food and Agriculture while actually engaged and employed in his or her official capacity. A person exempt under this subdivision shall not otherwise engage in the practice of veterinary medicine unless he or she is issued a license by the ~~board~~Department of Consumer Affairs.

(g) Unlicensed personnel employed by the Department of Food and Agriculture or the United States Department of Agriculture when in the course of their duties they are directed by a veterinarian supervisor to conduct an examination, obtain biological specimens, apply biological tests, or administer medications or biological products as part of government disease or condition monitoring, investigation, control, or eradication activities.

Registered Veterinary Technician Committee

~~4832. (a) The board shall establish an advisory committee on issues pertaining to the practice of veterinary technicians, that shall be known as the Registered Veterinary Technician Committee, hereafter referred to as the committee.~~ Any reference to the "committee" or the Registered Veterinary Technician Committee shall mean the Department of Consumer Affairs.
~~(b) This section shall become operative on July 1, 1998.~~

~~4832. (a) The board shall establish an advisory committee on issues pertaining to the practice of veterinary technicians, known as the Registered Veterinary Technician Committee, hereafter referred to as the committee.~~
~~(b) This section shall become operative on July 1, 1998.~~

4833. (a) The ~~committee may assist the board in~~ Department of Consumer Affairs shall conduct the examination of applicants for veterinary technician registration. The examination shall be held at least once a year at the times and places designated by the board.

(b) ~~As directed by the board, the~~ The ~~committee~~ department may investigate and evaluate each applicant applying for registration as a registered veterinary technician and may recommend to the board for final determination the admission of the applicant to the examination and eligibility for registration.

(c) The ~~committee~~ department may make recommendations to the board regarding the establishment and operation of the continuing education requirements authorized by Section 4838 of this article.

(d) The ~~committee~~ department may assist the board in the inspection and approval of all schools or institutions offering a curriculum for training registered veterinary technicians.

(e) This section shall become operative on July 1, 1998.

~~4834. (a) The board has the power to remove from office at any time any member of the committee for continued neglect of any duty required by this article, for incompetency, or for unprofessional conduct.~~
~~(b) This section shall become operative on July 1, 1998.~~

~~4835. (a) Each member of the committee shall receive a per diem and expenses, as provided in Section 103.~~

~~(b) This section shall become operative on July 1, 1998.~~

4836. (a) The ~~board~~ department shall adopt regulations establishing animal health care tasks and an appropriate degree of supervision required for those tasks that may be performed only by a registered veterinary technician or a licensed veterinarian.

(b) The ~~board~~ department also may adopt regulations establishing animal health care tasks that may be performed by an unregistered assistant as well as by a registered veterinary technician or a licensed veterinarian. The ~~board~~ department shall establish an appropriate degree of supervision by a registered veterinary technician or a licensed veterinarian over an unregistered assistant for any tasks established under this subdivision and the degree of supervision for any of those tasks shall be higher than, or equal to, the degree of supervision required when a registered veterinary technician performs the task.

(c) The ~~board~~ department may adopt regulations, as needed, to define subdivision (c) of Section 4840, including, but not limited to, procedures for citations and fines, in accordance with Section 125.9.

4836.5. The ~~board~~ department shall take action pursuant to Article 4 (commencing with Section 4875) of this chapter against any veterinarian licensed or authorized to practice in this state who permits any registered veterinary technician or unregistered assistant to perform any animal health care services other than those allowed by this article.

4837. The ~~board~~ department may revoke or suspend the registration of a registered veterinary technician in this state after notice and hearing for any cause provided in this article. The proceedings under this article shall be conducted in accordance with the provisions for administrative adjudication in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted

therein. The board may revoke or suspend a certificate of registration for any of the following reasons:

(a) The employment of fraud, misrepresentation or deception in obtaining a registration.

(b) Conviction of a crime substantially related to the qualifications, functions and duties of a registered veterinary technician in which case the record of such conviction will be conclusive evidence.

(c) Chronic inebriety or habitual use of controlled substances.

(d) For having professional connection with or lending one's name to any illegal practitioner of veterinary medicine and the various branches thereof.

(e) Violating or attempts to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter, or of the regulations adopted under this chapter.

4838. Effective with the 1976 renewal period, if the ~~board~~ department determines that the public health and safety would be served by requiring all registrants under the provisions of this article to continue their education after receiving such registration, it may require, as a condition of renewal, that they submit assurances satisfactory to the board that they will, during the succeeding renewal period, inform themselves of the developments in the field of animal health technology since the issuance of their certificate of registration by pursuing one or more courses of study satisfactory to the ~~board~~ department or by other means deemed equivalent by the board.

The ~~board~~ department shall adopt regulations providing for the suspension of registration at the end of each annual renewal period until compliance with the assurances provided for in this section is accomplished.

4839. For purposes of this article, a registered veterinary technician means a person who has met the requirements of Section 4841.5, has passed the written and practical examination, and is registered by the ~~board~~ department.

4841.5. To be eligible to take the written and practical examination for registration as a registered veterinary technician, the applicant shall:

(a) Be at least 18 years of age.

(b) Furnish satisfactory evidence of graduation from, at minimum,

a two-year curriculum in veterinary technology, in a college or other postsecondary institution approved by the ~~board~~ department, or the equivalent thereof as determined by the ~~board~~ department. In the case of a private postsecondary institution, the institution shall also be approved by the Bureau for Private Postsecondary and Vocational Education.

4842. The ~~board~~ department may deny an application to take a written and practical examination for registration as a registered veterinary technician if the applicant has done any of the following:

(a) Committed any act which would be grounds for the suspension or revocation of registration under this chapter.

(b) While unregistered, committed, or aided and abetted the commission of, any act for which a certificate of registration is required by this chapter.

(c) Knowingly made any false statement in the application.

(d) Been convicted of a crime substantially related to the qualifications, functions and duties of a registered veterinary technician.

(e) Committed any act that resulted in a revocation by another state of his or her license, registration, or other procedure by virtue of which one is licensed or allowed to practice veterinary technology in that state.

4842.1. The ~~board~~ department shall issue a certificate of registration to each applicant who passes the examination. The form of the certificate shall be determined by the ~~board~~ department.

4842.2. (a) Commencing July 1, 1998, all funds collected by the ~~board~~ department under this article shall be deposited in the Veterinary Medical Board Contingent Fund.

(b) All unappropriated funds existing in the Registered Veterinary Technician Committee Fund on July 1, 1998, shall be transferred to the Veterinary Medical Board Contingent Fund.

(c) This section shall become operative July 1, 1998.

4842.5. The amount of fees prescribed by this article is that fixed by the following schedule:

(a) The fee for filing an application for examination shall be set by the board at not more than one hundred dollars ($100).

(b) The initial registration fee shall be set by the board at not more than one hundred dollars ($100), except that, if the license is issued less than one year before the date on which it will expire, then the fee shall be set by the board at not more than fifty dollars ($50). The board may adopt regulations to provide for the waiver or refund of the initial registration fee where the registration is issued less than 45 days before the date on which it will expire.

(c) The biennial renewal fee shall be set by the board at not more than one hundred dollars ($100).

(d) The delinquency fee shall be twenty-five dollars ($25).

(e) Any charge made for duplication or other services shall be set at the cost of rendering the services.

(f) The fee for filing an application for approval of a school pursuant to Section 4843 shall be set by the ~~board~~ department at an amount not to exceed the cost of the approval process.

4842.6. (a) Each individual registered by the ~~board~~ department shall biennially apply for renewal of his or her license or registration on or before the last day of the applicant's birthday month. The application shall be made on a form provided by the ~~board~~ department.

(b) The application shall contain a statement to the effect that the applicant has not been convicted of a felony, has not been the subject of professional disciplinary action taken by any public agency in California or any other state or territory, and has not violated any of the provisions of this chapter. If the applicant is unable to make that statement, the application shall contain a statement of the conviction, professional discipline, or violation.

(c) The ~~board~~ department may, as part of the renewal process, make necessary inquiries of the applicant and conduct an investigation in order to determine if cause for disciplinary action exists.

4843. The ~~board~~ department shall approve all schools or institutions offering a curriculum for training registered veterinary technicians. Application forms for schools requesting approval shall be furnished by the ~~board~~ department. Approval by the ~~board~~ department shall be for a two-year period. Reapplication for approval by the ~~board~~ department shall be made at the end of the expiration date.

4843.5. Except as otherwise provided in this article, an expired certificate of registration may be renewed at any time within five years after its expiration on filing of an application for renewal on a form prescribed by the ~~board~~ department, and payment of all accrued and unpaid renewal fees. If the certificate of registration is renewed more than 30 days after its expiration, the registrant, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this article. Renewal under this section shall be effective on the date on which the application is filed, on the date all renewal fees are paid, or on the date on which the delinquency fee, if any, is paid, whichever occurs last.

4844. A person who fails to renew his certificate of registration within five years after its expiration may not renew it, and it shall not be restored, reissued, or reinstated thereafter, but such person may apply for and obtain a new certificate of registration if:

(a) He is not subject to denial of registration under Section 480.

(b) No fact, circumstance, or condition exists which, if the certificate of registration were issued, would justify its revocation or suspension.

(c) He takes and passes the examination, if any, which would be required of him if he were then applying for a certificate of registration for the first time, or otherwise establishes to the satisfaction of the ~~board~~ department that, with due regard for the public interest, he is qualified to be a registered animal health technician.

(d) He pays all of the fees that would be required of him if he were applying for the certificate of registration for the first time.

The ~~board~~ department may, by regulation, provide for the waiver or refund of all or any part of the examination fee in those cases in which a certificate of registration is issued without an examination pursuant to the provisions of this section.

4846. Applications for a license shall be upon a form furnished by the Department of Consumer Affairs ~~board~~ and, in addition, shall be accompanied by a diploma or other verification of graduation from a veterinary college recognized by the Department of Consumer Affairs ~~board~~.

4846.1. If the veterinary college from which an applicant is

graduated is not recognized by the Department of Consumer Affairs ~~board~~, the Department of Consumer Affairs ~~board~~ shall have the authority to determine the qualifications of such graduates and to review the quality of the educational experience attained by them in an unrecognized veterinary college. The Department of Consumer Affairs ~~board~~ shall have the authority to adopt rules and regulations to implement this provision.

4846.2. If the Department of Consumer Affairs ~~board~~ finds in evaluating the graduate described in Section 4846.1 that such applicant is deficient in qualification or in the quality of his educational experience the Department of Consumer Affairs ~~board~~ may require such applicant to fulfill such other remedial or other requirements as the Department of Consumer Affairs ~~board~~, by regulation, may prescribe.

4846.4. (a) Each individual licensed by the Department of Consumer Affairs ~~board~~ shall biennially apply for renewal of his or her license or registration on or before the last day of the applicant's birthday month. The application shall be made on a form provided by the Department of Consumer Affairs ~~board~~.

(b) The application shall contain a statement to the effect that the applicant has not been convicted of a felony, has not been the subject of professional disciplinary action taken by any public agency in California or any other state or territory, and has not violated any of the provisions of this chapter. If the applicant is unable to make that statement, the application shall contain a statement of the conviction, professional discipline, or violation.

(c) The Department of Consumer Affairs ~~board~~ may, as part of the renewal process, make necessary inquiries of the applicant and conduct an investigation in order to determine if cause for disciplinary action exists.

4846.5. (a) On or after January 1, 2002, except as provided in this section, the Department of Consumer Affairs ~~board~~ shall issue renewal licenses only to those applicants that have completed a minimum of 36 hours of continuing education in the preceding two years.

(b) (1) Notwithstanding any other provision of law, continuing education hours shall be earned by attending courses relevant to veterinary medicine and sponsored or cosponsored by any of the following:

(A) American Veterinary Medical Association (AVMA) accredited

veterinary medical colleges.

(B) Accredited colleges or universities offering programs relevant to veterinary medicine.

(C) The American Veterinary Medical Association.

(D) American Veterinary Medical Association recognized specialty or affiliated allied groups.

(E) American Veterinary Medical Association's affiliated state veterinary medical associations.

(F) Nonprofit annual conferences established in conjunction with state veterinary medical associations.

(G) Educational organizations affiliated with the American Veterinary Medical Association or its state affiliated veterinary medical associations.

(H) Local veterinary medical associations affiliated with the California Veterinary Medical Association.

(I) Federal, state, or local government agencies.

(J) Providers accredited by the Accreditation Council for Continuing Medical Education (ACCME) or approved by the American Medical Association (AMA), providers recognized by the American Dental Association Continuing Education Recognition Program (ADA CERP), and AMA or ADA affiliated state, local, and specialty organizations.

(2) Continuing education credits shall be granted to those veterinarians taking self-study courses, which may include, but are not limited to, reading journals, viewing of videotapes, or listening to audiotapes. The taking of these courses shall be limited to no more than six hours biennially.

(3) The Department of Consumer Affairs ~~board~~ may approve other continuing veterinary medical education providers not specified in paragraph (1).

(A) The Department of Consumer Affairs ~~board~~ has the authority to recognize national continuing education approval bodies for the purpose of approving continuing education providers not specified in paragraph (1).

(B) Applicants seeking continuing education provider approval shall have the option of applying to the Department of Consumer Affairs ~~board~~ or to a board-recognized national approval body.

(4) For good cause, the Department of Consumer Affairs ~~board~~ may adopt an order specifying, on a prospective basis, that a provider of continuing veterinary medical education authorized pursuant to paragraphs (1) or (2) is no longer an acceptable provider.

(5) Continuing education hours earned by attending courses sponsored or cosponsored by those entities listed in paragraph (1) between January 1, 2000, and the effective date of this act shall be credited toward a veterinarian's continuing education requirement

under this section.

(c) Every person renewing his or her license issued pursuant to Section 4846.4 or any person applying for relicensure or for reinstatement of his or her license to active status, shall submit proof of compliance with this section to the Department of Consumer Affairs ~~board~~ certifying that he or she is in compliance with this section. Any false statement submitted pursuant to this section shall be a violation subject to Section 4831.

(d) This section shall not apply to a veterinarian's first license renewal. This section shall apply only to second and subsequent license renewals granted on or after January 1, 2002.

(e) The Department of Consumer Affairs ~~board~~ shall have the right to audit the records of all applicants to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a period of four years and shall make these records available to the Department of Consumer Affairs ~~board~~ for auditing purposes upon request. If the Department of Consumer Affairs ~~board~~, during this audit, questions whether any course reported by the veterinarian satisfies the continuing education requirement, the veterinarian shall provide information to the Department of Consumer Affairs ~~board~~ concerning the content of the course; the name of its sponsor and cosponsor, if any; and specify the specific curricula that was of benefit to the veterinarian.

(f) A veterinarian desiring an inactive license or to restore an inactive license under Section 701, shall submit an application on a form provided by the Department of Consumer Affairs ~~board~~. In order to restore an inactive license to active status, the veterinarian shall have completed a minimum of 36 hours of continuing education within the last two years preceding application. The inactive license status of a veterinarian shall not deprive the Department of Consumer Affairs ~~board~~ of its authority to institute or continue a disciplinary action against a licensee.

(g) Knowing misrepresentation of compliance with the requirements of this article by a veterinarian constitutes unprofessional conduct and grounds for disciplinary action or for the issuance of a citation and the imposition of a civil penalty pursuant to Section 4883.

(h) The Department of Consumer Affairs ~~board~~, in its discretion, may exempt from the continuing education requirement, any veterinarian who for reasons of health, military service, or undue hardship, cannot meet those requirements. Applications for waivers shall be submitted on a form provided by the Department of Consumer Affairs ~~board~~.

(i) The administration of this section may be funded through professional license and continuing education provider fees. The

fees related to the administration of this section shall not exceed the costs of administering the corresponding provisions of this section.

(j) For those continuing education providers not listed in paragraph (1) of subdivision (b), the Department of Consumer Affairs ~~board~~ or its recognized national approval agent shall establish criteria by which a provider of continuing education shall be approved. The Department of Consumer Affairs ~~board~~ shall initially review and approve these criteria and may review the criteria as needed. The Department of Consumer Affairs ~~board~~ or its recognized agent shall monitor, maintain, and manage related records and data. The Department of Consumer Affairs ~~board~~ shall have the authority to impose an application fee, not to exceed two hundred dollars ($200) biennially, for continuing education providers not listed in paragraph (1) of subdivision (b).

4847. The Department of Consumer Affairs ~~board~~ shall number consecutively all applications received, note upon each the disposition made of it, and preserve the same for reference.

4848. (a) (1) The Department of Consumer Affairs ~~board~~ shall, by means of examination, ascertain the professional qualifications of all applicants for licenses to practice veterinary medicine in this state and shall issue a license to every person whom it finds to be qualified. No license shall be issued to anyone who has not demonstrated his or her competency by examination.

(2) The examination shall consist of each of the following:

(A) A licensing examination that is administered on a national basis.

(B) A California state board examination.

(C) An examination concerning those statutes and regulations of the Veterinary Medicine Practice Act administered by the Department of Consumer Affairs ~~board~~. The examination shall be administered by mail and provided to applicants within 10 to 20 days of eligibility determination. The Department of Consumer Affairs ~~board~~ shall have 10 to 20 days from the date of receipt to process the examination and provide candidates with the results of the examination. The applicant shall certify that he or she personally completed the examination. Any false statement is a violation subject to Section 4831. University of California and Western University of Health Sciences veterinary medical students who have

successfully completed a Department of Consumer Affairs ~~board~~ approved course on veterinary law and ethics covering the Veterinary Medicine Practice Act shall be exempt from this provision.

(3) The examinations may be given at the same time or at different times as determined by the Department of Consumer Affairs ~~board~~. For examination purposes, the Department of Consumer Affairs ~~board~~ may make contractual arrangements on a sole source basis with organizations furnishing examination material as it may deem desirable and shall be exempt from Section 10115 of the Public Contract Code.

(4) The licensing examination may be waived by the Department of Consumer Affairs ~~board~~ in any case in which it determines that the applicant has taken and passed an examination for licensure in another state substantially equivalent in scope and subject matter to the licensing examination last given in California before the determination is made, and has achieved a score on the out-of-state examination at least equal to the score required to pass the licensing examination administered in California.

(5) Nothing in this chapter shall preclude the Department of Consumer Affairs ~~board~~ from permitting a person who has completed a portion of his or her educational program, as determined by the Department of Consumer Affairs ~~board~~, in a veterinary college recognized by the Department of Consumer Affairs ~~board~~ under Section 4846 to take any examination or any part thereof prior to satisfying the requirements for application for a license established by Section 4846.

(b) The Department of Consumer Affairs ~~board~~ shall waive the examination requirements of subdivision (a), and issue a temporary license valid for one year to an applicant to practice veterinary medicine under the supervision of another licensed California veterinarian in good standing if the applicant meets all of the following requirements and would not be denied issuance of a license by any other provision of this code:

(1) The applicant holds a current valid license in good standing in another state, Canadian province, or United States territory and has practiced clinical veterinary medicine for a minimum of four years full time within the five years immediately preceding filing an application for licensure in this state. Experience obtained while participating in an American Veterinary Medical Association (AVMA) accredited institution's internship, residency, or specialty board training program shall be valid for meeting the minimum experience requirement.

The term "in good standing" means that an applicant under this section:

(A) Is not currently under investigation nor has been charged with

an offense for any act substantially related to the practice of veterinary medicine by any public agency, nor entered into any consent agreement or subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, nor been the subject of an adverse judgment resulting from the practice of veterinary medicine that the Department of Consumer Affairs ~~board~~ determines constitutes evidence of a pattern of incompetence or negligence.

(B) Has no physical or mental impairment related to drugs or alcohol, and has not been found mentally incompetent by a physician so that the applicant is unable to undertake the practice of veterinary medicine in a manner consistent with the safety of a patient or the public.

(2) At the time of original licensure, the applicant passed the national licensing requirement in veterinary science with a passing score or scores on the examination or examinations equal to or greater than the passing score required to pass the national licensing examination or examinations administered in this state.

(3) The applicant has either graduated from a veterinary college recognized by the Department of Consumer Affairs ~~board~~ under Section 4846 or possesses a certificate issued by the Educational Commission for Foreign Veterinary Graduates (ECFVG).

(4) The applicant passes an examination concerning the statutes and regulations of the Veterinary Medicine Practice Act, administered by the Department of Consumer Affairs ~~board~~, pursuant to subparagraph (C) of paragraph (2) of subdivision (a).

(5) The applicant agrees to complete an approved educational curriculum on regionally specific and important diseases and conditions during the period of temporary licensure. The Department of Consumer Affairs ~~board~~, in consultation with the California Veterinary Medical Association (CVMA), shall approve educational curricula that cover appropriate regionally specific and important diseases and conditions that are common in California. The curricula shall focus on small and large animal diseases consistent with the current proportion of small and large animal veterinarians practicing in the state. The approved curriculum shall not exceed 30 hours of educational time. The Department of Consumer Affairs ~~board~~ shall approve a curriculum as soon as practical, but not later than June 1, 1999. The approved curriculum may be offered by multiple providers so that it is widely accessible to candidates licensed under this subdivision.

(c) Upon receipt of acknowledgment of successful completion of the requirements set forth in subdivision (b), the Department of Consumer Affairs ~~board~~ shall issue a

license to the applicant. Any applicant who does not meet the requirements of subdivision (b) shall take a California state board examination as specified in subparagraph (B) of paragraph (2) of subdivision (a).

4848.3. (a) The Department of Consumer Affairs ~~board~~ shall issue a temporary license valid for one year to an applicant accepted into a qualifying internship or residency program that meets all of the following requirements:

(1) Program participants have either graduated from a veterinary college recognized by the Department of Consumer Affairs ~~board~~ under Section 4846 or possess a certificate issued by the Educational Commission for Foreign Veterinary Graduates, and hold a current valid license in good standing in another state, Canadian province, or United States territory.

(2) Program participants are under the direct supervision of a board-certified California-licensed veterinarian in good standing.

(3) Two or more board-certified specialists are on the staff of the veterinary practice.

(4) The program undergoes annual evaluation and is approved by one or more existing organizations officially recognized for that purpose by the Department of Consumer Affairs ~~board~~. The Department of Consumer Affairs ~~board~~ shall designate one or more organizations for this purpose no later than January 31, 1999, and the evaluation and approval process shall begin no later than March 1, 1999.

(b) The temporary license issued pursuant to this section shall only be valid for activities performed in the course of, and incidental to, a qualifying internship or residency program.

4849. The complete examination shall be given at least once each year. It shall include all such subjects as are ordinarily included in the curricula of veterinary colleges in good standing and may include such other subjects as the Department of Consumer Affairs ~~board~~ may by rule authorize and direct.

4850. Every person holding a license under this chapter shall conspicuously display a copy of the license in his or her principal

place of business.

4852. Every person holding a license issued under this chapter who changes his or her mailing address shall notify the Department of Consumer Affairs ~~board~~ of his or her new mailing address within 30 days of the change. The Department of Consumer Affairs ~~board~~ shall not renew the license of any person who fails to comply with this section unless the person pays the penalty fee prescribed in Section 4905. An applicant for the renewal of a license shall specify in his or her application whether he or she has changed his or her mailing address and the Department of Consumer Affairs ~~board~~ may accept that statement as evidence of the fact.

4853. (a) All premises where veterinary medicine, veterinary dentistry, veterinary surgery, and the various branches thereof is being practiced shall be registered with the Department of Consumer Affairs ~~board~~. The certificate of registration shall be on a form prescribed in accordance with Section 164.

(b) "Premises" for the purpose of this chapter shall include a building, kennel, mobile unit, or vehicle. Mobile units and vehicles shall be exempted from independent registration with the Department of Consumer Affairs ~~board~~ when they are operated from a building or facility which is the licensee manager's principal place of business and the building is registered with the Department of Consumer Affairs ~~board~~, and the registration identifies and declares the use of the mobile unit or vehicle.

(c) Every application for registration of veterinary premises shall set forth in the application the name of the responsible licensee manager who is to act for and on behalf of the licensed premises. Substitution of the responsible licensee manager may be accomplished by application to the Department of Consumer Affairs ~~board~~ if the following conditions are met:

(1) The person substituted qualifies by presenting satisfactory evidence that he or she possesses a valid, unexpired, and unrevoked license as provided by this chapter and that the license is not currently under suspension.

(2) No circumvention of the law is contemplated by the substitution.

4853.1. (a) Each application to register a premise pursuant to Section 4853 shall be made on a form provided by the Department of Consumer Affairs ~~board~~. An application for renewal of that registration shall be made annually.

(b) The application shall contain a statement to the effect that the applicant has not been convicted of a felony, has not been the subject of professional disciplinary action taken by any public agency in California or any other state or territory, and has not violated any of the provisions of this chapter. If the applicant is unable to make that statement, the application shall contain a statement of the conviction, professional discipline, or violation.

(c) The Department of Consumer Affairs ~~board~~ may, as part of the renewal process, make necessary inquiries of the applicant and conduct an investigation in order to determine if cause for disciplinary action exists.

4853.5. When it has been adjudicated in an administrative hearing that the licensee manager has failed to keep the premises and all equipment therein in a clean and sanitary condition as provided for in subdivision (h) of Section 4883, or is in violation of any of the provisions of Section 4854, the Department of Consumer Affairs ~~board~~ may withhold, suspend, or revoke the registration of veterinary premises, or assess a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) per day until such violation has been rectified, or by both such suspension and fine. The total amount of any fine assessed pursuant to this section shall not exceed five thousand dollars ($5,000).

4853.6. The Department of Consumer Affairs ~~board~~ shall withhold, suspend or revoke registration of veterinary premises:

(a) When the licensee manager set forth in the application in accordance with Section 4853 ceases to become responsible for management of the registered premises and no substitution of the responsible licensee manager has been made by application as provided for in Section 4853.

(b) When the licensee manager has, under proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1

of Division 3 of Title 2 of the Government Code, the license to practice veterinary medicine, surgery, and dentistry revoked or suspended.

4854. All premises where veterinary medicine, veterinary dentistry, or veterinary surgery is being practiced, and all instruments, apparatus and apparel used in connection with those practices, shall be kept clean and sanitary at all times, and shall conform to those minimum standards established by the Department of Consumer Affairs ~~board~~.

4854.5. (a) Every off-campus educational program site shall display in a conspicuous place a consumer notification specifying that the veterinary facilities are also being used for diagnosis and treatment of animals by graduate students enrolled in a veterinary medicine program.

(b) Notwithstanding Section 4831, or any other provision of law, a violation of subdivision (a) shall not be a crime.

4855. A veterinarian subject to the provisions of this chapter shall, as required by regulation of the Department of Consumer Affairs ~~board~~, keep a written record of all animals receiving veterinary services, and provide a summary of that record to the owner of animals receiving veterinary services, when requested. The minimum amount of information which shall be included in written records and summaries shall be established by the Department of Consumer Affairs ~~board~~. The minimum duration of time for which a licensed premise shall retain the written record or a complete copy of the written record shall be determined by the Department of Consumer Affairs ~~board~~.

4856. (a) All records required by law to be kept by a veterinarian subject to this chapter, including, but not limited to, records pertaining to diagnosis and treatment of animals and records pertaining to drugs or devices for use on animals, shall be open to inspection by the Department of Consumer Affairs ~~board~~, or its authorized representatives, during an

inspection as part of a regular inspection program by the Department of Consumer Affairs ~~board~~, or
during an investigation initiated in response to a complaint that a
licensee has violated any law or regulation that constitutes grounds
for disciplinary action by the Department of Consumer Affairs ~~board~~. A copy of all those records
shall be provided to the Department of Consumer Affairs ~~board~~ immediately upon request.

(b) Equipment and drugs on the premises, or any other place, where
veterinary medicine, veterinary dentistry, veterinary surgery, or
the various branches thereof is being practiced, or otherwise in the
possession of a veterinarian for purposes of that practice, shall be
open to inspection by the Department of Consumer Affairs ~~board~~, or its authorized representatives,
during an inspection as part of a regular inspection program by the
Department of Consumer Affairs ~~board~~, or during an investigation initiated in response to a
complaint that a licensee has violated any law or regulation that
constitutes grounds for disciplinary action by the Department of Consumer Affairs ~~board~~.

4857. (a) A veterinarian licensed under the provisions of this
chapter shall not disclose any information concerning an animal
receiving veterinary services, the client responsible for the animal
receiving veterinary services, or the veterinary care provided to an
animal, except under any one of the following circumstances:

(1) Upon written or witnessed oral authorization by knowing and
informed consent of the client responsible for the animal receiving
services or an authorized agent of the client.

(2) Upon authorization received by electronic transmission when
originated by the client responsible for the animal receiving
services or an authorized agent of the client.

(3) In response to a valid court order or subpoena.

(4) As may be required to ensure compliance with any federal,
state, county, or city laws or regulations.

(5) Nothing in this section is intended to prevent the sharing of
veterinary medical information between veterinarians or facilities
for the purpose of diagnosis or treatment of the animal who is the
subject of the medical records.

(6) As otherwise provided in this section.

(b) This section shall not apply to the extent that the client
responsible for an animal or an authorized agent of the client
responsible for the animal has filed or caused to be filed a civil or
criminal complaint that places the veterinarian's care and treatment
of the animal or the nature and extent of the injuries to the animal
at issue , or when the veterinarian is acting to comply with federal
, state, county, or city laws or regulations.

(c) A veterinarian shall be subject to the criminal penalties set forth in Section 4831 or any other provision of this code for a violation of this section. In addition, any veterinarian who negligently releases confidential information shall be liable in a civil action for any damages caused by the release of that information.

(d) Nothing in this section is intended to prevent the sharing of veterinary medical information between veterinarians and peace officers, humane society officers, or animal control officers who are acting to protect the welfare of animals.

4860. It is the intent of the Legislature that the Department of Consumer Affairs ~~Veterinary Medical Board~~ seek ways and means to identify and rehabilitate veterinarians and registered veterinary technicians with impairment due to abuse of dangerous drugs or alcohol, affecting competency so that veterinarians and registered veterinary technicians so afflicted may be treated and returned to the practice of veterinary medicine in a manner that will not endanger the public health and safety.

4861. One or more diversion evaluation committees is hereby authorized to be established by the Department of Consumer Affairs ~~board~~. Each diversion evaluation committee shall be composed of five persons appointed by the Department of Consumer Affairs ~~board~~.

Each diversion evaluation committee shall have the following composition:

(a) Three veterinarians licensed under this chapter. The Department of Consumer Affairs ~~board~~ in making its appointments shall give consideration to recommendations of veterinary associations and local veterinary societies and shall consider, among others, where appropriate, the appointment of veterinarians who have recovered from impairment or who have knowledge and expertise in the management of impairment.

(b) Two public members.

Each person appointed to a diversion evaluation committee shall have experience or knowledge in the evaluation or management of persons who are impaired due to alchohol or drug abuse.

~~It shall require the majority vote of the board to appoint a person to a diversion evaluation committee~~. Each appointment shall be ~~at the pleasure of the board~~ for a term not to exceed four years. In its discretion the Department of Consumer Affairs ~~board~~ may stagger the terms of the initial members appointed.

The board may appoint a program director and other personnel as

necessary to carry out provisions of this article.

~~4862. Each member of a diversion evaluation committee shall receive per diem and expenses as provided in Section 103.~~

4863. Three members of a diversion evaluation committee shall constitute a quorum for the transaction of business at any meeting. Any action requires the majority vote of the diversion evaluation committee.

4864. Each diversion evaluation committee shall elect from its membership a chairperson and a vice chairperson.

4865. The Department of Consumer Affairs ~~board~~ shall administer the provisions of this article.

4866. (a) The Department of Consumer Affairs ~~board~~ shall establish criteria for the acceptance, denial, or termination of veterinarians and animal health technicians in a diversion program. Only those veterinarians and animal health technicians who have voluntarily requested diversion treatment and supervision by a diversion evaluation committee shall participate in a program.

(b) The Department of Consumer Affairs ~~board~~ shall establish criteria for the selection of administrative physicians who shall examine veterinarians and animal health technicians requesting diversion under a program. Any reports made under this article by the administrative physician shall constitute an exception to Sections 994 and 995 of the Evidence Code.

(c) The diversion program may accept no more than 100 participants who are licensees of the Department of Consumer Affairs ~~board~~.

(d) The Department of Consumer Affairs ~~board~~ shall evaluate the effectiveness and necessity of the diversion program and report its findings to the Senate Committee on Business and Professions and the Assembly Committee on Agriculture on or before March 1, 1989.

4867. The diversion evaluation committee shall inform each veterinarian and animal health technician who requests participation in a program of the procedures followed in the program, of the rights and responsibilities of the veterinarian and animal health technician in the program, and of the possible results of noncompliance with the program.

4868. Each diversion evaluation committee shall have the following duties and responsibilities:

(a) To evaluate those veterinarians and animal health technicians who request participation in the program according to the guidelines prescribed by the Department of Consumer Affairs ~~board~~ and to consider the recommendation of the administrative physician on the admission of the veterinarian or animal health technician to the diversion program.

(b) To review and designate those treatment facilities to which veterinarians and animal health technicians in a diversion program may be referred.

(c) To receive and review information concerning veterinarians and animal health technicians participating in the program.

(d) To call meetings as necessary to consider the requests of veterinarians and animal health technicians to participate in a diversion program, and to consider reports regarding veterinarians and animal health technicians participating in a program from an administrative physician, or from others.

(e) To consider in the case of each veterinarian and animal health technician participating in a program whether he or she may with safety continue or resume the practice of veterinary medicine or the assisting in the practice of veterinary medicine.

(f) To set forth in writing for each veterinarian and animal health technician participating in a program a treatment program established for each such veterinarian and animal health technician with the requirements for supervision and surveillance.

(g) To hold a general meeting at least twice a year, which shall be open and public, to evaluate the program's progress, to review data as required in reports to the Department of Consumer Affairs ~~board~~, to prepare reports to be submitted to the Department of Consumer Affairs ~~board~~, and to suggest proposals for changes in the diversion program.

4869. Notwithstanding the provisions of Article 9 (commencing with

Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, a diversion evaluation committee may convene in closed session to consider reports pertaining to any veterinarian or animal health technician requesting or participating in a diversion program. A diversion evaluation committee shall only convene in closed session to the extent that it is necessary to protect the privacy of such a veterinarian or animal health technician.

4870. Each veterinarian and animal health technician who requests participation in a diversion program shall agree to cooperate with the treatment program designed by a diversion evaluation committee. Any failure to comply with the provisions of a treatment program may result in termination of the veterinarian's or animal health technician's participation in a program.

4871. (a) After a diversion evaluation committee in its discretion has determined that a veterinarian or animal health technician has been rehabilitated and the diversion program is completed, the diversion evaluation committee shall purge and destroy all records pertaining to the veterinarian's or animal health technician's participation in a diversion program.

(b) All Department of Consumer Affairs ~~board~~ and diversion evaluation committee records and records of proceedings pertaining to the treatment of a veterinarian or animal health technician in a program shall be kept confidential and are not subject to discovery or subpoena.

4872. The Department of Consumer Affairs ~~board~~ shall provide for the representation of any persons making reports to a diversion evaluation committee or the Department of Consumer Affairs ~~board~~ under this article in any action for defamation.

4873. The Department of Consumer Affairs ~~board~~ shall charge each veterinarian and animal health technician who is accepted to participate in the diversion program a diversion program registration fee. The diversion program registration fee shall be set by the Department of Consumer Affairs ~~board~~ in an amount not to exceed

sixteen hundred dollars ($1,600). In the event that the diversion program registration exceeds two hundred dollars ($200), the Department of Consumer Affairs ~~board~~ may provide for quarterly payments.

4875. The Department of Consumer Affairs ~~board~~ may revoke or suspend for a certain time the license of any person to practice veterinary medicine or any branch thereof in this state after notice and hearing for any of the causes provided in this article. In addition to its authority to suspend or revoke a license, the Department of Consumer Affairs ~~board~~ shall have the authority to assess a fine not in excess of five thousand dollars ($5,000) against a licensee for any of the causes specified in Section 4883. A fine may be assessed in lieu of or in addition to a suspension or revocation.

The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the Department of Consumer Affairs ~~board~~ shall have all the powers granted therein. Notwithstanding the provisions of Section 4903, all fines collected pursuant to this section shall be deposited to the credit of the Veterinary Medical Board Contingent Fund.

4875.2. If, upon completion of an investigation, the executive officer has probable cause to believe that a veterinarian or an unlicensed person acting as a veterinarian has violated provisions of this chapter, he or she may issue a citation to the veterinarian or unlicensed person, as provided in this section. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this chapter alleged to have been violated. In addition, each citation may contain an order of abatement fixing a reasonable time for abatement of the violation, and may contain an assessment of a civil penalty. The citation shall be served upon the veterinarian or unlicensed individual personally or by any type of mailing requiring a return receipt. Before any citation may be issued, the executive officer shall submit the alleged violation for review and investigation to at least one designee of the Department of Consumer Affairs ~~board~~ who is a veterinarian licensed in or employed by the state. The review shall include attempts to contact the veterinarian or unlicensed person to discuss and resolve the alleged violation. Upon conclusion of the Department of Consumer Affairs ~~board~~ designee's review, the designee shall prepare a finding of fact and a recommendation. If the Department of Consumer Affairs ~~board~~ designee concludes that probable cause exists that the

veterinarian or unlicensed person has violated any provisions of this chapter, a civil citation shall be issued to the veterinarian or unlicensed person.

4875.4. (a) The Department of Consumer Affairs ~~board~~ shall, in the manner prescribed in Section 4808, adopt regulations covering the assessment of civil penalties under this article which give due consideration to the appropriateness of the penalty with respect to the following factors:

(1) The gravity of the violation.
(2) The good faith of the person being charged.
(3) The history of previous violations.
(b) In no event shall the civil penalty for each citation issued be assessed in an amount greater than two thousand dollars ($2,000).

4875.6. (a) If a veterinarian or an unlicensed person desires to administratively contest a civil citation or the proposed assessment of a civil penalty therefor, he or she shall, within 10 business days after receipt of the citation, notify the executive officer in writing of his or her request for an informal conference with the executive officer or his or her designee. The executive officer or his or her designee shall hold, within 60 days from the receipt of the request, an informal conference. At the conclusion of the informal conference, the executive officer may affirm, modify, or dismiss the citation or proposed assessment of a civil penalty, and he or she shall state with particularity in writing his or her reasons for the action, and shall immediately transmit a copy thereof to the Department of Consumer Affairs ~~board~~, the veterinarian or unlicensed person, and the person who submitted the verified complaint. If the veterinarian or unlicensed person desires to administratively contest under subdivision (c) a decision made after the informal conference, he or she shall inform the executive officer in writing within 30 calendar days after he or she receives the decision resulting from the informal conference.

If the veterinarian or unlicensed person fails to notify the executive officer in writing that he or she intends to contest the citation or the proposed assessment of a civil penalty therefor or the decision made after an informal conference within the time specified in this subdivision, the citation or the proposed assessment of a civil penalty or the decision made after an informal

conference shall be deemed a final order of the Department of Consumer Affairs ~~board~~ and shall not
be subject to further administrative review.

Notwithstanding any other provision of law, where a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(b) A veterinarian or an unlicensed person may, in lieu of contesting a citation pursuant to this section, transmit to the Department of Consumer Affairs ~~board~~ the amount assessed in the citation as a civil penalty, within 10 business days after receipt of the citation. An unlicensed person may notify the Department of Consumer Affairs ~~board~~ and file a petition for a writ of administrative mandamus under Section 1094.5 of the Code of Civil Procedure within 30 calendar days after receipt of the citation, without engaging in an informal conference or administrative hearing.

If a petition is not filed pursuant to this section, payment of any fine shall not constitute an admission of the violation charged.

(c) If a veterinarian or an unlicensed person has notified the executive officer that he or she intends to administratively contest the decision made after the informal conference, the executive officer shall forward the matter to the Attorney General's office who shall prepare a notice of appeal of the citation and civil penalty. After the hearing, the Department of Consumer Affairs ~~board~~ and administrative law judge shall issue a decision, based on findings of fact, affirming, modifying, or vacating the citation, or directing other appropriate relief which shall include, but need not be limited to, a notice that the failure of a veterinarian or unlicensed person to comply with any provision of the Department of Consumer Affair~~board~~'s decision constitutes grounds for suspension, or denial of licensure, or both. The administrative proceedings under this section shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the Department of Consumer Affairs ~~board~~ shall have all the powers granted therein.

(d) After the exhaustion of the review procedures provided for in this section or if the time for all appeals has passed, the Department of Consumer Affairs ~~board~~ may bring an action in the appropriate court in the county in which the offense occurred to recover the civil penalty and obtain an order compelling the cited person to comply with the order of abatement. In that action, the complaint shall include a certified copy of the final order of the Department of Consumer Affairs ~~board~~, together with the factual findings and determinations of the Department of Consumer Affairs ~~board~~ and administrative law judge. The findings shall be prima facie evidence of the facts stated therein, and in the absence of contrary evidence may serve as the basis for

the issuance of the judgment and order.

(e) Failure of a licensee to pay a civil penalty within 30 days of the date of receipt of the assessment, unless the citation is being appealed, may result in disciplinary action being taken by the Department of Consumer Affairs ~~board~~. When a citation is not contested and a civil penalty is not paid, the full amount of the assessed civil penalty shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and civil penalty.

(f) Any civil penalties received under this chapter shall be deposited in the Veterinary Medical Board Contingent Fund.

4876. In addition to its authority to suspend or revoke a license, or assess a fine of a person licensed under this chapter, the Department of Consumer Affairs ~~board~~ shall have the authority to place a licensee on probation. The authority of the Department of Consumer Affairs ~~board~~ to discipline by placing the licensee on probation shall include, but is not limited to, the following:

(a) Requiring the licensee to complete a course of study or service, or both, as prescribed by the Department of Consumer Affairs ~~board~~, and to demonstrate renewed competence to the satisfaction of the Department of Consumer Affairs ~~board~~.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians appointed by the Department of Consumer Affairs ~~board~~. If the Department of Consumer Affairs ~~board~~ requires a licensee to submit to such an examination, the Department of Consumer Affairs ~~board~~ shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee.

4881. The executive officer in all cases of suspension, revocation, or restriction of licenses or assessment of fines shall enter on the register the fact of suspension, revocation, restriction, or fine, as the case may be. The record of any suspension, revocation, restriction, or fine so made by the county clerks shall be prima facie evidence of the fact thereof, and of the regularity of all the proceedings of the Department of Consumer Affairs ~~board~~ in the matter of the suspension, revocation, restriction, or fine.

4883. The Department of Consumer Affairs ~~board~~ may deny, revoke, or suspend a license or assess a
fine as provided in Section 4875 for any of the following:

(a) Conviction of a crime substantially related to the qualifications, functions, or duties of veterinary medicine, surgery, or dentistry, in which case the record of the conviction shall be conclusive evidence.

(b) For having professional connection with, or lending one's name to, any illegal practitioner of veterinary medicine and the various branches thereof.

(c) Violation or attempting to violate, directly or indirectly, any of the provisions of this chapter.

(d) Fraud or dishonesty in applying, treating, or reporting on tuberculin or other biological tests.

(e) Employment of anyone but a veterinarian licensed in the state to demonstrate the use of biologics in the treatment of animals.

(f) False or misleading advertising.

(g) Unprofessional conduct, that includes, but is not limited to, the following:

(1) Conviction of a charge of violating any federal statutes or rules or any statute or rule of this state regulating dangerous drugs or controlled substances. The record of the conviction is conclusive evidence thereof. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Department of Consumer Affairs ~~board~~ may order
the license suspended or revoked, or assess a fine, or decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

(2) (A) The use of or prescribing for or administering to himself or herself, any controlled substance.

(B) The use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages to the extent, or in any manner as to be dangerous or injurious to a person licensed under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person so licensed to conduct with safety the practice authorized by the license.

(C) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section or any combination thereof,

and the record of the conviction is conclusive evidence.

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Department of Consumer Affairs ~~board~~ may order the license suspended or revoked or assess a fine, or may decline to issue a license, when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(3) A violation of any federal statute, rule, or regulation or any of the statutes, rules, or regulations of this state regulating dangerous drugs or controlled substances.

(h) Failure to keep one's premises and all equipment therein in a clean and sanitary condition.

(i) Fraud, deception, negligence, or incompetence in the practice of veterinary medicine.

(j) Aiding or abetting in any acts that are in violation of any of the provisions of this chapter.

(k) The employment of fraud, misrepresentation, or deception in obtaining the license.

(l) The revocation, suspension, or other discipline by another state or territory of a license or certificate to practice veterinary medicine in that state or territory.

(m) Cruelty to animals, conviction on a charge of cruelty to animals, or both.

(n) Disciplinary action taken by any public agency in any state or territory for any act substantially related to the practice of veterinary medicine.

(o) Violation, or the assisting or abetting violation, of any regulations adopted by the Department of Consumer Affairs ~~board~~ pursuant to this chapter.

4885. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense related to the practice of veterinary medicine is deemed to be a conviction within the meaning of this article. The Department of Consumer Affairs ~~board~~ may order the license suspended or revoked, or assess a fine as provided in Section 4883 or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the

imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

4886. In reinstating a license which has been revoked or suspended under Section 4883, the Department of Consumer Affairs ~~board~~ may impose terms and conditions to be followed by the licensee after the certificate has been reinstated. The authority of the Department of Consumer Affairs ~~board~~ to impose terms and conditions includes, but is not limited to, the following:

(a) Requiring the licensee to obtain additional professional training and to pass an examination upon completion of the training.

(b) Requiring the licensee to pass an oral, written, practical or clinical examination, or any combination thereof to determine his or her present fitness to engage in the practice of veterinary medicine.

(c) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians appointed by the Department of Consumer Affairs ~~board~~. If the Department of Consumer Affairs ~~board~~ requires the licensee to submit to such an examination, the Department of Consumer Affairs ~~board~~ shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the licensee's choice.

(d) Restricting or limiting the extent, scope, or type of practice of the licensee.

4887. A person whose license has been revoked or who has been placed on probation may petition the Department of Consumer Affairs ~~board~~ for reinstatement or modification of penalty including modification or termination of probation after a period of not less than one year has elapsed from the effective date of the decision ordering such disciplinary action.

The petition shall state such facts as may be required by the Department of Consumer Affairs ~~board~~.

The petition shall be accompanied by at least two verified recommendations from veterinarians licensed by the Department of Consumer Affairs ~~board~~ who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed. The petition shall be heard by the

Department of Consumer Affairs ~~board~~. The Department of Consumer Affairs ~~board~~ may consider all activities of the petitioner since the discipinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities since the certificate was in good standing, and the petitioner's rehabilitation efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the Department of Consumer Affairs ~~board~~ finds necessary.

The Department of Consumer Affairs ~~board~~ reinstating the license or modifying a penalty may impose such terms and conditions as it determines necessary. ~~To reinstate a revoked certificate or to otherwise reduce a penalty or modify probation shall require a vote of four of the members of the board.~~

The petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. The Department of Consumer Affairs ~~board~~ may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

Acupuncture Board

4925. (a) This chapter constitutes the chapter on acupuncture of the Business and Professions Code.

This chapter shall be known and may be cited as the Acupuncture Licensure Act. Whenever a reference is made to the Acupuncture Licensure Act by the provisions of any statute, it is to be construed as referring to the provisions of this chapter.

(b) Any reference in this chapter, or to the regulations pertaining thereto, to "certificate" or "certification" shall hereafter mean "license" or "licensure." Any reference to the term "certifying" means "licensing," and the term "certificate holder" means "licensee." ~~Any reference to the "Acupuncture Committee" or "committee" means the "Acupuncture Board" or "board."~~ The Department of Consumer Affairs succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Acupuncture Board, which shall no longer exist.

4927. As used in this chapter, unless the context otherwise requires:

(a) "Board" means the ~~Acupuncture "Board"~~ Department of Consumer Affairs.

(b) "Person" means any individual, organization, or corporate body, except that only individuals may be licensed under this chapter.

(c) "Acupuncturist" means an individual to whom a license has been issued to practice acupuncture pursuant to this chapter, which is in effect and is not suspended or revoked.

(d) "Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the techniques of electroacupuncture, cupping, and moxibustion.

4928. The ~~Acupuncture Board~~ Department of Consumer Affairs~~, which consists of nine members,~~ shall enforce and administer this chapter.

This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

The repeal of this section renders the ~~board~~ Department of Consumer Affairs subject to the review required by Division 1.2 (commencing with Section 473).

4928.1. Protection of the public shall be the highest priority for the ~~Acupuncture Board~~ Department of Consumer Affairs in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

~~4929. Three members of the board shall be acupuncturists with at least five years of experience in acupuncture and not licensed as physicians and surgeons, one member of the board shall be a licensed acupuncturist who is also a faculty member of any board approved acupuncture college, one member of the board shall be a physician and surgeon licensed in this state with two years of experience in acupuncture, and four members shall be public members who do not hold a license or certificate as a physician and surgeon or acupuncturist.~~

~~The Governor shall appoint the four acupuncturist members qualified as provided in this section, who shall be appointed to~~

~~represent a cross section of the cultural backgrounds of licensed members of the acupuncturist profession, two of the public members, and the one licensed physician and surgeon member qualified as provided in this section. All members appointed to the board by the Governor shall be subject to confirmation by the Senate. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member. Any member of the board may be removed by the appointing power for neglect of duty, misconduct, or malfeasance in office, after being provided with a written statement of the charges and an opportunity to be heard.~~

~~4929.5. In the reduction of the membership of the board or a successor board or entity from 11 to 9 members, the following transition provisions shall apply:~~

~~(a) Upon the first expiration, after January 1, 1999, of the term of a physician and surgeon member, the board shall be reduced to 10 members, five of whom shall be acupuncturist members, one of whom shall be a physician and surgeon, and four of whom shall be public members. Notwithstanding any other provision of law, the term of that physician and surgeon member shall not be extended for any reason.~~

~~(b) Upon the first expiration, after January 1, 2000, of the term of an acupuncturist member, the board shall be reduced to nine members, four of whom shall be acupuncturist members, one of whom shall be a physician and surgeon, and four of whom shall be public members. Notwithstanding any other provision of law, the term of that acupuncturist member shall not be extended for any reason.~~

~~4930. Each member of the board shall be appointed for a term of four years.~~

~~4931. Each member of the board shall receive per diem and expenses as provided in Section 103.~~

4933. (a) The ~~board~~ Department of Consumer Affairs shall administer this chapter.

(b) The ~~board~~ Department of Consumer Affairs may adopt, amend, or repeal, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), regulations as may be necessary to enable it to carry into effect the provisions of law relating to the practice of acupuncture.

~~(c) Five members of the board shall constitute a quorum to conduct~~

~~business.~~

~~(d) It shall require an affirmative vote of a majority of those present at a meeting of the board to take any action or pass any motion.~~

4934. The ~~board~~ Department of Consumer Affairs shall employ personnel necessary for the administration of this chapter~~; however, the board may appoint an executive officer who is exempt from the provisions of the Civil Service Act~~.

This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

The repeal of this section renders the ~~board~~ Department of Consumer Affairs subject to the review required by Division 1.2 (commencing with Section 473).

4934.1. (a) The Legislature requests the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy to conduct a comprehensive analysis consisting of the following reviews and evaluations and shall report their findings and recommendations to the Legislature by September 1, 2004:

(1) Review and make recommendations on the scope of practice for acupuncturists.

(2) Review and make recommendations on the educational requirements for acupuncturists.

(3) Evaluate the national examination, administered by the National Certification Commission for Acupuncture and Oriental Medicine, and make recommendations as to whether or not the national examination should be offered in California in lieu of, or as part of, the state examination.

(4) Evaluate and make recommendations on the approval process of the Accreditation Commission of Acupuncture and Oriental Medicine, the approval process of the Bureau for Private Postsecondary Education, and the ~~board~~ Department of Consumer Affairs 's approval process.

(b) The ~~board~~ Department of Consumer Affairs shall pay for all of the costs associated with the comprehensive analysis. An amount to pay for all of the costs associated with the comprehensive analysis, up to two hundred fifty thousand dollars ($250,000), is hereby appropriated to the ~~board~~ Department of Consumer Affairs from the Acupuncture Fund.

4934.2. The ~~board~~ Department of Consumer Affairs shall conduct the following studies and reviews,
and shall report its findings and recommendations to the department
and the Joint Committee on Boards, Commissions, and Consumer
Protection no later that September 1, 2004:

(a) The ~~board~~ Department of Consumer Affairs shall conduct a comprehensive study of the use of
unlicensed acupuncture assistants and the need to license and
regulate those assistants.

(b) The ~~board~~ Department of Consumer Affairs shall study and recommend ways to improve the
frequency and consistency of their auditing and the quality and
relevance of their courses.

4979. The ~~board~~Department of Consumer Affairs may adopt and enforce regulations to carry out the
purposes and objectives of this article, including, but not limited
to, regulations requiring (a) that the bylaws of an acupuncture
corporation shall include a provision whereby the capital stock of
the corporation owned by a disqualified person (as defined in Section
13401 of the Corporations Code), or a deceased person, shall be sold
to the corporation or to the remaining shareholders of the
corporation within the time the regulations may provide, and (b) that
an acupuncture corporation shall provide adequate security by
insurance or otherwise for claims against it by its patients arising
out of the rendering of professional services.

Behavioral Sciences, Board of

4990.1. There is in the Department of Consumer Affairs a ~~Board~~ an administrative subdivision which shall be established as necessary to accomplish the duties imposed by this Chapter concerning social workers.~~of Behavioral Sciences which consists of 11 members.~~

~~This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.~~

4990.2. Wherever “Board of Behavioral Sciences” "Board of Social Work Examiners of the State of California" or "Social Worker and Marriage Counselor Qualifications Board of the State of California" is used in any law or regulations
of this state it shall mean the ~~Board of Behavioral Sciences~~ Department of Consumer Affairs. Any reference to the executive officer shall be deemed to be a reference to the director or his or her designee

~~4990.3. Two members of the board shall be state-licensed clinical social workers, one shall be a licensed educational psychologist, two shall be state-licensed marriage and family therapists, and six shall be public members. Each member, except the six public members, shall hold at least a master's degree from an accredited college or university and shall have at least two years of experience in his or her profession.~~

~~4990.5. Each member of the board, except the members first appointed, shall be appointed for a term of four years and shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. Vacancies occurring shall be filled by appointment for the unexpired term.~~

~~The Governor shall appoint four of the public members and the five licensed members qualified as provided in Section 4990.3 with the advice and consent of the Senate. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.~~

~~4990.6. Not later than the first of March of each calendar year, the board shall elect a chairperson and a vice chairperson from its membership.~~

~~4990.7. The board shall appoint an executive officer, which position is hereby designated as a confidential position and exempt from civil service under subdivision (e) of Section 4 of Article VII of the California Constitution.~~

~~The executive officer shall have the same qualifications required of a member of the board, and shall serve at its pleasure.~~

4990.8. The director ~~executive officer~~ shall exercise the powers and perform the duties ~~delegated by the board and~~ vested in him or her by this chapter.

~~This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~4990.9. With the approval of the Director of Consumer Affairs, the board shall fix the salary of the executive officer~~.

~~4990.10. Subject to the State Civil Service Act and Section 159.5, the board may employ such clerical, technical, and other assistants as it deems necessary, within budget limitations.~~

4990.11. The director ~~board~~ shall keep ~~an accurate record of all of its proceedings and~~ a register of all applicants for licenses and of all individuals to whom a license as a licensed clinical social worker is issued.

4990.12. The director ~~board~~ may conduct research in, and make studies of problems involved in, the maintaining of professional standards among those engaged in social service work in California and may publish its recommendations thereon.

4990.125. Protection of the public shall be the highest priority for the director ~~Board of **Behavioral Sciences**~~ in exercising ~~its~~ licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

4990.13. The duty of enforcing this chapter is vested in the ~~board~~ director ~~and the executive officer subject to and under the direction of the board~~.

In the performance of this duty, the ~~board and the executive officer have~~ director has all the powers and ~~are~~ is subject to all the responsibilities vested in and imposed upon the head of a department by Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

4990.14. The ~~board~~ director may make such rules and regulations as may be necessary for the enforcement of this chapter and may by rule and regulation prescribe the qualifications for licensure.

~~4990.15. The board shall have and use a seal bearing the words "The Board of Behavioral Sciences," and shall otherwise conform to Section 107.5.~~

~~4990.16. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

4984. (a) Licenses issued under this chapter shall expire no more than 24 months after the issue date. The expiration date of the original license shall be set by the board.

(b) To renew an unexpired license, the licensee, on or before the expiration date of the license, shall do all of the following:

(1) Apply for a renewal on a form prescribed by the board.

(2) Pay a two-year renewal fee prescribed by the board.

(3) Certify compliance with the continuing education requirements set forth in Section 4980.54.

(4) Notify the ~~board~~ department whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the licensee's last renewal.

4984.1. A license that has expired may be renewed at any time within five years after its expiration on filing an application for renewal on a form prescribed by the ~~board~~ department and payment of the renewal fee in effect on the last regular renewal date. If the license is renewed after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter.

4984.5. The ~~board~~ department shall report each month to the Controller the amount and source of all revenue received pursuant to this chapter and at the same time pay the entire amount thereof into the State Treasury for credit to the Behavioral Sciences Fund.

4984.6. (a) The Behavioral Sciences Fund is continuously appropriated, without regard to fiscal years, to the ~~Board of Behavioral Sciences~~ Department of Consumer Affairs for carrying out and enforcing the provisions of this chapter.

(b) The ~~board~~ department shall keep any records as will reasonably ensure that funds expended in the administration of each licensing or registration category shall bear a reasonable relation to the revenue derived from each category~~, and shall so notify the department no later than May 31 of each year~~.

(c) Surpluses, if any, may be used in such a way so as to bear a reasonable relation to the revenue derived from each category, and may include, but not be limited to, expenditures for education and research related to each of the licensing or registration categories.

4984.75. In addition to the fees charged pursuant to Section 4984.7 for the biennial renewal of a license pursuant to Section 4984, the board shall collect an additional fee of ten dollars ($10) at the time of renewal. The ~~board~~ department shall transfer this amount to the Controller who shall deposit the funds in the Mental Health Practitioner Education Fund.

4984.8. A licensed marriage and family therapist may apply to the ~~board~~ department to request that his or her license be placed on inactive status. A licensee who holds an inactive license shall pay a biennial

fee of half of the active renewal fee and shall be exempt from continuing education requirements specified in Section 4980.54, but shall otherwise be subject to this chapter and shall not engage in the practice of marriage and family therapy in this state. A licensee on inactive status who has not committed any acts or crimes constituting grounds for denial of licensure may, upon his or her request, have his or her license to practice marriage and family therapy placed on active status. A licensee requesting his or her license to be placed on active status at any time between a renewal cycle shall pay the remaining half of the renewal fee. A licensee requesting to reactivate from an inactive status whose license will expire less than one year from the date of the request shall be required to complete 18 hours of continuing education for license renewal. A licensee requesting to reactivate from an inactive status whose license will expire more than one year from the date of the request shall be required to complete 36 hours of continuing education for license renewal.

4984.9. A licensee or registrant shall give written notice to the ~~board~~ department of a name change within 30 days after each change, giving both the old and new names. A copy of the legal document authorizing the name change, such as a court order or marriage certificate, shall be submitted with the notice.

4994. Notwithstanding Section 13340 of the Government Code and except as provided in Section 4984.6, all moneys in the Behavioral Sciences Fund are continuously appropriated to the ~~board~~ deparment, to be expended by it for the purposes of the programs under its jurisdiction.

4980.03. (a) "Director" or "Department~~Board~~," as used in this chapter, means the ~~Board of Behavioral Sciences~~ Department of Consumer Affairs and its director. .Wherever "Board of Behavioral Sciences" is used in any law or regulations of this state it shall mean the Department of Consumer Affairs. Any reference to the executive officer shall be deemed to be a reference to the director or his or her designee

(b) "Intern," as used in this chapter, means an unlicensed person who has earned his or her master's or doctor's degree qualifying him or her for licensure and is registered with the board.

(c) "Trainee," as used in this chapter, means an unlicensed person who is currently enrolled in a master's or doctor's degree program, as specified in Section 4980.40, that is designed to qualify him or her for licensure under this chapter, and who has completed no less than 12 semester units or 18 quarter units of coursework in any qualifying degree program.

(d) "Applicant," as used in this chapter, means an unlicensed person who has completed a masters or doctoral degree program, as

specified in Section 4980.40, and whose application for registration as an intern is pending, or an unlicensed person who has completed the requirements for licensure as specified in this chapter, is no longer registered with the board as an intern, and is currently in the examination process.

(e) "Advertise," as used in this chapter, includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting. Signs within church buildings or notices in church bulletins mailed to a congregation shall not be construed as advertising within the meaning of this chapter.

4980.07. The ~~board~~ department shall administer the provisions of this chapter.

4980.30. Except as otherwise provided herein, a person desiring to practice and to advertise the performance of marriage and family therapy services shall apply to the ~~board~~ department for a license and shall pay the license fee required by this chapter.

4980.34. It is the intent of the Legislature that the ~~board~~ department employ its resources for each and all of the following functions:

(a) The licensing of marriage and family therapists, clinical social workers, and educational psychologists.

(b) The development and administration of licensing examinations and examination procedures, as specified, consistent with prevailing standards for the validation and use of licensing and certification tests. Examinations shall measure knowledge and abilities demonstrably important to the safe, effective practice of the profession.

(c) Enforcement of laws designed to protect the public from incompetent, unethical, or unprofessional practitioners.

(d) Consumer education.

4980.35. (a) The Legislature acknowledges that the basic obligation to provide a complete and accurate application for a marriage and family therapist license lies with the applicant. At the same time, the Legislature recognizes that an effort should be made by the board to ensure that persons who enter degree programs and supervisorial training settings that meet the requirements of this chapter are enabled to discern the requirements for licensing and to take the examination when they have completed their educational and experience requirements.

(b) In order that the ~~board~~department, the educational institutions, and the supervisors who monitor the education and experience of applicants for licensure may develop greater cooperation, the ~~board~~department shall do all of the following:

(1) Apply a portion of its limited resources specifically to the task of communicating information about its activities, the requirements and qualifications for licensure, and the practice of marriage and family therapy to the relevant educational institutions, supervisors, professional associations, applicants, trainees, interns, and the consuming public.

(2) Develop policies and procedures to assist educational institutions in meeting the curricula requirements of Section 4980.40 and any regulations adopted pursuant to that section, so that those educational institutions may better provide assurance to their students that the curriculum offered to fulfill the educational requirements for licensure will meet those requirements at the time of the student's application for licensure.

(3) Notify applicants in the application procedure when applications are incomplete, inaccurate, or deficient, and inform applicants of any remediation, reconsideration, or appeal procedures that may be applicable.

(4) Undertake, or cause to be undertaken, further comprehensive review, in consultation with educational institutions, professional associations, supervisors, interns, and trainees, of the supervision of interns and trainees, which shall include, but not be limited to, the following, and shall propose regulations regarding the supervision of interns and trainees which may include, but not be limited to, the following:

(A) Supervisor qualifications.

(B) Continuing education requirements of supervisors.

(C) Registration or licensing of supervisors, or both.

(D) Responsibilities of supervisors in general.

(E) The board's authority in cases of noncompliance or negligence by supervisors.

(F) The intern's and trainee's need for guidance in selecting well-balanced and high quality professional training opportunities within his or her community.

(G) The role of the supervisor in advising and encouraging his or her intern or trainee regarding the necessity or value and appropriateness of the intern or trainee engaging in personal psychotherapy, so as to enable the intern or trainee to become a more competent marriage and family therapist.

4980.39. (a) Any applicant for licensure as a marriage and family therapist who began graduate study on or after January 1, 2004, shall complete, as a condition of licensure, a minimum of 10 contact hours

of coursework in aging and long-term care, which could include, but is not limited to, the biological, social, and psychological aspects of aging.

(b) Coursework taken in fulfillment of other educational requirements for licensure pursuant to this chapter, or in a separate course of study, may, at the discretion of the board, fulfill the requirements of this section.

(c) In order to satisfy the coursework requirement of this section, the applicant shall submit to the ~~board~~ department a certification from the chief academic officer of the educational institution from which the applicant graduated stating that the coursework required by this section is included within the institution's required curriculum for graduation, or within the coursework, that was completed by the applicant.

(d) The ~~board~~ department shall not issue a license to the applicant until the applicant has met the requirements of this section.

4980.395. (a) Effective January 1, 2005, as a condition of the first renewal of a person's license pursuant to this chapter, any person who began graduate study prior to January 1, 2004, shall complete a three-hour continuing education course in aging and long-term care and shall submit to the ~~board~~ department evidence, acceptable to the ~~board~~department, of the person's satisfactory completion of the course.

(b) The course could include, but is not limited to, the biological, social, and psychological aspects of aging.

(c) Any person seeking the first renewal of his or her license pursuant to this chapter may submit to the board a certificate evidencing completion of equivalent courses in aging and long-term care taken prior to the operative date of this section, or proof of equivalent teaching or practice experience. The ~~board~~department, in its discretion, may accept that certification as meeting the requirements of this section.

(d) The ~~board~~department shall not renew an applicant's license upon the applicant's application for the first renewal of his or her license until the applicant has met the requirements of this section.

4980.40. To qualify for a license, an applicant shall have all the following qualifications:

(a) Applicants applying for licensure on or after January 1, 1988, shall possess a doctor's or master's degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university accredited by the Western Association of Schools and Colleges, or approved by the

Bureau for Private Postsecondary and Vocational Education. The ~~board~~department has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval. For purposes of this chapter, the term "approved by the Bureau for Private Postsecondary and Vocational Education" shall mean unconditional approval existing at the time of the applicant's graduation from the school, college, or university. In order to qualify for licensure pursuant to this subdivision, a doctor's or master's degree program shall be a single, integrated program primarily designed to train marriage and family therapists and shall contain no less than 48 semester or 72 quarter units of instruction. The instruction shall include no less than 12 semester units or 18 quarter units of coursework in the areas of marriage, family, and child counseling, and marital and family systems approaches to treatment.

The coursework shall include all of the following areas:

(1) The salient theories of a variety of psychotherapeutic orientations directly related to marriage and family therapy, and marital and family systems approaches to treatment.

(2) Theories of marriage and family therapy and how they can be utilized in order to intervene therapeutically with couples, families, adults, children, and groups.

(3) Developmental issues and life events from infancy to old age and their effect upon individuals, couples, and family relationships. This may include coursework that focuses on specific family life events and the psychological, psychotherapeutic, and health implications that arise within couples and families, including, but not limited to, childbirth, child rearing, childhood, adolescence, adulthood, marriage, divorce, blended families, stepparenting, and geropsychology.

(4) A variety of approaches to the treatment of children.

The board shall, by regulation, set forth the subjects of instruction required in this subdivision.

(b) (1) In addition to the 12 semester or 18 quarter units of coursework specified above, the doctor's or master's degree program shall contain not less than six semester or nine quarter units of supervised practicum in applied psychotherapeutic techniques, assessment, diagnosis, prognosis, and treatment of premarital, couple, family, and child relationships, including dysfunctions, healthy functioning, health promotion, and illness prevention, in a supervised clinical placement that provides supervised fieldwork experience within the scope of practice of a marriage and family therapist.

(2) For applicants who enrolled in a degree program on or after January 1, 1995, the practicum shall include a minimum of 150 hours of face-to-face experience counseling individuals, couples, families,

or groups.

(3) (A) Supervised practicum hours, as specified in this subdivision, shall be evaluated, accepted, and credited as hours for trainee experience by the board.

(B) The practicum hours shall be considered as part of the 48 semester or 72 quarter unit requirement.

(c) As an alternative to meeting the qualifications specified in subdivision (a), the board shall accept as equivalent degrees, those master's or doctor's degrees granted by educational institutions whose degree program is approved by the Commission on Accreditation for Marriage and Family Therapy Education.

(d) All applicants shall, in addition, complete the coursework or training specified in Section 4980.41.

(e) All applicants shall be at least 18 years of age.

(f) All applicants shall have at least two years' experience that meets the requirements of this chapter in interpersonal relationships, marriage and family therapy and psychotherapy under the supervision of a licensed marriage and family therapist, licensed clinical social worker, licensed psychologist, or a licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology. Experience shall not be gained under the supervision of an individual who has provided therapeutic services to that applicant. For those supervisorial relationships in effect on or before December 31, 1988, and which remain in continuous effect thereafter, experience may be gained under the supervision of a licensed physician who has completed a residency in psychiatry. A person supervising another person pursuant to this subdivision shall have been licensed or certified for at least two years prior to acting as a supervisor, shall have a current and valid license that is not under suspension or probation, and shall meet the requirements established by regulations.

(g) The applicant shall pass a board administered written or oral examination or both types of examinations, except that an applicant who passed a written examination and who has not taken and passed an oral examination shall instead be required to take and pass a clinical vignette written examination.

(h) The applicant shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480. The board shall not issue a registration or license to any person who has been convicted of a crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(i) (1) An applicant applying for intern registration who, prior to December 31, 1987, met the qualifications for registration, but who failed to apply or qualify for intern registration may be granted

an intern registration if the applicant meets all of the following criteria:

(A) The applicant possesses a doctor's or master's degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, counseling with an emphasis in marriage, family, and child counseling, or social work with an emphasis in clinical social work obtained from a school, college, or university currently conferring that degree that, at the time the degree was conferred, was accredited by the Western Association of Schools and Colleges, and where the degree conferred was, at the time it was conferred, specifically intended to satisfy the educational requirements for licensure by the Board of Behavioral Sciences.

(B) The applicant's degree and the course content of the instruction underlying that degree have been evaluated by the chief academic officer of a school, college, or university accredited by the Western Association of Schools and Colleges to determine the extent to which the applicant's degree program satisfies the current educational requirements for licensure, and the chief academic officer certifies to the board the amount and type of instruction needed to meet the current requirements.

(C) The applicant completes a plan of instruction that has been approved by the board at a school, college, or university accredited by the Western Association of Schools and Colleges that the chief academic officer of the educational institution has, pursuant to subparagraph (B), certified will meet the current educational requirements when considered in conjunction with the original degree.

(2) A person applying under this subdivision shall be considered a trainee, as that term is defined in Section 4980.03, once he or she is enrolled to complete the additional coursework necessary to meet the current educational requirements for licensure.

(j) An applicant for licensure trained in an educational institution outside the United States shall demonstrate to the satisfaction of the board that he or she possesses a qualifying degree that is equivalent to a degree earned from a school, college, or university accredited by the Western Association of Schools and Colleges, or approved by the Bureau of Private Postsecondary and Vocational Education. These applicants shall provide the board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES), and shall provide any other documentation the ~~board~~ department deems necessary.

4980.50. (a) Every applicant who meets the educational and experience requirements and applies for a license as a marriage and

family therapist shall be examined by the ~~board~~department. The examinations shall be as set forth in subdivision (g) of Section 4980.40. The examinations shall be given at least twice a year at a time and place and under supervision as the ~~board~~department may determine. The ~~board~~department shall examine the candidate with regard to his or her knowledge and professional skills and his or her judgment in the utilization of appropriate techniques and methods.

(b) The ~~board~~ department shall not deny any applicant, who has submitted a complete application for examination, admission to the licensure examinations required by this section if the applicant meets the educational and experience requirements of this chapter, and has not committed any acts or engaged in any conduct that would constitute grounds to deny licensure.

(c) The ~~board~~ department shall not deny any applicant, whose application for licensure is complete, admission to the standard written examination, nor shall the ~~board~~ department postpone or delay any applicant's standard written examination or delay informing the candidate of the results of the standard written examination, solely upon the receipt by the ~~board~~ department of a complaint alleging acts or conduct that would constitute grounds to deny licensure.

(d) If an applicant for examination who has passed the standard written examination is the subject of a complaint or is under ~~board~~ department investigation for acts or conduct that, if proven to be true, would constitute grounds for the ~~board~~ department to deny licensure, the ~~board~~ department shall permit the applicant to take the clinical vignette written examination for licensure, but may withhold the results of the examination or notify the applicant that licensure will not be granted pending completion of the investigation.

(e) Notwithstanding Section 135, the ~~board~~ department may deny any applicant who has previously failed either the standard written or clinical vignette written examination permission to retake either examination pending completion of the investigation of any complaints against the applicant. Nothing in this section shall prohibit the ~~board~~ department from denying an applicant admission to any examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Sections 11503 and 11504 of the Government Code, respectively, or the applicant has been denied in accordance with subdivision (b) of Section 485.

(f) Notwithstanding any other provision of law, the ~~board~~ department may destroy all examination materials two years following the date of an examination.

(g) On or after January 1, 2002, no applicant shall be eligible to participate in a clinical vignette written examination if his or her passing score on the standard written examination occurred more than seven years before.

(h) An applicant who has qualified pursuant to this chapter shall be issued a license as a marriage and family therapist in the form that the ~~board~~ department may deem appropriate.

4980.54. (a) The Legislature recognizes that the education and experience requirements in this chapter constitute only minimal requirements to assure that an applicant is prepared and qualified to take the licensure examinations as specified in subdivision (g) of Section 4980.40 and, if he or she passes those examinations, to begin practice.

(b) In order to continuously improve the competence of licensed marriage and family therapists and as a model for all psychotherapeutic professions, the Legislature encourages all licensees to regularly engage in continuing education related to the profession or scope of practice as defined in this chapter.

(c) (1) Except as provided in subdivision (e), on and after January 1, 2000, the ~~board~~ department shall not renew any license pursuant to this chapter unless the applicant certifies to the ~~board~~ department, on a form prescribed by the ~~board~~ department, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of marriage and family therapy in the preceding two years, as determined by the ~~board~~ department.

(2) For those persons renewing during 1999, the ~~board~~ department shall not renew any license pursuant to this chapter unless the applicant certifies to the ~~board~~ department, on a form prescribed by the ~~board~~ department, that he or she has completed not less than 18 hours of approved continuing education in or relevant to the field of marriage and family therapy, as determined by the ~~board~~ department. The coursework of continuing education described in this paragraph may be taken on or after the effective date of the continuing education regulations adopted by the ~~board~~ department pursuant to the other provisions of this section.

(d) The ~~board~~ department shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the ~~board~~ department for auditing purposes upon request.

(e) The ~~board~~ department may establish exceptions from the continuing education requirements of this section for good cause, as defined by the ~~board~~ department.

(f) The continuing education shall be obtained from one of the following sources:

(1) An accredited school or state-approved school that meets the requirements set forth in Section 4980.40. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers, including, but not limited to, a professional marriage and family therapist association, a licensed health facility, a governmental entity, a continuing education unit of an accredited four-year institution of higher learning, or a mental health professional association, approved by the ~~board~~ department.

(3) The ~~board~~ department shall establish, by regulation, a procedure for approving providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2), shall adhere to procedures established by the board department. The ~~board~~ department may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with the requirements of this section or any regulation adopted pursuant to this section.

(g) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of marriage and family therapy.

(2) Aspects of the discipline of marriage and family therapy in which significant recent developments have occurred.

(3) Aspects of other disciplines that enhance the understanding or the practice of marriage and family therapy.

(h) A system of continuing education for licensed marriage and family therapists shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(i) On and after January 1, 1997, the ~~board~~ department shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (f) shall be deemed to be an approved provider.

(j) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

4980.57. (a) The ~~board~~ department shall require a licensee who began graduate study prior to January 1, 2004, to take a continuing education course during his or her first renewal period after the operative date of this section in spousal or partner abuse assessment, detection, and intervention strategies, including community resources, cultural factors, and same gender abuse dynamics. On and after January 1,

2005, the course shall consist of not less than seven hours of training. Equivalent courses in spousal or partner abuse assessment, detection, and intervention strategies taken prior to the operative date of this section or proof of equivalent teaching or practice experience may be submitted to the ~~board~~ department and at its discretion, may be accepted in satisfaction of this requirement.

(b) Continuing education courses taken pursuant to this section shall be applied to the 36 hours of approved continuing education required under paragraph (1) of subdivision (c) of Section 4980.54.

(c) This section shall become operative on January 1, 2004.

4980.60. (a) The ~~board~~ department may adopt those rules and regulations as may be necessary to enable it to carry into effect the provisions of this chapter. The adoption, amendment, or repeal of those rules and regulations shall be made in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The ~~board~~ department may, by rules or regulations, adopt, amend, or repeal rules of advertising and professional conduct appropriate to the establishment and maintenance of a high standard of integrity in the profession, provided that the rules or regulations are not inconsistent with Section 4982. Every person who holds a license to practice marriage and family therapy shall be governed by the rules of professional conduct.

4980.70. Except as provided by Section 159.5, the ~~board~~ department may employ whatever additional personnel is necessary to carry out the provisions of this chapter.

4980.80. The ~~board~~ department may issue a license to any person who, at the time of application, has held for at least two years a valid license issued by a ~~board~~ department of marriage counselor examiners, marriage therapist examiners, or corresponding authority of any state, if the education and supervised experience requirements are substantially the equivalent of this chapter and the person successfully completes the ~~board~~ department administered licensing examinations as specified by subdivision (g) of Section 4980.40 and pays the fees specified. Issuance of the license is further conditioned upon the person's completion of the following coursework or training:

(a) A two semester or three quarter unit course in California law and professional ethics for marriage, family, and child counselors that shall include areas of study as specified in Section 4980.41.

(b) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.

(c) A minimum of 10 contact hours of training or coursework in

human sexuality as specified in Section 25 and any regulations promulgated thereunder.

(d) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency as specified by regulation.

(e) (1) Instruction in spousal or partner abuse assessment, detection, and intervention. This instruction may be taken either in fulfillment of other requirements for licensure or in a separate course.

(2) On and after January 1, 2004, a minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(f) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychological testing. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(g) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychopharmacology. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(h) With respect to human sexuality, alcoholism and other chemical substance dependency, spousal or partner abuse assessment, detection, and intervention, psychological testing, and psychopharmacology, the ~~board~~ department may accept training or coursework acquired out of state.

4980.90. (a) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to that required by this chapter and if the applicant has gained a minimum of 250 hours of supervised experience in direct counseling within California while registered as an intern with the ~~board~~ department.

(b) Education gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter, and if the applicant has completed all of the following:

(1) A two semester or three quarter unit course in California law and professional ethics for marriage, family, and child counselors that shall include areas of study as specified in Section 4980.41.

(2) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.

(3) A minimum of 10 contact hours of training or coursework in sexuality as specified in Section 25 and any regulations promulgated thereunder.

(4) A minimum of 15 contact hours of training or coursework in

alcoholism and other chemical substance dependency as specified by regulation.

(5) (1) Instruction in spousal or partner abuse assessment, detection, and intervention. This instruction may be taken either in fulfillment of other educational requirements for licensure or in a separate course.

(2) On and after January 1, 2004, a minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(6) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychological testing. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(7) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychopharmacology. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(8) With respect to human sexuality, alcoholism and other chemical substance dependency, spousal or partner abuse assessment, detection, and intervention, psychological testing, and psychopharmacology, the ~~board~~ department may accept training or coursework acquired out of state.

(c) For purposes of this section, the ~~board~~ department may, in its discretion, accept education as substantially equivalent if the applicant has been granted a degree in a single integrated program primarily designed to train marriage, family, and child counselors and if the applicant's education meets the requirements of Sections 4980.37 and 4980.40. The degree title and number of units in the degree program need not be identical to those required by subdivision (a) of Section 4980.40. If the applicant's degree does not contain the number of units required by subdivision (a) of Section 4980.40, the ~~board~~ department may, in its discretion, accept the applicant's education as substantially equivalent if the applicant's degree otherwise complies with this section and the applicant completes the units required by subdivision (a) of Section 4980.40.

4981. This article applies to licenses to engage in the business of marriage and family therapy, and does not apply to the licenses provided for in Article 5 (commencing with Section 4986) except that the ~~board~~ department shall have all powers provided in this article not inconsistent with this chapter.

4987.5. A marriage and family therapy corporation is a corporation that is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering

professional services who are marriage and family therapists, physicians and surgeons, psychologists, licensed clinical social workers, registered nurses, chiropractors, or acupuncturists are in compliance with the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), this article, and any other statute or regulation pertaining to that corporation and the conduct of its affairs. With respect to a marriage and family therapy corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the ~~Board of Behavioral Sciences~~Department of Consumer Affairs.

4996.1. The ~~board~~ department shall issue a clinical social worker license to each applicant who qualifies pursuant to this article and successfully passes a board administered written or oral examination or both examinations. An applicant who has successfully passed a previously administered written examination may be subsequently required to take and pass another written examination.

4996.2. Each applicant shall furnish evidence satisfactory to the ~~board~~ department that he or she complies with all of the following requirements:

(a) Is at least 21 years of age.
(b) Has received a master's degree from an accredited school of social work.
(c) Has had two years of supervised post-master's degree experience, as specified in Section 4996.20, 4996.21, or 4996.23.
(d) Has not committed any crimes or acts constituting grounds for denial of licensure under Section 480. The ~~board~~ department shall not issue a registration or license to any person who has been convicted of any crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.
(e) Has completed adequate instruction and training in the subject of alcoholism and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after January 1, 1986.
(f) Has completed instruction and training in spousal or partner abuse assessment, detection, and intervention. This requirement applies to an applicant who began graduate training during the period commencing on January 1, 1995, and ending on December 31, 2003. An applicant who began graduate training on or after January 1, 2004, shall complete a minimum of 15 contact hours of coursework in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics. Coursework required under this

subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

This requirement for coursework shall be satisfied by, and the ~~board~~ department shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

(g) Has completed a minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 1807 of Title 16 of the California Code of Regulations. This training or coursework may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

(h) Has completed a minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 1807.2 of Title 16 of the California Code of Regulations. This training or coursework may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

4996.3. (a) Each application for the standard written examination received on or after January 1, 1999, shall be accompanied by an application fee of one hundred dollars ($100) and a fee of up to one hundred fifty dollars ($150), including the standard written examination fee and related administrative costs for the standard written examination. After successfully passing the standard written examination, each applicant shall submit one hundred dollars ($100) for the clinical vignette written examination. Applicants failing to appear for any examination, once having been scheduled, shall forfeit any examination fees paid. Effective January 1, 2005, the examination fees for the standard written and clinical vignette written examinations shall be based on the actual cost to the ~~board~~ department of developing, purchasing, and grading of each examination, plus the actual cost to the ~~board~~ department of administering each examination. The written examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the ~~board~~ department.

(b) The fee for rescoring any written examination shall be twenty dollars ($20).

(c) The fee for issuance of the initial license shall be a maximum of one hundred fifty-five dollars ($155).

(d) With regard to all license, examination, and other fees, the ~~board~~ department shall establish fee amounts at or below the maximum amounts specified in this chapter.

4996.5. The ~~board~~ department shall issue a license to each applicant meeting the requirements of this article, which license, so long as the

annual renewal fees have been paid, licenses the holder to engage in the practice of clinical social work as defined in Section 4996.9, entitles the holder to use the title of licensed clinical social worker, and authorizes the holder to hold himself or herself out as qualified to perform any of the functions delineated by this chapter.

The form and content of the license shall be determined by the director in accordance with Section 164.

4996.6. (a) The renewal fee for licenses that expire on or after January 1, 1996, shall be a maximum of one hundred fifty-five dollars ($155) and shall be collected on a biennial basis by the ~~board~~ department in accordance with Section 152.6. The fees shall be deposited in the State Treasury to the credit of the Behavioral Sciences Fund.

(b) Licenses issued under this chapter shall expire no more than 24 months after the issue date. The expiration date of the original license shall be set by the ~~board~~ department.

(c) To renew an unexpired license, the licensee shall, on or before the expiration date of the license, do the following:

(1) Apply for a renewal on a form prescribed by the ~~board~~ department.

(2) Pay a two-year renewal fee prescribed by the ~~board~~ department.

(3) Certify compliance with the continuing education requirements set forth in Section 4996.22.

(4) Notify the ~~board~~ department whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing ~~board~~ department in this or any other state, subsequent to the licensee's last renewal.

(d) If the license is renewed after its expiration, the licensee shall, as a condition precedent to renewal, also pay a delinquency fee of seventy-five dollars ($75).

(e) Any person who permits his or her license to become delinquent may have it restored at any time within five years after its expiration upon the payment of all fees that he or she would have paid if the license had not become delinquent, plus the payment of all delinquency fees.

(f) A license that is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued thereafter; however, the licensee may apply for and obtain a new license if:

(1) No fact, circumstance, or condition exists that, if the license were issued, would justify its revocation or suspension.

(2) He or she pays the fees that would be required if he or she were applying for a license for the first time.

(3) He or she takes and passes the current licensing examinations as specified in Section 4996.1.

(g) The fee for issuance of any replacement registration, license,

or certificate shall be twenty dollars ($20).
(h) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars ($25).

4996.65. In addition to the fees charged pursuant to Section 4996.6 for the biennial renewal of a license, the ~~board~~ department shall collect an additional fee of ten dollars ($10) at the time of renewal. The ~~board~~ department shall transfer this amount to the Controller who shall deposit the funds in the Mental Health Practitioner Education Fund.

4996.11. The ~~board~~ department may suspend or revoke the license of any person who is guilty on the grounds set forth in Section 4992.3. The proceedings for the suspension or revocation of licenses under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the ~~board~~ department shall have all the powers granted in that chapter.

4996.14. Nothing in this chapter shall restrict or prevent activities of a psychosocial nature or the use of the official title of the position for which they are employed on the part of the following persons, if those persons are performing those activities as part of the duties for which they are employed or solely within the confines or under the jurisdiction of the organization in which they are employed. However, they shall not offer to render clinical social work services, as defined in Section 4996.9, to the public for a fee, monetary or otherwise, over and above the salary they receive for the performance of their official duties with the organization in which they are employed.
(a) Persons employed by the United States Department of Health and Human Services.
(b) Persons employed in family or children services agencies.
(c) Individuals employed in proprietary or nonproprietary private psychiatric clinics.
(d) Individuals employed in accredited colleges, junior colleges, or universities.
(e) Individuals employed in federal, state, county or municipal governmental organizations, or nonprofit organizations which are engaged in research, education, and services which services are defined by a ~~board~~ department composed of community representatives and professionals.
(f) Persons utilizing hypnotic techniques by referral from persons licensed to practice medicine, dentistry, or psychology, or persons utilizing hypnotic techniques which offer avocational or vocational self-improvement and do not offer therapy for emotional or mental disorders.

4996.17. (a) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially the equivalent of the requirements of this chapter. The ~~board~~ department may issue a license to any person who, at the time of application, has held a valid license, issued by a board of clinical social work examiners or corresponding authority of any state, for two years if the education and supervised experience requirements are substantially the equivalent of this chapter and the person successfully completes the ~~board~~ department administered licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon the person's completion of the following coursework and training:

(1) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

(2) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(3) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(4) (A) Instruction in spousal or partner abuse assessment, detection, and intervention. This instruction may be taken either in fulfillment of other requirements for licensure or in a separate course.

(B) On and after January 1, 2004, a minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(5) With respect to paragraphs (2), (3), and (4), the ~~board~~ department may accept training or coursework acquired out of state.

(b) A person who qualifies for licensure based on experience gained outside California may apply for and receive an associate registration to practice clinical social work.

4996.18. (a) Any person who wishes to be credited with experience toward licensure requirements shall register with the ~~board~~ department as an associate clinical social worker prior to obtaining that experience. The application shall be made on a form prescribed by the ~~board~~ department and shall be accompanied by a fee of ninety dollars ($90). An applicant for registration shall (1) possess a master's degree from an accredited school or department of social work, and (2) not have committed any crimes or acts constituting grounds for denial of licensure under Section 480. On and after January 1, 1993, an applicant who possesses a master's degree from a school or department of social work that is a candidate for accreditation by the

Commission on Accreditation of the Council on Social Work Education shall be eligible, and shall be required, to register as an associate clinical social worker in order to gain experience toward licensure if the applicant has not committed any crimes or acts that constitute grounds for denial of licensure under Section 480. That applicant shall not, however, be eligible for examination until the school or department of social work has received accreditation by the Commission on Accreditation of the Council on Social Work Education.

(b) Registration as an associate clinical social worker shall expire one year from the last day of the month during which it was issued. A registration may be renewed annually after initial registration by filing on or before the date on which the registration expires, an application for renewal, paying a renewal fee of seventy-five dollars ($75), and notifying the ~~board~~ department whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, and whether any disciplinary action has been taken by any regulatory or licensing board or department in this or any other state, subsequent to the issuance of the initial registration or registrant's last renewal. Each person who registers or has registered as an associate clinical social worker, may retain that status for a total of six years.

(c) Notwithstanding the limitations on the length of an associate registration in subdivision (b), an associate may apply for, and the ~~board~~ department shall grant, one-year extensions beyond the six-year period when no grounds exist for denial, suspension, or revocation of the registration pursuant to Section 480. An associate shall be eligible to receive a maximum of three one-year extensions. An associate who practices pursuant to an extension shall not practice independently and shall comply with all requirements of this chapter governing experience, including supervision, even if the associate has completed the hours of experience required for licensure. Each extension shall commence on the date when the last associate renewal or extension expires. An application for extension shall be made on a form prescribed by the ~~board~~ department and shall be accompanied by a renewal fee of fifty dollars ($50). An associate who is granted this extension may work in all work settings authorized pursuant to this chapter.

(d) A registrant shall not provide clinical social work services to the public for a fee, monetary or otherwise, except as an employee.

(e) A registrant shall inform each client or patient prior to performing any professional services that he or she is unlicensed and is under the supervision of a licensed professional.

(f) Any experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience. Any experience obtained

under the supervision of a supervisor with whom the applicant has a personal relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

(g) An applicant who possesses a master's degree from an approved school or department of social work shall be able to apply experience the applicant obtained during the time the approved school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education toward the licensure requirements, if the experience meets the requirements of Section 4996.20, 4996.21, or 4996.23. This subdivision shall apply retroactively to persons who possess a master's degree from an approved school or department of social work and who obtained experience during the time the approved school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education.

4996.20. The experience required by subdivision (c) of Section 4996.2 shall meet the following criteria:

(a) An applicant shall have at least 3,200 hours of post-master's experience, supervised by a licensed clinical social worker, in providing clinical social work services consisting of psychosocial diagnosis; assessment; treatment, including psychotherapy and counseling; client-centered advocacy; consultation; and evaluation as permitted by Section 4996.9. For persons applying for licensure on or after January 1, 1992, this experience shall have been gained in not less than two nor more than six years and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed. The ~~board~~ department may credit experience gained more than six years prior to the date on which an application was filed upon a showing of good cause or where the applicant is licensed and currently practicing in another state.

(b) Notwithstanding the requirements of subdivision (a) that 3,200 hours of experience shall be gained under the supervision of a licensed clinical social worker, up to 1,000 hours of the required experience may be gained under the supervision of a licensed mental health professional acceptable to the ~~board~~ department.

For purposes of this section, "supervision" means responsibility for and control of the quality of social work services being provided. Consultation shall not be considered to be supervision. Supervision shall include at least one hour of direct supervision for each week of experience claimed. Not less than one-half of the hours of required supervision shall be individual supervision. The remaining hours may be group supervision. "Individual supervision" means one supervisor meets with one supervisee at a time. "Group supervision" means a supervisor meets with a group of no more than

eight supervisees at a time.

(c) For purposes of this section, a "private practice setting" is any setting other than a governmental entity, a school, college or university, a nonprofit and charitable corporation or a licensed health facility. Employment in a private practice setting shall not commence until the applicant has been registered as an associate clinical social worker. A registrant employed in a private practice setting shall not:

(1) Pay his or her employer for supervision, and shall receive fair remuneration from his or her employer.

(2) Receive any remuneration from patients or clients and shall only be paid by his or her employer.

(3) Perform services at any place except where the registrant's employer regularly conducts business.

(4) Have any proprietary interest in the employer's business.

(d) A person employed in a setting other than a private practice setting may obtain supervision from a person not employed by the registrant's employer if that person has signed a written contract with the employer to take supervisory responsibility for the registrant's social work services.

(e) This section shall apply only to persons who apply for registration on or before December 31, 1998.

4996.21. The experience required by subdivision (c) of Section 4996.2 shall meet the following criteria:

(a) On or after January 1, 1999, an associate shall have at least 3,200 hours of post-master's degree experience in providing clinical social work services as permitted by Section 4996.9. At least 1,700 of these hours shall be gained under the supervision of a licensed clinical social worker. The remaining hours of the required experience may be gained under the supervision of a licensed mental health professional acceptable to the ~~board~~ department as defined in a regulation adopted by the ~~board~~ department. Experience shall consist of the following:

(1) A minimum of 2,000 hours in psychosocial diagnosis, assessment, and treatment, including psychotherapy or counseling.

(2) A maximum of 1,200 hours in client-centered advocacy, consultation, evaluation, and research.

(3) Experience shall have been gained in not less than two nor more than six years and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed.

(b) Supervision means responsibility for and control of the quality of clinical social work services being provided.

(c) Consultation or peer discussion shall not be considered to be supervision.

(d) Supervision shall include at least one hour of direct supervisor contact for a minimum of 104 weeks and shall include at least one hour of direct supervisor contact for every 10 hours of client contact in each setting where experience is gained. Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, and of the 52 weeks of required individual supervision, not less than 13 weeks shall be supervised by a licensed clinical social worker. For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group setting of not more than eight persons.

(e) The supervisor and the associate shall develop a supervisory plan that describes the goals and objectives of supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The associate shall submit to the ~~board~~ department the initial original supervisory plan upon application for licensure.

(f) (1) Experience shall only be gained in a setting that meets both of the following:

(A) Lawfully and regularly provides clinical social work, mental health counseling, or psychotherapy.

(B) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4996.9.

(2) Experience shall not be gained until the applicant has been registered as an associate clinical social worker.

(3) Employment in a private practice as defined in paragraph (4) shall not commence until the applicant has been registered as an associate clinical social worker.

(4) A private practice setting is a setting that is owned by a licensed clinical social worker, a licensed marriage and family therapist, a licensed psychologist, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(5) If volunteering, the associate shall provide the ~~board~~ department with a letter from his or her employer verifying his or her voluntary status upon application for licensure.

(6) If employed, the associate shall provide the ~~board~~ department with copies of his or her W-2 tax forms for each year of experience claimed upon application for licensure.

(g) While an associate may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to associates.

(h) An associate shall not do the following:

(1) Receive any remuneration from patients or clients and shall only be paid by his or her employer.

(2) Have any proprietary interest in the employer's business.

(i) An associate, whether employed or volunteering, may obtain supervision from a person not employed by the associate's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the associate's social work services.

4996.22. (a) (1) Except as provided in subdivision (c), on and after January 1, 2000, the ~~board~~ department shall not renew any license pursuant to this chapter unless the applicant certifies to the ~~board~~ department, on a form prescribed by the ~~board~~ department, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of social work in the preceding two years, as determined by the ~~board~~ department.

(2) For those persons renewing during 1999, the ~~board~~ department shall not renew any license pursuant to this chapter unless the applicant certifies to the ~~board~~ department, on a form prescribed by the ~~board~~ department, that he or she has completed not less than 18 hours of approved continuing education in or relevant to the field of social work, as determined by the ~~board~~ department. The coursework of continuing education described in this paragraph may be taken on or after the effective date of the continuing education regulations adopted by the ~~board~~ department pursuant to the other provisions of this section.

(3) The ~~board~~ department shall not renew any license of an applicant who began graduate study prior to January 1, 2004, pursuant to this chapter unless the applicant certifies to the ~~board~~ department that during the applicant's first renewal period after the operative date of this section, he or she completed a continuing education course in spousal or partner abuse assessment, detection, and intervention strategies, including community resources, cultural factors, and same gender abuse dynamics. On and after January 1, 2005, the course shall consist of not less than seven hours of training. Equivalent courses in spousal or partner abuse assessment, detection, and intervention strategies taken prior to the operative date of this section or proof of equivalent teaching or practice experience may be submitted to the ~~board~~ department and at its discretion, may be accepted in satisfaction of this requirement. Continuing education courses taken pursuant to this paragraph shall be applied to the 36 hours of approved continuing education required under paragraph (1).

(b) The ~~board~~ department shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the ~~board~~ department for auditing purposes upon request.

(c) The ~~board~~ department may establish exceptions from the continuing education requirement of this section for good cause as defined by

the ~~board~~ department.

(d) The continuing education shall be obtained from one of the following sources:

(1) An accredited school of social work, as defined in Section 4990.4, or a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.

(2) Other continuing education providers, including, but not limited to, a professional social work association, a licensed health facility, a governmental entity, a continuing education unit of an accredited four-year institution of higher learning, and a mental health professional association, approved by the ~~board~~ department.

(3) The ~~board~~ department shall establish, by regulation, a procedure for approving providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2), shall adhere to the procedures established by the ~~board~~ department. The ~~board~~ department may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with the requirements of this section or any regulation adopted pursuant to this section.

(e) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding, or the practice, of social work.

(2) Aspects of the social work discipline in which significant recent developments have occurred.

(3) Aspects of other related disciplines that enhance the understanding, or the practice, of social work.

(f) A system of continuing education for licensed clinical social workers shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.

(g) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

(h) The ~~board~~ department may adopt regulations as necessary to implement this section.

(i) On and after January 1, 1997, the ~~board~~ department shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Science Examiners Fund. The fees related to the administration of this section shall be sufficient to meet but shall not exceed the costs of administering the corresponding provisions of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (d), shall be deemed to be an approved

provider.

(j) This section shall become operative on January 1, 2004.

4996.23. The experience required by subdivision (c) of Section 4996.2 shall meet the following criteria:

(a) All persons registered with the ~~board~~ department on and after January 1, 2002, shall have at least 3,200 hours of post-master's degree supervised experience providing clinical social work services as permitted by Section 4996.9. At least 1,700 hours shall be gained under the supervision of a licensed clinical social worker. The remaining required supervised experience may be gained under the supervision of a licensed mental health professional acceptable to the ~~board~~ department as defined by a regulation adopted by the ~~board~~ department. This experience shall consist of the following:

(1) A minimum of 2,000 hours in clinical psychosocial diagnosis, assessment, and treatment, including psychotherapy or counseling.

(2) A maximum of 1,200 hours in client-centered advocacy, consultation, evaluation, and research.

(3) Of the 2,000 clinical hours required in paragraph (1), no less than 750 hours shall be face-to-face individual or group psychotherapy provided to clients in the context of clinical social work services.

(4) A minimum of two years of supervised experience is required to be obtained over a period of not less than 104 weeks and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed.

(5) Experience shall not be credited for more than 40 hours in any week.

(b) "Supervision" means responsibility for, and control of, the quality of clinical social work services being provided. Consultation or peer discussion shall not be considered to be supervision.

(c) (1) Prior to the commencement of supervision, a supervisor shall comply with all requirements enumerated in Section 1870 of Title 16 of the California Code of Regulations and shall sign under penalty of perjury the "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" form.

(2) Supervised experience shall include at least one hour of direct supervisor contact for a minimum of 104 weeks. In addition, an associate shall receive an average of at least one hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy is performed in each setting experience is gained. No more than five hours of supervision, whether individual or group, shall be credited during any single week. Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, and of the 52 weeks of required individual supervision, not less than

13 weeks shall be supervised by a licensed clinical social worker. For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons receiving supervision.

(d) The supervisor and the associate shall develop a supervisory plan that describes the goals and objectives of supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The associate shall submit to the ~~board~~ department the initial original supervisory plan upon application for licensure.

(e) Experience shall only be gained in a setting that meets both of the following:

(1) Lawfully and regularly provides clinical social work, mental health counseling, or psychotherapy.

(2) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4996.9.

(f) Experience shall not be gained until the applicant has been registered as an associate clinical social worker.

(g) Employment in a private practice as defined in subdivision (h) shall not commence until the applicant has been registered as an associate clinical social worker.

(h) A private practice setting is a setting that is owned by a licensed clinical social worker, a licensed marriage and family therapist, a licensed psychologist, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(i) If volunteering, the associate shall provide the ~~board~~ department with a letter from his or her employer verifying his or her voluntary status upon application for licensure.

(j) If employed, the associate shall provide the ~~board~~ department with copies of his or her W-2 tax forms for each year of experience claimed upon application for licensure.

(k) While an associate may be either a paid employee or volunteer, employers are encouraged to provide fair remuneration to associates.

(l) Associates shall not do the following:

(1) Receive any remuneration from patients or clients and shall only be paid by his or her employer.

(2) Have any proprietary interest in the employer's business.

(m) An associate, whether employed or volunteering, may obtain supervision from a person not employed by the associate's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the associate's social work services.

(n) Notwithstanding any other provision of law, associates and applicants for examination shall receive a minimum of one hour of

supervision per week for each setting in which he or she is working.

4996.25. (a) Any applicant for licensure as a licensed clinical social worker who began graduate study on or after January 1, 2004, shall complete, as a condition of licensure, a minimum of 10 contact hours of coursework in aging and long-term care, which could include, but is not limited to, the biological, social, and psychological aspects of aging.

(b) Coursework taken in fulfillment of other educational requirements for licensure pursuant to this chapter, or in a separate course of study, may, at the discretion of the ~~board~~ department, fulfill the requirements of this section.

(c) In order to satisfy the coursework requirement of this section, the applicant shall submit to the ~~board~~ department a certification from the chief academic officer of the educational institution from which the applicant graduated stating that the coursework required by this section is included within the institution's required curriculum for graduation, or within the coursework, that was completed by the applicant.

(d) The ~~board~~ department shall not issue a license to the applicant until the applicant has met the requirements of this section.

4996.26. (a) Effective January 1, 2005, as a condition of the first renewal of a person's license pursuant to this chapter, any person who began graduate study prior to January 1, 2004, shall complete a three-hour continuing education course in aging and long-term care, and shall submit to the ~~board~~ department evidence acceptable to the ~~board~~ department of the person's satisfactory completion of the course.

(b) The course could include, but is not limited to, the biological, social, and psychological aspects of aging.

(c) Any person seeking the first renewal of his or her license pursuant to this chapter may submit to the ~~board~~ department a certificate evidencing completion of equivalent courses in aging and long-term care taken prior to the operative date of this section, or proof of equivalent teaching or practice experience. The ~~board~~ department, in its discretion, may accept that certification as meeting the requirements of this section.

(d) The ~~board~~ department shall not renew an applicant's license upon the applicant's application for the first renewal of his or her license until the applicant has met the requirements of this section.

4997. A licensed clinical social worker may apply to the ~~board~~ department to request that his or her license be placed on inactive status. A licensee who holds an inactive license shall pay a biennial fee of half of the active renewal fee and shall be exempt from continuing education requirements specified in Section 4996.22, but shall

otherwise be subject to this chapter and shall not engage in the practice of licensed clinical social work in this state. A licensee on inactive status who has not committed any acts or crimes constituting grounds for denial of licensure may, upon his or her request, have his or her license to practice licensed clinical social work placed on active status. A licensee requesting his or her license to be placed on active status between renewal cycles shall pay the remaining half of the renewal fee. A licensee requesting to reactivate from an inactive status whose license will expire less than one year from the date of the request shall be required to complete 18 hours of continuing education for license renewal. A licensee requesting to reactivate from an inactive status whose license will expire more than one year from the date of the request shall be required to complete 36 hours of continuing education for license renewal.

Board of Accountancy

5000. ~~There is in the Department of Consumer Affairs the California Board of Accountancy, which consists of 15 members, seven of whom shall be licensees, and eight of whom shall be public members who shall not be licentiates of the board or registered by the board. The board has the powers and duties conferred by this chapter.~~

~~The Governor shall appoint four of the public members, and the seven licensee members as provided in this section. The Senate Rules Committee and the Speaker of the Assembly shall each appoint two public members. In appointing the seven licensee members, the Governor shall appoint members representing a cross section of the accounting profession with at least two members representing a small public accounting firm. For the purposes of this chapter, a small public accounting firm shall be defined as a professional firm that employs a total of no more than four licensees as partners, owners, or full-time employees in the practice of public accountancy within the State of California.~~

~~This section shall become inoperative on July 1, 2005, and as of January 1, 2006, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2006, deletes or extends the dates on which this section becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473). However, the review of the board shall be limited to reports or studies specified in this chapter and those issues identified by the Joint Legislative Sunset Review Committee and the board regarding the implementation of new licensing requirements.~~ Any reference to the "Board" in this chapter, or to the California Board of

Accountancy in any law or regulation, shall refer to the Department of Consumer Affairs or to the Director of the Department of Consumer Affairs, as indicated by the context.

~~5000.5. No public member shall be a current or former licensee of the board or an immediate family member of a licensee, or be currently or formerly employed by a public accounting firm, bookkeeping firm, or firm engaged in providing tax preparation as its primary business, or have any financial interest in the business of a licensee. Each public member shall meet all of the requirements for public membership on the board as set forth in Chapter 6 (commencing with Section 450) of Division 1.~~

~~5001. (a) Except as provided in subdivision (b), each member of the board, except the public members, shall be actively engaged in the practice of public accountancy and shall have been so engaged for a period of not less than five years preceding the date of his appointment. Each member shall be a citizen of the United States and a resident of this state for at least five years next preceding his appointment, and shall be of good character. Within 30 days after their appointment, the members of the board shall take and subscribe to the oath of office as prescribed by the Government Code and shall file the same with the Secretary of State.~~

~~(b) One licensee member appointed by the Governor may be an active educator within a program that emphasizes the study of accounting within a college, university, or four-year educational institution.~~

~~5002. Each member shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.~~

~~Vacancies occurring shall be filled by appointment for the unexpired term of a person licensed in the same capacity as the person being replaced. No person shall serve more than two terms consecutively. The Governor shall remove from the board any member, except a public member, whose permit to practice has become void, revoked or suspended. The Governor may, after hearing, remove any member of the board for neglect of duty or other just cause.~~

~~5003. The officers of the board are a president, vice president and a secretary-treasurer.~~

~~5004. The president, vice president, and secretary-treasurer shall be elected by the board for a term of one year from among its members at the time of the annual meeting. The newly elected president, vice president, and secretary-treasurer shall assume the duties of their respective offices at the conclusion of the annual meeting at~~

~~which they were elected.~~

~~5006. The officers of the board shall continue in office until their successors are elected and qualify.~~

~~5007. The president shall preside at all meetings of the board, and in the event of his absence or inability to act, the vice president shall preside. Other duties of the president, vice president, and the duties of the secretary-treasurer, shall be such as the board may prescribe.~~

5008. The ~~board~~ Department shall, from time to time, but not less than twice each year, prepare and distribute to all licensees, a report of the relevant activities of the ~~board~~ Department, including amendments to this chapter and regulations adopted by the ~~board~~ Department, and may likewise distribute reports of other matters of interest to the public and to practitioners.

5009. The ~~board~~ Department shall compile and maintain, or may have compiled and maintained on its behalf, a register of licensees that contains information that the ~~board~~ Department determines is necessary for the purposes for which the ~~board~~ Department was established. The ~~board~~ Department shall make the register available to any licensee and to the public.

5010. The ~~board~~ Department may adopt, repeal, or amend such regulations as may be reasonably necessary and expedient for the orderly conduct of its affairs and for the administration of this chapter. The regulations shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

~~5011. The board shall designate the location of its principal office and may establish branch offices in other locations.~~

5012. The ~~board~~ Department shall have a seal.

5013. The ~~board~~ Department shall keep records of all proceedings and actions by and before the ~~board~~ Department and before its committees. In any proceeding in court, civil or criminal, copies of those records certified as correct by the executive officer or Director of the ~~board~~ Department under seal of the ~~board~~ Department shall be admissible in evidence and shall be prima facie evidence of the correctness of the contents thereof.

5015. The ~~board~~ Department may employ clerks, examiners and, except as provided by Section 159.5, other assistants in the performance of its duties, and pay salaries and necessary expenses.

5015.6. The ~~board~~ Director may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the ~~board~~ Director and vested in him or her by this chapter.

This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, which

becomes effective on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.

~~5016. A majority of the board shall constitute a quorum for the transaction of any business at any meeting of the board for which a notice of at least seven days is given by the president or executive officer. Notice of meetings may be waived in writing either before or after the meeting by unanimous consent of all members. The board shall meet at the call of the president and executive officer, but not less than twice each year. Any two members of the board may request the executive officer to call a special meeting, and the executive officer, upon receiving that notice, shall call a meeting pursuant to the procedure prescribed herein.~~

~~5017. All meetings of the board shall be open and public, except that the board may hold executive sessions to deliberate on the decision to be reached upon the evidence introduced in a proceeding conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, of the Government **Code**.~~
~~The members of the board may hold executive sessions to prepare, approve, grade, or administer examinations and shall have jurisdiction or vote over these functions of preparing, approving, grading, or administering examinations in executive session as provided for in Section 11126 of the Government Code.~~

5018. The ~~board~~ Department may by regulation, prescribe, amend, or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of integrity and dignity in the profession. In addition to the requirements contained in Chapter 4 (commencing with Section 11370) of Part 1 of Division 3 of Title 2 of the Government Code, a copy of the rules shall be mailed to every holder of a license under this chapter at least 30 days prior to a date named for a public hearing held for the purpose of receiving and considering objections to any of the proposed provisions. Every licensee of the ~~California Board of Accountancy~~ Department under this chapter in this state shall be governed and controlled by the rules and standards adopted by the ~~board~~ Department.

5020. The ~~board~~ Director may, for the purpose of obtaining technical expertise, appoint an administrative committee of not more than 13 licensees to provide advice and assistance related to the functions specified in Section 5103. The committee shall act only in an advisory capacity, shall have no authority to initiate any disciplinary action against a licensee, and shall only be authorized to report its findings from any investigation or hearing conducted pursuant to this section to the ~~board~~ Director, or upon direction of the ~~board~~ Director, to the executive officer.

5021. The members of the administrative committee shall hold office

for one year.

5022. The committee shall make recommendations and forward its report to the ~~board~~ Director for action on any matter on which it is authorized to act. Any applicant for registration as a certified public accountant who is aggrieved by any action taken by the committee with respect to his or her qualifications may appeal to the ~~board~~ Director in accordance with rules or regulations prescribed by the ~~board~~ Director. The ~~board~~ Director on the appeal may give an oral or written examination as an aid in determining whether the applicant is qualified under the terms of this chapter.

5023. The ~~board~~ Director may establish an advisory committee of its own certified public accountant members or other certified public accountants of the state in good standing, to perform either of the following advisory duties:

(a) To examine all applicants for the license of certified public accountant.

(b) To recommend to the ~~board~~ Director applicants for the certified public accountant license who fulfill the requirements of this chapter.

5024. The ~~board~~ Director may create and appoint other advisory committees consisting of public accountants or certified public accountants of this state in good standing ~~and who need not be members of the board~~ for the purpose of making recommendations on matters as may be specified by the ~~board~~ Director.

5025.1. (a) The ~~board~~ Department may contract with and employ certified public accountants and public accountants as consultants and experts to assist in the investigation and prosecution of judicial and administrative matters.

(b) Contracts made pursuant to this section are not subject to Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, except that the board Department shall apply the standards set forth in Section 19130 in awarding personal service contracts under this section.

(c) Notwithstanding any other provision of law, the ~~board~~ Department may contract with these consultants and experts on a sole source basis.

(d) If a person, not a regular employee of the ~~board~~ Department, is hired or under contract to provide expertise to the ~~board~~ Director in the evaluation of the conduct of a licensee, and that person is named as a defendant in a civil action for defamation, tortious interference with prospective business advantage, or other civil causes of action directly resulting from opinions rendered, statements made, or testimony given to the board, its committees, staff, legal counsel, or other representatives, or in any proceeding instituted by the board or to which the ~~board~~ Department is a party, the ~~board~~ Department shall provide for representation required to defend that person in that civil action and shall indemnify that person for any judgment rendered against him or her. This right of defense and indemnification shall be the same as, and no greater than, the right provided to a public employee pursuant to Section 825

of the Government Code. Nothing herein shall be construed as expanding or limiting any immunity from liability otherwise provided by law.

(e) On or before June 1 of each year, the ~~board~~ Department shall report to the appropriate policy and fiscal committees of each house of the Legislature the terms of the contract or contracts entered into each fiscal year pursuant to this section. The report shall include the cost, services, terms and duration provided under each contract, the identity of the firms or individuals awarded any contract, and data demonstrating the cost effectiveness of the ~~board's~~ Department's sole-source contracting in the investigation and prosecution of the ~~board's~~ Department's enforcement programs.

5026. The Legislature has determined it is in the public interest to require that certified public accountants and public accountants licensed under provisions of this chapter comply with continuing education requirements adopted by the ~~board~~ Department as a prerequisite to the renewal of public accountancy licenses on and after December 31, 1974.

5027. The ~~board~~ Department shall by regulation prescribe, amend, or repeal rules including, but not limited to, all of the following:

(a) A definition of basic requirements for continuing education.

(b) A licensee who plans, directs, or approves any financial or compliance audit report on any governmental agency shall complete a minimum of 24 hours of qualifying continuing education in the area of governmental accounting and auditing or related subjects during the two-year license renewal period.

(c) A licensee who provides audit, review, other attestation services, or issues compiled financial statement reports shall, during the two-year license renewal period, complete a minimum of 24 hours of qualifying continuing education in the area of accounting and auditing related to reporting on financial statements.

(d) A licensee with a valid permit to practice public accountancy shall, within a six-year period, complete a continuing education course on the provisions of this chapter and the rules of professional conduct.

(e) A licensee on inactive status shall complete the continuing education course required by subdivision (d) prior to reentering public practice.

(f) A delineation of qualifying programs for maintaining competency.

(g) A system of control and compliance reporting.

In exercising its power under this section for the interests of consumer protection, the board shall establish standards which will assure reasonable currency of knowledge as a basis for a high standard of practice by licensees. The standards shall be established in a manner to assure that a variety of alternatives are available to licensees to comply with the continuing education requirements for renewal of licenses and taking cognizance of

specialized areas of practice.

5028. The ~~board~~ Director may, in accordance with the intent of this article, make exceptions from continuing education requirements for licensees not engaged in public practice, or for reasons of health, military service, or other good cause; provided, however, that if such licensee returns to the practice of public accounting he shall meet such continuing education requirements as the ~~board~~ Department may determine.

5029. The ~~board~~ Director may establish an advisory continuing education committee of nine members, six of whom shall be certified public accountants, two of whom shall be board members, one of whom is a public member of the board, and one of whom shall be a public accountant, to perform any of the following duties:

(a) To evaluate programs and advise the ~~board~~ Director as to whether they qualify under the regulations adopted by the ~~board~~ Department pursuant to subdivision (f) of Section 5027. Educational courses offered by professional accounting societies shall be accepted by the ~~board~~ Department as qualifying if the courses are approved by the committee as meeting the requirements of the ~~board~~ Department under the regulations.

(b) To consider applications for exceptions as permitted under Section 5028 and provide a recommendation to the board.

(c) To consider other advisory matters relating to the requirements of this article as the ~~board~~ Director may assign to the committee.

~~5030. "Board" means the California Board of Accountancy.~~

5084. For applicants seeking licensure pursuant to subdivision (b) of Section 5090, the board shall grant one year's credit toward fulfillment of its public accounting experience requirement to a graduate of a college who has completed a four-year course with 45 or more semester units or the equivalent thereof in the study of accounting and related business administration subjects, of which at least 20 semester units or the equivalent thereof shall be in the study of accounting.

The ~~members of the board~~ Department shall prescribe rules establishing the character and variety of experience necessary to fulfill the experience requirements set forth in this section.

This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

5133. All money in the Accountancy Fund is hereby appropriated to the ~~California Board of Accountancy~~ Department of Consumer Affairs to carry out the provisions of this chapter. Each member of ~~the board and each member of~~ a committee shall receive a per diem and expenses as provided in Section 103.

5150. An accountancy corporation is a corporation which is registered with the ~~California Board of Accountancy~~ Department of Consumer Affairs and has a currently effective certificate of registration from the ~~board~~ Department pursuant to the

Moscone-Knox Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code, and this article. Subject to all applicable statutes, rules and regulations, an accountancy corporation is entitled to practice accountancy. With respect to an accountancy corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the ~~California Board of Accountancy~~ Department of Consumer Affairs.

5417. From state funds appropriated by the Legislature for such purposes and from federal funds made available for such purposes, the ~~California Transportation Commission~~ State Lands and Public Works Commission may allocate funds to the director for payment of compensation authorized by this chapter.

5418. The ~~California Transportation Commission~~ State Lands and Public Works Commission is authorized to allocate sufficient funds from the State Highway Account in the State Transportation Fund that are available for capital outlay purposes to match federal funds made available for the removal of outdoor advertising displays.

5418.1. When allocating funds pursuant to Section 5418, the ~~commission~~ State Lands and Public Works Commission shall consider, and may designate for expenditure, all or any part of such funds in accordance with the following order of priorities for removal of those outdoor advertising displays for which compensation is provided pursuant to Section 5412:
(a) Hardship situations involving outdoor advertising displays located adjacent to highways which are included within the state scenic highway system, including those nonconforming outdoor advertising displays which are offered for immediate removal by the owners thereof.
(b) Hardship situations involving outdoor advertising displays located adjacent to other highways, including those nonconforming outdoor advertising displays which are offered for removal by the owners thereof.
(c) Nonconforming outdoor advertising displays located adjacent to highways which are included within the state scenic highway system.
(d) Nonconforming outdoor advertising displays which are generally used for product advertising, and which are located in unincorporated areas.
(e) Nonconforming outdoor advertising displays which are generally used for product advertising located within incorporated areas.
(f) Nonconforming outdoor advertising displays which are generally used for non-motorist-oriented directional advertising.
(g) Nonconforming outdoor advertising displays which are generally used for motorist-related directional advertising.

Architects Board

5502. ~~As used in this chapter, board refers to the California~~

~~Architects Board.~~ Any reference to the "board" in this chapter, or to the California Architects Board or the California Board of Architectural Examiners in any law or regulation, shall refer to the Department of Consumer Affairs, or if specified or if the context otherwise indicates, shall refer to the Director of the Department of Consumer Affairs.

~~5510. There is in the Department of Consumer Affairs a California Architects Board which consists of 10 members.~~
~~Any reference in law to the California Board of Architectural Examiners shall mean the California Architects Board.~~
~~This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

~~5514. The membership of the board shall be composed of 10 members, five of whom shall be architects and five of whom shall be public members.~~
~~The five professional members of the board shall be selected from architects in good standing who have been licensed and in practice in this state for at least five years at the time of appointment, all of whom shall be residents and in practice in California.~~
~~The public members of the board shall not be licensees of the board.~~
~~This section shall become operative on January 1, 1988.~~

~~5515. Every person appointed shall serve for four years and until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs.~~
~~No person shall serve as a member of the board for more than two consecutive terms.~~
~~Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.~~
~~Each appointment shall expire on June 1 of the fourth year following the year in which the previous term expired.~~
~~The Governor shall appoint three of the public members and the five licensed members qualified as provided in Section 5514. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.~~

~~5516. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

~~5517. The board may appoint a person exempt from civil service who~~

~~shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.~~

~~This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~5518. The board shall elect from its members a president, a vice president, and a secretary to hold office for one year, or until their successors are duly elected and qualified.~~

~~5520. The board shall adopt a seal for its own use. The seal used shall have the words, "State Board of Architectural Examiners" inscribed thereon.~~

~~The executive officer shall have the care and custody of the seal.~~

~~5521. The executive officer shall keep an accurate record of all proceedings of the board.~~

~~5522. The board shall meet at least once each calendar quarter for the purpose of transacting such business as may lawfully come before it.~~

~~The board may hold meetings at such other times and at such places as it may designate.~~

~~5523. Special meetings of the board shall be called by the executive officer upon the written notice of four members by giving each member of the board 10 days' written notice of the time and place of the meeting.~~

~~5524. Six of the members of the board constitute a quorum of the board for the transaction of business. The concurrence of five members of the board present at a meeting duly held at which a quorum is present shall be necessary to constitute an act or decision of the board, except that when all 10 members of the board are present at a meeting duly held, the concurrence of six members shall be necessary to constitute an act or decision of the board.~~

5525. The ~~board~~ Director may prosecute all persons guilty of violating the provisions of this chapter. Except as provided in Section 159.5, the ~~board~~ Director may employ inspectors, special agents, investigators, and such clerical assistants as it may deem necessary to carry into effect the provisions of this chapter. It may also fix the compensation to be paid for such services and incur such additional expense as may be deemed necessary.

5526. (a) The ~~board~~ Director shall adopt rules and regulations governing the examination of applicants for licenses to practice architecture in this state.

(b) The ~~board~~ Director may, by rule or regulation, adopt rules of professional conduct that are not inconsistent with state or federal law. Every person who holds a license issued by the ~~board~~ Director shall be governed and controlled by these rules.

(c) The ~~board~~ Director may adopt other rules and regulations as may be necessary and proper.

(d) The ~~board~~ Director may, from time to time, repeal, amend, or modify rules and regulations adopted under this section. No rule or regulation shall be inconsistent with this chapter.

(e) The ~~board~~ Director shall adopt, by regulation, a system as described in Section 125.9 for the issuance to a licensee of a citation and a system as described in Section 148 for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee or registrant under the jurisdiction of the ~~board~~ Director.

(f) The adoption, repeal, amendment, or modification of these rules and regulations shall be made in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

5528. (a) The ~~board~~ Director may select and contract with necessary architect consultants who are licensed architects to assist it in its enforcement program on an intermittent basis. The architect consultants shall perform only those services that are necessary to carry out and enforce this chapter.

(b) For the purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, any consultant under contract with the ~~board~~ Director shall be considered a public employee.

Landscape Architects Tech Committee

5620. ~~The duties, powers, purposes, responsibilities, and jurisdiction of the California State Board of Landscape Architects that were succeeded to and vested with the Department of Consumer Affairs in accordance with Chapter 908 of the Statutes of 1994 are hereby transferred to the California Architects Board. The Legislature finds that the purpose for the transfer of power is to promote and enhance the efficiency of state government and that assumption of the powers and duties by the California Architects Board shall not be viewed or construed as a precedent for the establishment of state regulation over a profession or vocation that was not previously regulated by a board, as defined in Section 477.~~

~~(a) There is in the Department of Consumer Affairs a California Architects Board as defined in Article 2 (commencing with Section 5510) of Chapter 3.~~

~~Whenever in this chapter "board" is used it refers to the California Architects Board.~~

Any reference to the “board” or “executive officer” in this chapter, or to the California State Board of Landscape Architects, the California Architects Board, or the California Board of Architectural Examiners, shall refer to the Department of Consumer Affairs, or if specified or if the context otherwise indicates, shall refer to the Director of the Department of Consumer Affairs.

~~(b) Except as provided herein, the board may delegate its authority under this chapter to the Landscape Architect Technical Committee.~~

(c) ~~After review of proposed regulations, the board may direct the examining committee to notice and conduct hearings to adopt, amend, or repeal regulations pursuant to Section 5630, provided that the board itself shall take final action to adopt, amend, or repeal those regulations.~~

~~(d) The board shall not delegate its authority to discipline a landscape architect or to take action against a person who has violated this chapter.~~

~~(e)~~ This section shall become inoperative on July 1, 2005, and as of January 1, 2006, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.

~~5620.1. Protection of the public shall be the highest priority for the Landscape Architects Technical Committee in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.~~

~~5621. (a) There is hereby created within the jurisdiction of the board, a Landscape Architects Technical Committee, hereinafter referred to in this chapter as the landscape architects committee.~~

~~(b) The landscape architects committee shall consist of five members who shall be licensed to practice landscape architecture in this state. The Governor shall appoint three of the members. The Senate Committee on Rules and the Speaker of the Assembly shall appoint one member each.~~

~~(c) The initial members to be appointed by the Governor are as follows: one member for a term of one year; one member for a term of two years; and one member for a term of three years. The Senate Committee on Rules and the Speaker of the Assembly shall initially each appoint one member for a term of four years. Thereafter, appointments shall be made for four-year terms, expiring on June 1 of the fourth year and until the appointment and qualification of his or her successor or until one year shall have elapsed whichever first occurs. Vacancies shall be filled for the unexpired term.~~

~~(d) No person shall serve as a member of the landscape architects committee for more than two consecutive terms.~~
~~(e) This section shall become inoperative on July 1, 2005, and as of January 1, 2006, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~5622. (a) The landscape architects committee may assist the board in the examination of candidates for a landscape architect's license and, after investigation, evaluate and make recommendations regarding potential violations of this chapter.~~
~~(b) The landscape architects committee may investigate, assist, and make recommendations to the board regarding the regulation of landscape architects in this state.~~
~~(c) The landscape architects committee may perform duties and functions that have been delegated to it by the board pursuant to Section 5620.~~
~~(d) The landscape architects committee may send a representative to all meetings of the full board to report on the committee's activities.~~
~~(e) This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~5624. Each member of the landscape architects committee shall receive per diem and expenses, as provided in Section 103.~~

~~5626. The executive officer shall keep an accurate record of all proceedings of the landscape architects committee.~~

Engineers and Land Surveyors, Board of Professions

6710. ~~(a) There is in the Department of Consumer Affairs a Board for Professional Engineers and Land Surveyors, which consists of 13 members.~~
~~(b) Any reference in any law or regulation to the Board of Registration for Professional Engineers and Land Surveyors is deemed to refer to the Board for Professional Engineers and Land Surveyors.~~
~~(c) This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review~~

~~required by Division 1.2 (commencing with Section 473).~~ Any reference to the "board" in this chapter, or to the Board of Registration for Professional Engineers and Land Surveyors or to the Board for Professional Engineers and Land Surveyors in any law or regulation, shall refer to the Department of Consumer Affairs, or if specified or if the context otherwise indicates, shall refer to the Director of the Department of Consumer Affairs.

~~6711. Each member of the board shall be a citizen of the United States. Five members shall be registered under this chapter. One member shall be licensed under the Land Surveyors' Act, Chapter 15 (commencing with Section 8700) of this division, and seven shall be public members who are not registered under this act or licensed under the Land Surveyors' Act. Each member, except the public members, shall have at least 12 years active experience and shall be of good standing in his profession. Each member shall be at least 30 years of age, and shall have been a resident of this state for at least five years immediately preceding his appointment.~~

~~6712. All appointments to the board shall be for a term of four years. Vacancies shall be filled by appointment for the unexpired term. Each appointment thereafter shall be for a four-year term expiring on June 1 of the fourth year following the year in which the previous term expired.~~

~~Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms.~~

~~The Governor shall appoint professional members so that one is licensed to practice engineering as a civil engineer, one as an electrical engineer, one as a mechanical engineer, another is authorized to use the title of structural engineer, and one is a member of one of the remaining branches of engineering. One of the professional members registered under this chapter shall be from a local public agency, and one shall be from a state agency.~~

~~The Governor shall appoint five of the public members and the professional members qualified as provided in Section 6711. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.~~

~~6713. The Governor may remove any member of the board for misconduct, incompetency or neglect of duty.~~

~~6714. The board shall appoint an executive officer at a salary to be fixed and determined by the board with the approval of the Director of Finance.~~

~~This section shall become inoperative on July 1, 2005, and, as of~~

~~January 1, 2006, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.~~

6715. The ~~executive officer~~ Department of Consumer Affairs shall keep a complete record of all applications for registration and the ~~board's~~ Department's action thereon and, once every two years, shall prepare a roster showing the names and addresses of all registered professional engineers, and the names and addresses of the holders of all delinquent certificates of registration and certificates of authority.

Copies shall be available to the general public. The roster shall be a public record.

6716. (a) The ~~board~~ Department of Consumer Affairs may adopt rules and regulations consistent with law and necessary to govern its action. These rules and regulations shall be adopted in accordance with the 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) The ~~board~~ Department of Consumer Affairs may adopt rules and regulations of professional conduct that are not inconsistent with state and federal law. The rules and regulations may include definitions of incompetence and negligence. Every person who holds a license or certificate issued by the ~~board~~ Department pursuant to this chapter shall be governed by these rules and regulations.

~~(c) The board shall hold at least two regular meetings each year. Special meetings shall be held at those times that the board's rules provide. A majority of the board constitutes a quorum. Except as otherwise provided by law, the vote required for any action of the board is a majority of the members present, but not less than five.~~

6717. The ~~board~~ Department of Consumer Affairs may, by regulation, define the scope of each branch of professional engineering other than civil, electrical, and mechanical engineering for which registration is provided under this chapter.

6718. ~~Any member of the board~~ The Department of Consumer Affairs may administer oaths and may take testimony and proofs concerning all matters within the ~~board's~~ Department's jurisdiction.

6719. The ~~board~~ Department of Consumer Affairs shall adopt and have an official seal which shall be affixed to all certificates of registration.

~~6720. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

6726. The ~~board~~ Director of the Department of Consumer Affairs may establish one or more technical advisory committees to advise and assist the ~~board~~ Director with respect to the following:

(1) Application review and verification for any level of registration, licensure, authority, or title.

(2) Evaluation and investigation of potential violations of the act.

(3) Amendment, repeal, adoption, or revision of board rules, regulations, policies, and procedures.

6726.1. Each member of each technical advisory committee shall be appointed by the ~~board~~ Director and shall serve at the pleasure of the ~~board~~ Director. Each committee shall be composed of no more than five members.

6728. The ~~board~~ Director, when it deems necessary, may establish professional engineers review committees to hear all matters assigned by the ~~board~~ Director, including, but not limited to, any contested case which is assigned by the ~~board~~ Director. Each committee shall exist so long as the ~~board~~ Director deems that it is necessary.

6728.1. Each review committee shall consist of no fewer than three registered professional engineers appointed by the board. Each member of a committee shall have the same qualifications and shall be subject to the same rules and regulations as if he were ~~a member~~ of the ~~board~~ Department.

6728.4. At the conclusion of any hearing which is conducted by a committee, the committee shall prepare a proposed decision, in such form that it may be adopted by the ~~board~~ Director as the decision in the case, and shall transmit it to the ~~board~~ Director. The proposed decision shall be subject to the same procedure as the proposed decision of a hearing officer under subdivisions (b) and (c) of Section 11517 of the Government Code.

6728.5. The ~~board~~ Director may adopt, amend, or repeal, in accordance with the provisions of Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code, rules and regulations necessary to implement these sections.

6728.6. Each member of a professional engineers review committee or other ~~board~~ Director -appointed committee and any ~~board~~ Director –appointed representative of the board Department shall be granted the same immunity as is granted to a public employee pursuant to Article 3 (commencing with Section 820) of Chapter 1 of Part 2 of Division 3.6 of Title 1 of the Government Code.

Contractors Licensing Board

7000.5. (a) ~~There is in the Department of Consumer Affairs a Contractors' State License Board, which consists of 15 members.~~ Any reference to the Contractors' State License Board in any law or regulation, or to the "Board" in this chapter, shall refer to the Department of Consumer Affairs.

(b) ~~The repeal of this section renders the board subject to the~~

~~review required by Division 1.2 (commencing with Section 473). However, the review of this board by the department shall be limited to only those unresolved issues identified by the Joint Legislative Sunset Review Committee.~~
~~(c)~~ This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

~~7001. All members of the board, except the public members, shall be contractors actively engaged in the contracting business, have been so engaged for a period of not less than five years preceding the date of their appointment and shall so continue in the contracting business during the term of their office. No one, except a public member, shall be eligible for appointment who does not at the time hold an unexpired license to operate as a contractor.~~
~~The public members shall not be licentiates of the board.~~

~~7002. (a) One member of the board shall be a general engineering contractor, two members shall be general building contractors, two members shall be specialty contractors, one member shall be a member of a labor organization representing the building trades, one member shall be an active local building official, and eight members shall be public members, one of whom shall be from a statewide senior citizen organization.~~
~~(b) No public member shall be a current or former licensee of the board or a close family member of a licensee or be currently or formerly connected with the construction industry or have any financial interest in the business of a licensee of the board. Each public member shall meet all of the requirements for public membership on a board as set forth in Chapter 6 (commencing with Section 450) of Division 1. Notwithstanding the provisions of this subdivision and those of Section 450, a representative of a labor organization shall be eligible for appointment to serve as a public member of the board.~~
~~(c) Each contractor member of the board shall be of recognized standing in his or her branch of the contracting business and hold an unexpired license to operate as a contractor. In addition, each contractor member shall, as of the date of his or her appointment, be actively engaged in the contracting business and have been so engaged for a period of not less than five years. Each contractor member shall remain actively engaged in the contracting business during the entire term of his or her membership on the board.~~
~~(d) Each member of the board shall be at least 30 years of age and of good character. In addition, each member shall have been a citizen and resident of the State of California for at least five years next preceding his or her appointment.~~

~~(e) For the purposes of construing this article, the terms "general engineering contractor," "general building contractor," and "specialty contractor" shall have the meanings given in Article 4 (commencing with Section 7055) of this chapter.~~

~~7003. Except as otherwise provided, an appointment to fill a vacancy caused by the expiration of the term of office shall be for a term of four years and shall be filled, except for a vacancy in the term of a public member, by a member from the same branch of the contracting business as was the branch of the member whose term has expired. A vacancy in the term of a public member shall be filled by another public member. Each member shall hold office until the appointment and qualification of his or her successor or until the office is deemed to be vacant pursuant to Section 1774 of the Government Code, whichever first occurs.~~

~~Vacancies occurring in the membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.~~

~~No person shall serve as a member of the board for more than two consecutive terms.~~

~~The Governor shall appoint four of the public members, including the public member who is from a statewide senior citizen organization, the local building official, the member of a labor organization representing the building trades, and the five contractor members qualified as provided in Section 7002. The Senate Rules Committee and the Speaker of the Assembly shall each appoint two public members.~~

~~7005. The Governor may remove any member of the board for misconduct, incompetency or neglect of duty.~~

~~7006. The board shall meet at least once each calendar quarter for the purpose of transacting business as may properly come before it.~~

~~Special meetings of the board may be held at times as the board may provide in its bylaws. Four members of the board may call a special meeting at any time.~~

~~7007. Eight members constitute a quorum at a board meeting.~~

~~Due notice of each meeting and the time and place thereof shall be given each member in the manner provided by the bylaws.~~

~~7008. The board may appoint such committees and make such rules and regulations as are reasonably necessary to carry out the provisions of this chapter. Such rules and regulations shall be adopted in accordance with the provisions of the Administrative Procedure Act.~~

~~7009. Any member or committee of the board may administer oaths and~~

~~may take testimony and proofs concerning all matters within the jurisdiction of the board.~~

~~7010. The board is vested with all functions and duties relating to the administration of this chapter, except those functions and duties vested in the director under the provisions of Division I of this code.~~

7011. ~~The board by and with the approval of the director shall appoint a registrar of contractors and fix his or her compensation. The registrar shall be the executive officer and secretary of the board and shall carry out all of the administrative duties as provided in this chapter and as delegated to him or her by the board. For the purpose of administration of this chapter, there may be appointed a deputy registrar, a chief reviewing and hearing officer and, subject to Section 159.5, other assistants and subordinates as may be necessary. Appointments shall be made in accordance with the provisions of civil service laws.~~

~~This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.~~

7011.3. The ~~registrar~~ Director shall not assess a civil penalty against a licensed contractor who has been assessed a specified civil penalty by the Labor Commissioner under Section 1020 or 1022 of the Labor Code for the same offense.

7011.4. ~~(a) Notwithstanding Section 7011, there is in the Contractors' State License Board, a separate enforcement unit which shall rigorously enforce this chapter prohibiting all forms of unlicensed activity.~~

~~(b) Persons employed as deputy registrars in this unit and designated by the Director of Consumer Affairs~~ The Director may designate employees who are not peace officers and are not entitled to safety member retirement benefits. They do not have the power of arrest. However, they may issue a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code.

7011.5. Persons employed as investigators of the Special Investigations Unit of the ~~Contractors' State License Board~~ Department of Consumer Affairs and designated by the Director of Consumer Affairs have the authority of peace officers while engaged in exercising the powers granted or performing the duties imposed upon them in investigating the laws administered by the ~~Contractors' State License Board~~ Department of Consumer Affairs or commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws. All persons herein referred to shall be deemed to be acting within the scope of employment with respect to all acts and matters in this section set forth.

7011.7. (a) The ~~registrar~~ Department shall review and investigate complaints filed in a manner consistent with this chapter and the Budget Act. It is the intent of the Legislature that complaints be reviewed and investigated as promptly as resources allow.

(b) The ~~board~~ Department shall set as a goal the improvement of its disciplinary system so that an average of no more than six months elapses from the receipt of a complaint to the completion of an investigation.

(c) Notwithstanding subdivision (a), the goal for completing the review and investigation of complaints that, in the opinion of the ~~board~~ Department, involve complex fraud issues or complex contractual arrangements, should be no more than one year.

7012. The ~~registrar, with the approval of the board and the director,~~ Department may, when funds are available, cooperate in the enforcement of governmental legislation relating to the construction industry, and, except as provided by Section 159.5, shall appoint such assistants as may be necessary therefor.

~~7013. The board may in its discretion review and sustain or reverse by a majority vote any action or decision of the registrar.~~

~~This section shall apply to any action, decision, order, or proceeding of the registrar conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.~~

~~7015. The board shall adopt a seal for its own use. The seal shall have the words "Contractors' State License Board, State of California, Department of Consumer Affairs," and the care and custody thereof shall be in the hands of the registrar.~~

~~7016. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

7019. (a) If funding is made available for that purpose, the ~~board~~ Department of Consumer Affairs may contract with licensed professionals, as appropriate, for the site investigation of consumer complaints.

(b) The ~~board~~ Department may contract with other professionals, including, but not limited to, interpreters and manufacturer's representatives, whose skills or expertise are required to aid in the investigation or prosecution of a licensee, registrant, applicant for a license or registration, or those subject to licensure or registration by the ~~board~~ Department.

(c) The ~~registrar~~ Department shall determine the rate of reimbursement for those individuals providing assistance to the ~~board~~ Department pursuant to this section. All reports shall be completed on a form prescribed by the ~~registrar~~ Department.

(d) As used in this section, "licensed professionals" means, but is not limited to, engineers, architects, landscape architects, geologists, and accountants licensed, certificated, or registered pursuant to this division.

7019.5. The ~~board~~ Department of Consumer Affairs shall contract for a feasibility study relating to the development of a system for joint enforcement actions with respect to contractors by the ~~board~~ Department of Consumer Affairs, the Department of Industrial Relations, the Employment Development Department, and the Franchise Tax Board. The study should include, but not be limited to, the means of accomplishing the following:

(a) Establishment of a common identification number which may be utilized by all those agencies.

(b) Assessment of the current state of technology in the affected departments.

(c) Assessment of the ability, and any impediments, of the affected departments to share information.

(d) Comparison of the standards of proof in the issuance of citations and other administrative enforcement actions.

(e) Ways to consolidate enforcement actions and procedures among the departments.

State Board of Guide Dogs for the Blind

~~7200. (a) There is in the Department of Consumer Affairs a State Board of Guide Dogs for the Blind in whom enforcement of this chapter is vested. The board shall consist of seven members appointed by the Governor. One member shall be the Director of Rehabilitation or his or her designated representative. The remaining members shall be persons who have shown a particular interest in dealing with the problems of the blind, and at least two of them shall be blind persons who use guide dogs.~~

~~(b) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~7200.1. Protection of the public shall be the highest priority for the State Board of Guide Dogs for the Blind in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.~~

~~7200.5. The board shall have exclusive authority in this state to issue licenses for the instruction of blind persons in the use of guide dogs and for the training of guide dogs for use by blind persons. It shall also have exclusive authority in this state to issue licenses to operate schools for the training of guide dogs for the blind, and the instruction of blind persons in the use of guide dogs.~~

7200.7. A fee equal to 0.004 of all school expenses incurred in the most recently concluded school calendar year, as specified in the audit required under Section 7217, shall be paid for renewal of a school's license pursuant to Section 7200.5. All fees collected pursuant to this section shall be deposited into the Guide Dogs for the Blind Fund, which is hereby created.

~~7201. No person shall be eligible to membership in the board who is a stockholder in, or an owner of, or financially interested directly or indirectly, in any company, organization, or concern supplying, delivering, or furnishing any guide dogs for use by the blind.~~

~~7202. Each of the appointed members of the board shall hold office for a term of four years and until his successor is appointed and qualified or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs. No person shall serve as an appointed member of the board for more than two consecutive terms, but this provision shall not apply to any member in office at the time this provision takes effect.~~

~~7203. The board shall organize and elect from its membership a president and vice president and secretary who shall hold office for one year or until the election and qualification of a successor.~~

~~7204. The secretary shall keep all the records of the board and discharge such other duties as the board shall, from time to time, prescribe.~~

~~7205. Each member of the board, except the Director of Rehabilitation or his or her designated representative, shall receive a per diem and expenses as provided in Section 103. The Director of Rehabilitation or his or her designated representative shall receive the necessary expenses for each day actually spent in the performance of his or her duties.~~

~~7206. The board shall hold regular meetings at least once a year at which an examination of applicants for certificates of registration shall be given. Special meetings shall be held upon request of a majority of the members of the board or upon the call of the president.~~

~~7207. The board shall keep an accurate record of all its proceedings and of all its meetings.~~

7201 The Department of Consumer Affairs hereby succeeds to, and is vested with, all the duties, responsibilities, and functions of the Board of Guide Dogs for the Blind which shall no longer exist. For purposes of this article, the Board of Guide Dogs for the Blind shall be known as predecessor entity.

7202. Any reference to the Board of Guide Dogs for the Blind shall refer to the Department of Consumer Affairs.

7203. All regulations of the predecessor entity in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed. Any action by or against the predecessor entity shall not abate but shall continue in the name of the Department of Consumer Affairs.

7204. No contract, lease, license, bond, or any other agreement to which the predecessor entity is a party shall be void or voidable by reason of this act, but shall continue in full force and effect.

7205. The unexpended balance of all funds available for use by the predecessor entity in carrying out any functions transferred to the Department of Consumer Affairs shall be made available for the use by the Department of Consumer Affairs. All books, documents, records, and property of the predecessor entity shall be transferred to the Department of Consumer Affairs.

7206. Any officer or employee of the predecessor entity who is performing a function transferred to the Department of Consumer Affairs and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Department of Consumer Affairs pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the predecessor entity shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of Consumer Affairs, as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

7208. Pursuant to the provisions of the Administrative Procedure Act the ~~board~~ Department may make such rules and regulations as are reasonably necessary to:

(a) Govern the procedure of the ~~board~~ Department.

(b) Govern the admission of applicants for examination for license to instruct blind persons in the use of guide dogs or to engage in the business of training, selling, hiring, or being in the business of supplying guide dogs for the blind.

(c) Govern the operation of schools which furnish guide dogs and train blind persons to use guide dogs.

(d) The reissuance of licenses.

(e) The reexamination of licensees.

7209. A person to be eligible for examination as an instructor must (1) have a knowledge of the special problems of the blind and how to teach them, (2) be able to demonstrate by actual blindfold test

under traffic conditions his ability to train guide dogs with whom a blind person would be safe, (3) be suited temperamentally and otherwise to instruct blind persons in the use of guide dogs, and (4) have had at least three years' actual experience, comprising such number of hours as the board may require, as an instructor, and have handled twenty-two (22) man-dog units; or its equivalent, as determined by the ~~board~~ Department, as an apprentice under a licensed instructor or under an instructor in a school satisfactory to the ~~board~~ Department.

7209.5. Except as the context otherwise requires, as used in this chapter the term "instructor" means a person who instructs blind persons in the use of guide dogs or who engages in the business of training, selling, hiring, or supplying guide dogs for the blind.

7210. It shall be unlawful for any person to sell, offer for sale, give, hire or furnish under any other arrangement, any guide dog or seeing-eye dog or to engage in the business or occupation of training any such dog unless he holds a valid and unimpaired license issued pursuant to the provisions of this chapter.

7210.5. It is unlawful to solicit funds for any person purporting to provide guide dogs for the blind in this state unless the person for whose benefit the solicitation is made holds a valid and unimpaired license issued by the ~~State Board of Guide Dogs for the Blind~~ Department.

As used in this section "person" means an individual, firm, partnership, association, corporation, limited liability company, or cooperative association.

7210.6. A person desiring to establish a licensed guide dog school in this state, whose plan of operation has been approved by the ~~State Board of Guide Dogs for the Blind~~ Department and who has furnished to the ~~board~~ Department satisfactory evidence of financial responsibility, may secure from such ~~board~~ Department a license to solicit funds for the establishment of a guide dog training school for a period of one year, provided that:

(a) All funds raised during such one-year period shall be held in a trust and under the control of the trust department of a bank or trust company in this state.

(b) A record of the names and addresses of donors to the fund shall be kept by the fund raiser and furnished to the board on demand with respect to all contributions in excess of ten dollars ($10) in funds or property from any one donor.

(c) In the event sufficient funds have not been raised within one year from the issuance of such license to finance establishment and initial operation of a guide dog school, all such funds, after payment of the costs of fund raising, and the option to buy land, the cost of which shall not exceed 20 percent of the funds raised, shall

be repaid prorata to the donors thereof with respect to any donations in excess of ten dollars ($10) from any one donor.

(d) A fee of fifty dollars ($50) shall be paid upon issuance of a license for advance solicitation. In the discretion of the board, for good cause shown by the applicant, the license for advance solicitation may be extended for one additional year. During the period of advance solicitation, no funds shall be expended for purposes other than the cost of fund raising and the cost of obtaining an option to buy or lease land for a school site.

7210.7. The ~~board~~ Department may authorize schools licensed by the ~~board~~ Department or instructors employed by those schools to provide home training in the use of guide dogs.

If a school desires to provide home training in the use of guide dogs, it shall apply to the board and provide the ~~board~~ Department with a written plan and procedure for conducting that home training, which shall be approved by the ~~board~~ Department prior to conducting any home training.

Schools providing home training in the use of guide dogs shall, annually, provide the ~~board~~ Department with the names and addresses of those persons who are receiving home training and shall include those persons who have received home training from the school subsequent to the last report filed with the ~~board~~ Department.

The guide dog user, as a condition of receiving home training, shall have completed a formal in-residence training program from a school licensed by the ~~board~~ Department to provide guide dog training, or from a school recognized by another state to provide guide dog training.

The requirement for a formal in-residence training program from a school licensed by the ~~board~~ Department may be waived by the school when that requirement imposes an undue hardship on the guide dog user.

Home training, as provided in this section, shall consist of not less than 20 hours of training.

This section shall only apply to those schools that are licensed by the ~~board~~ Department to furnish guide dogs and to train persons to use guide dogs, who desire to provide home training in the use of guide dogs, and who apply to the board for approval to provide that home training.

7211. (a) Each applicant for an instructor's license shall file an application with the ~~secretary of the board~~ Department at least 10 days before the date fixed for examination, and shall pay to the ~~secretary~~ Department at the time of filing an application the sum of two hundred fifty dollars ($250). No license shall be granted until the applicant has satisfactorily completed the examination prescribed by the ~~board~~ Department and has shown that he or she is equipped by a school or by equivalent facilities satisfactory to the ~~board~~ Department. An annual fee of one hundred dollars ($100) shall be required for the renewal of a license.

(b) All fees received under this chapter shall be deposited in the Guide Dogs for the Blind Fund.

7211.1. (a) As a condition of renewal of an instructor's license, the instructor shall provide proof of completion of not less than 8 hours of continuing education. The ~~board~~ Department shall determine the form of proof.

(b) Continuing education shall meet the criteria specified in Section 166, and shall be in one or more of the following subject matter areas:

(1) Blindness and mobility.

(2) Health issues relating to blindness.

(3) Instructing blind persons.

(4) Care and training of dogs.

(c) This section shall apply to renewal of instructors' licenses which expire on or after June 30, 1996.

7211.2. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The ~~board~~ Department may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

7211.9. The ~~board~~ Department may suspend or revoke a license issued under this chapter if it determines that the licensee or its manager or responsible directing officer has:

(a) Made any false statements or given any false information in connection with an application for a license or a renewal or reinstatement thereof.

(b) Violated any provision of this chapter.

(c) Violated any rule of the board adopted pursuant to the authority contained in this chapter.

(d) Been convicted of a felony or of any crime involving moral turpitude, or has been convicted of any offense involving cruelty to animals. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

(e) Committed any act which would be grounds for denial of a license.

7212. The proceedings for the revocation or suspension of a license shall be conducted in accordance with Chapter 5 of Part 1 of

Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

7213. Violation of any provision of this chapter is a misdemeanor.

7214. The license of a school shall be automatically suspended if there is no licensed instructor in charge of the training of guide dogs and in the instruction of persons in the use of guide dogs. Upon a showing satisfactory to the ~~board~~ Department that an emergency exists a temporary instructor's permit may be granted under conditions prescribed by the board.

7215. No person shall sell, give, or furnish any guide dog or seeing-eye dog to a blind person unless the following requirements have been met:

(a) The dog has been immunized against distemper and rabies.

(b) The dog has been neutered.

(c) The dog has been examined by a licensed veterinarian and found to be in good health.

A certificate from a veterinarian certifying to the foregoing shall be delivered to the recipient of the dog at the time of delivery of the dog.

7215.5. During the first year following the successful training of each person-dog unit, and release from a guide dog training school of the trained person supplied with a guide dog, the school may retain title to the trained dog. During this probationary year, the school may enter into a contractual agreement with the user of the dog describing the conditions under which the user may maintain the status of legal custodian of the dog. During the probationary year, the school, acting in what it deems to be the best interest of the user, the dog, or the public, may temporarily or permanently resume possession of the dog.

Within 15 days after the end of each calendar year, each licensed school shall report to the ~~board~~ Department the following:

(1) The number of dog ownership titles transferred to dog users pursuant to this section during the calendar year.

(2) The number of title recoveries and repossessions made by the school pursuant to this section during the calendar year.

(3) The number, type, and amount of charges assessed for followup training, instruction, veterinary, or boarding services, pursuant to this section, which make a distinction between users who have acquired title to their dogs and users who have not acquired title.

(4) The views of the governing entity of the school as to any problems or concerns relative to compliance with the provisions of this section, along with recommendations for appropriate legislative

or administrative changes commensurate with the purposes of this section.

Immediately upon completion of the first year following the successful training referred to above, if the training school and the dog user are mutually satisfied with the operation of the person-dog unit, title to the dog shall be transferred to the blind user if the user so desires. Transfer of title shall be evidenced by a transfer of title agreement executed by both parties thereto. The school may retain an option to recover title and possession to the guide dog subject to conditions described in the transfer of title agreement. These conditions may include, but are not limited to, the following:

(1) If in the school's opinion, the guide dog is being misused or neglected or mistreated by its blind user.

(2) If the blind person to whom the dog was furnished has ceased to use the dog as a guide and the dog is not too old to be retrained as a guide for another blind person.

(3) If, in the school's opinion, the dog is no longer a safe guide and the user refuses to cease using the dog as a guide after being requested by the school to cease this use.

The guide dog school shall make no distinction as to the quality or extent of followup or supportive services available to its blind graduates based on whether they elect to acquire title to their dogs or allow title to remain with the school after the probationary year. The school may, however, make this distinction when assessing reasonable and appropriate charges for followup training, instruction, veterinary, or boarding services.

No applicant for admission to a guide dog training school, nor any enrolled student, shall be required by the school prior to completion of his or her training to sign any instrument or to announce his or her intention regarding transfer of title of the dog from the school to himself or herself upon completion of the training and probation period.

7215.6. (a) In order to provide a procedure for the resolution of disputes between guide dog users and guide dog schools relating to the continued physical custody and use of a guide dog, in all cases except those in which the dog user is the unconditional legal owner of the dog, the following arbitration procedure shall be established as a pilot project.

(b) This procedure establishes an arbitration panel for the settlement of disputes between a guide dog user and a licensed guide dog school regarding the continued use of a guide dog by the user in all cases except those in which the dog user is the unconditional legal owner of the dog. The disputes which may be subject to this procedure concern differences between the user and school over

whether or not a guide dog should continue to be used, differences between the user and school regarding the treatment of a dog by the user, and differences over whether or not a user should continue to have custody of a dog pending investigation of charges of abuse. It specifically does not address issues such as admissions to schools, training practices, or other issues relating to school standards. The board and its representative are not parties to any dispute described in this section.

(c) The licensed guide dog schools in California and the ~~board~~ Department shall provide to guide dog users graduating from guide dog programs in these schools a new avenue for the resolution of disputes that involve continued use of a guide dog, or the actual physical custody of a guide dog. Guide dog users who are dissatisfied with decisions of schools regarding continued use of guide dogs may appeal to the ~~board~~ Department to convene an arbitration panel composed of all of the following:

(1) One person designated by the guide dog user.

(2) One person designated by the licensed guide dog school.

(3) A representative of the board who shall coordinate the activities of the panel and serve as chair.

(d) If the guide dog user or guide dog school wishes to utilize the arbitration panel, this must be stated in writing to the ~~board~~ Department. The findings and decision of the arbitration panel shall be final and binding. By voluntarily agreeing to having a dispute resolved by the arbitration panel and subject to its procedures, each party to the dispute shall waive any right for subsequent judicial review.

(e) A licensed guide dog school that fails to comply with any provision of this section shall automatically be subject to a penalty of two hundred fifty dollars ($250) per day for each day in which a violation occurs. The penalty shall be paid to the board. The license of a guide dog school shall not be renewed until all penalties have been paid.

The fine shall be assessed without advance hearing, but the licensee may apply to the board for a hearing on the issue of whether the fine should be modified or set aside. This application shall be in writing and shall be received by the board within 30 days after service of notice of the fine. Upon receipt of this written request, the board shall set the matter for hearing within 60 days.

(f) As a general rule, custody of the guide dog shall remain with the guide dog user pending a resolution by the arbitration panel. In circumstances where the immediate health and safety of the guide dog user or guide dog is threatened, the licensed school may take custody of the dog at once. However, if the dog is removed from the user's custody without the user's concurrence, the school shall provide to the ~~board~~ Department the evidence that caused this action to be taken at once and without fail; and within five calendar days ~~a special~~

~~committee of two members of the board~~ the Director of the Department of Consumer Affairs or his or her designee shall make a determination regarding custody of the dog pending hearing by the arbitration panel.

(g) The arbitration panel shall decide the best means to determine final resolution in each case. This shall include, but is not limited to, a hearing of the matter before the arbitration panel at the request of either party to the dispute, an opportunity for each party in the dispute to make presentations before the arbitration panel, examination of the written record, or any other inquiry as will best reveal the facts of the disputes. In any case, the panel shall make its findings and complete its examination within 45 calendar days of the date of filing the request for arbitration, and a decision shall be rendered within 10 calendar days of the examination.

All arbitration hearings shall be held at sites convenient to the parties and with a view to minimizing costs. Each party to the arbitration shall bear its own costs, except that the arbitration panel, by unanimous agreement, may modify this arrangement.

(h) The board may study the effectiveness of the arbitration panel pilot project in expediting resolution and reducing conflict in disputes between guide dog users and guide dog schools and may share its findings with the Legislature upon request.

(i) This section shall cease to be operative on July 1, 2008, and as of January 1, 2009, is repealed, unless a later enacted statute, which is enacted before January 1, 2009, deletes or extends that date.

7216. The ~~board~~ Department may refuse to issue a license to a school or instructor if the applicant, if an individual, or any officer or partner, if the applicant is other than an individual, has committed any act or crime constituting grounds for denial of licensure under Section 480. Proceedings under this section shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all of the powers granted therein.

7217. (a) Within 60 days after the end of a calendar year or after the termination of the fiscal year of a school, there shall be furnished to the ~~board~~ Department the following:

(1) A list of students accepted for training and those who have completed training.

(2) A list of the number of dogs trained.

(b) Within 180 days after the end of a calendar year, there shall be furnished to the board an independent audit of the school's finances by a certified public accountant licensed by this state.

Barbering and Cosmetology State Board

7302. The following definitions shall apply for purposes of this chapter:

(a) "Department" means the Department of Consumer Affairs.

(b) "Director" means the Director of Consumer Affairs.

~~(c) "Board" or "bureau" means the State Board of Barbering and Cosmetology.~~

(c) Any reference to the "Board" or "bureau" in this chapter, or to the State Board of Barbering and Cosmetology in any law or regulation, shall refer to the Department of Consumer Affairs, to the Director of the Department of Consumer Affairs, as indicated by the context.

~~(d) "Executive officer means the executive officer of the State Board of Barbering and Cosmetology.~~

(d) Any reference to the "Executive officer" in this chapter, or to the executive officer of the State Board of Barbering and Cosmetology in any law or regulation, shall refer to the Director of the Department of Consumer Affairs.

7303. (a) Notwithstanding Article 8 (commencing with Section 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, ~~there is in the Department of Consumer Affairs the State Board of Barbering and Cosmetology in which the administration of this chapter is vested~~ the Director of the Department of Consumer Affairs is vested with the powers and duties of administering this chapter.

(b) ~~The board shall consist of nine members. Five members shall be public members and four members shall represent the professions. The Governor shall appoint three of the public members and the four professions members. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one public member. Members of the board shall be appointed for a term of four years, except that of the members appointed by the Governor, two of the public members and two of the professions members shall be appointed for an initial term of two years. No board member may serve longer than two consecutive terms.~~

~~(c) The board shall appoint an executive officer who is exempt from civil service. The executive officer shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter. The appointment of the executive officer is subject to the approval of the director. In the event that a newly authorized board replaces an existing or previous bureau, the director may appoint an interim executive officer for the board who shall serve temporarily until the new board appoints a permanent executive officer.~~

~~(d)~~ (b) The ~~executive officer~~ Director shall provide examiners, inspectors, and other personnel necessary to carry out the provisions of this chapter.

~~(e)~~ (c) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

7303.1. Protection of the public shall be the highest priority for ~~the Board of Barbering and Cosmetology~~ the Department in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

7303.2. The ~~board~~ Department shall conduct the following studies and reviews, and shall report its findings and recommendations to the ~~department and~~ the Joint Legislative Sunset Review Committee no later than September 1, 2005:

(a) The ~~board~~ Department~~, pursuant to Section 139 and in conjunction with the Office of Examination Resources of the department,~~ shall review the 1600 hour training requirement for cosmetologists.

(b) The ~~board~~ Department~~, in conjunction with the Office of Examination Resources of the department,~~ shall evaluate the equivalency of the national exam.

(c) The ~~board~~ Department shall conduct a study to assess the costs and benefits associated with requiring all applicants to submit fingerprint cards for background investigations.

(d) The ~~board~~ Department, in coordination with the **Department of Industrial Relations**, shall review all components of the apprenticeship program, including but not limited to, the following:

(1) Apprenticeship curriculum requirements.

(2) The standards for the preapprentice trainers, program sponsors, trainers, and placement establishments. The ~~board~~ Department shall pay particular attention to ways to eliminate duplicative regulations.

(e) The ~~board~~ Department shall review all components of the externship program. In addition to structural changes, the ~~board~~ Department shall address the following:

(1) Whether the program should be eliminated.

(2) Whether the program should be available to all students, not just cosmetology students attending private schools.

(3) Whether the students should be paid.

(f) The ~~board~~ Department shall assess the costs and benefits associated with same day licensing. If the ~~board~~ Department determines that the benefits of same day licensing outweigh the costs, the ~~board~~ Department shall immediately plan and implement safety measures to protect site staff and undispersed licenses.

(g) The ~~board~~ Department~~, in conjunction with the Office of Examination Resources of the department,~~ shall assess the validity of aggregate scoring for ~~board~~ applicants.

~~7304. The board shall be subject to review pursuant to Division 1.2 (commencing with Section 473).~~

~~7309. The board shall establish a principal office, and may establish branch offices and examination facilities in the state as may be deemed necessary for the board to conduct its business.~~

7311. The ~~board~~ Department shall adopt and use a common seal for the

authentication of the ~~board's~~ Department's records.

7312. The ~~board~~ Department shall do all of the following:

(a) Make rules and regulations in aid or furtherance of this chapter in accordance with the Administrative Procedure Act.

(b) Conduct and administer examinations of applicants for licensure.

(c) Issue licenses to those applicants that may be entitled thereto.

(d) Discipline persons who have been determined to be in violation of this chapter or the regulations adopted pursuant to this chapter.

(e) Adopt rules governing sanitary conditions and precautions to be employed as are reasonably necessary to protect the public health and safety in establishments, schools approved by the ~~board~~ Department, and in the practice of any profession provided for in this chapter. The rules shall be adopted in accordance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Title 2 of the Government Code, and shall be submitted to the State Department of Health Services and approved by that department prior to filing with the Secretary of State. A written copy of all those rules shall be furnished to each licensee.

7313. (a) (1) To ensure compliance with the laws and regulations of this chapter, the ~~board's executive officer~~ Department and authorized representatives shall, except as provided by Section 159.5, have access to, and shall inspect, any establishment or mobile unit during business hours or at any time in which barbering, cosmetology, or electrolysis are being performed. It is the intent of the Legislature that inspections be conducted on Saturdays and Sundays as well as weekdays, if collective bargaining agreements and civil service provisions permit.

(2) The ~~board~~ Department shall maintain a program of random and targeted inspections of establishments to ensure compliance with applicable laws relating to the public health and safety and the conduct and operation of establishments. The ~~board~~ Department or its authorized representatives shall inspect establishments to reasonably determine compliance levels and to identify market conditions that require targeted enforcement. The ~~board~~ Department shall not reduce the number of employees assigned to perform random inspections, targeted inspections, and investigations relating to field operations below the level funded by the annual Budget Act and described in supporting budget documents, and shall not redirect funds or personnel-years allocated to those inspection and investigation purposes to other purposes.

(b) To ensure compliance with health and safety requirements adopted by the ~~board, the executive officer~~ Department, the Department and authorized representatives shall, except as provided in Section 159.5, have access to, and shall inspect the premises of, all schools in which the practice of barbering, cosmetology, or electrolysis is performed on the public. Notices of violation shall be issued to schools for violations of regulations governing conditions related to the health and safety of patrons. Each notice shall specify the section violated and a timespan within which the violation must be corrected. A copy

of the notice of violation shall be provided to the Bureau for Private Postsecondary and Vocational Education.

~~(c) With prior written authorization from the board or its executive officer, any member of the board may enter and visit, in his or her capacity as a board member, any establishment, during business hours or at any time when barbering, cosmetology, or electrolysis is being performed. The visitation by a board member shall be for the purpose of conducting official board business, but shall not be used as a basis for any licensing disciplinary action by the board.~~

7314. ~~The board shall keep a record of its proceedings relating to its public meetings, meetings of committees, and records relating to the issuance, refusal, renewal, suspension and revocation of licenses.~~

The ~~board~~ Department shall keep a registration record of each licensee containing the name, address, license number and date issued. This record shall also contain any facts that the applicants may have stated in their application for examination for licensure.

~~7315. A majority of the board may, in any meeting properly noticed in accordance with the Bagley-Keene Open Meeting Act, exercise all the duties and powers devolving upon the board.~~

7316. (a) The practice of barbering is all or any combination of the following practices:

(1) Shaving or trimming the beard or cutting the hair.

(2) Giving facial and scalp massages or treatments with oils, creams, lotions, or other preparations either by hand or mechanical appliances.

(3) Singeing, shampooing, arranging, dressing, curling, waving, chemical waving, hair relaxing, or dyeing the hair or applying hair tonics.

(4) Applying cosmetic preparations, antiseptics, powders, oils, clays or lotions to scalp, face, or neck.

(5) Hairstyling of all textures of hair by standard methods which are current at the time of the hairstyling.

(b) The practice of cosmetology is all or any combination of the following practices:

(1) Arranging, dressing, curling, waving, machineless permanent waving, permanent waving, cleansing, cutting, shampooing, relaxing, singeing, bleaching, tinting, coloring, straightening, dyeing, applying hair tonics to, beautifying, or otherwise treating by any means, the hair of any person.

(2) Massaging, cleaning or stimulating the scalp, face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus or appliances, with or without the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(3) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.

(4) Removing superfluous hair from the body of any person by the use of depilatories or by the use of tweezers, chemicals, preparations or by the use of devices or appliances of any kind or description, except by the use of light waves, commonly known as rays.

(5) Cutting, trimming, polishing, tinting, coloring, cleansing, or manicuring the nails of any person.
(6) Massaging, cleansing, treating, or beautifying the hands or feet of any person.
(c) Within the practice of cosmetology there exist the specialty branches of skin care, and nail care.
(1) Skin care is any one or more of the following practices:
(A) Giving facials, applying makeup, giving skin care, removing superfluous hair from the body of any person by the use of depilatories, tweezers or waxing, or applying eyelashes to any person.
(B) Beautifying the face, neck, arms, or upper part of the human body, by use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
(C) Massaging, cleaning, or stimulating the face, neck, arms, or upper part of the human body, by means of the hands, devices, apparatus, or appliances, with the use of cosmetic preparations, antiseptics, tonics, lotions, or creams.
(2) Nail care is the practice of cutting, trimming, polishing, coloring, tinting, cleansing, or manicuring the nails of any person or massaging, cleansing, or beautifying the hands or feet of any person.
(d) The practice of barbering and the practice of cosmetology do not include any of the following:
(1) The mere sale, fitting, or styling of wigs or hairpieces.
(2) Natural hair braiding. Natural hair braiding is a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device, provided that the service does not include haircutting or the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.
(3) Threading. Threading is a technique that results in removing hair by twisting thread around unwanted hair and pulling it from the skin. This paragraph shall become inoperative on July 1, 2007.
(e) The ~~board~~ Department shall report any complaints received on the practice of threading to ~~the department and~~ the Joint Legislative Sunset Review Committee no later than September 1, 2005.
(f) Notwithstanding paragraph (2) of subdivision (d), a person who engages in natural hairstyling, which is defined as the provision of natural hair braiding services together with any of the services or procedures defined within the regulated practices of barbering or cosmetology, is subject to regulation pursuant to this chapter and shall obtain and maintain a barbering or cosmetology license as applicable to the services respectively offered or performed.
(g) Electrolysis is the practice of removing hair from, or destroying hair on, the human body by the use of an electric needle only.
"Electrolysis" as used in this chapter includes electrolysis or thermolysis.

Private Security Disciplinary Review Commission (North)
Private Security Disciplinary Review Commission (South)

~~7581.1. The Governor shall appoint two private security disciplinary review committees, and may remove any member of a~~

~~disciplinary review committee for misconduct, incompetency, or neglect of duty. One committee shall meet in the southern portion of the state and the other committee shall meet in the northern portion of the state.~~

~~Each disciplinary review committee shall consist of five members. Of the five members, one member shall be actively engaged in the business of a licensed private patrol operator, one member shall be actively engaged in the business of a firearm training facility, one member shall be actively engaged in the business of a registered security guard, and two members shall be public members. None of the public members shall be licensees or registrants or engaged in any business or profession in which any part of the fees, compensation, or revenue thereof, is derived from any licensee.~~

~~Each committee shall meet every 60 days or more or less frequently as may be required. The members shall be paid per diem pursuant to Section 103 and shall be reimbursed for actual travel expenses. The members shall be appointed for a term of four years.~~

~~7581.2. Each disciplinary review committee shall perform the following functions as they pertain to private patrol operators, security guards, firearm qualification cardholders, firearm training facilities, firearm training instructors, baton training facilities, and baton training instructors:~~

~~(a) Affirm, rescind, or modify all appealed decisions which concern administrative fines assessed by the director.~~

~~(b) Affirm, rescind, or modify all appealed decisions which concern denials, revocations, or suspensions of a license, certificate, or registration except denials, revocations, or suspensions ordered by the director in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.~~

7581.2. ~~Each disciplinary review committee~~ The Director shall perform the following functions as they pertain to private patrol operators, security guards, firearm qualification cardholders, firearm training facilities, firearm training instructors, baton training facilities, and baton training instructors:

(a) Affirm, rescind, or modify all appealed decisions which concern administrative fines ~~assessed by the director~~.

(b) Affirm, rescind, or modify all appealed decisions which concern denials, revocations, or suspensions of a license, certificate, or registration except denials, revocations, or suspensions ordered ~~by the director~~ in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.

7581.3. A private patrol operator, qualified manager of a private patrol operator, security guard, firearm qualification cardholder, firearm training facility, firearm training instructor, baton training facility, or baton training instructor may request ~~a review~~

~~by a disciplinary review committee~~ an administrative hearing to contest the assessment of an administrative fine or to appeal a denial, revocation, or suspension of a license, certificate, or registration ~~unless the denial, revocation, or suspension is ordered by the director~~ in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

~~A request for a review shall be by written notice to the bureau within 30 days of the issuance of the citation and assessment, denial, revocation, or suspension.~~

~~Following a review by a disciplinary review committee, the appellant shall be notified within 30 days, in writing, by regular mail, of the committee's decision.~~

~~If the appellant disagrees with the decision made by a disciplinary review committee, he or she may request a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. A request for a hearing following a decision by a disciplinary review committee shall be by written notice to the bureau within 30 days following notice of the committee's decision.~~

~~If the appellant does not request a hearing within 30 days, the review committee's decision shall become final.~~

~~7581.4. Except in cases where licensees are required to comply with the provisions of Section 7581.3, where a hearing is held under this chapter to determine whether an application for a license should be granted or to determine the qualifications of a licensee's manager, the proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all of the powers granted therein.~~

Alarm Company Operator Disciplinary Review Commission

7591.8. The director may automatically suspend a license, registration, or firearm qualification card if it is determined that the continued possession of such a license, registration, or card by the licensee, registrant, or card holder presents an undue hazard to public safety which may result in substantial injury to another.

A licensee, registrant, or firearm qualification card holder may request ~~a review by the Alarm Company Operator Disciplinary Review Committee~~ an administrative hearing as set forth in Section 7591.19 to appeal the suspension.

7591.9. If, upon investigation, the chief determines that an alarm company operator, a qualified manager, or an alarm agent is in violation of Sections 7597.1, 7597.2, 7597.3, 7597.5, 7597.6, 7598.51, 7598.53, 7599.32, 7599.33, 7599.34, 7599.36, 7599.37, 7599.38, 7599.39, 7599.40, 7599.41, 7599.42, 7599.43, 7599.44, 7599.45, 7599.46, 7599.47, 7599.48, 7599.49, 7599.50, 7599.51,

7599.52, 7599.53, 7599.54, 7599.55, 7599.58, and 7599.59, the director may issue a citation to, and fine, the alarm company operator, qualified manager, or alarm agent. The citation and fine assessment shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated. The citation shall contain an order of abatement fixing a reasonable time for abatement of the violation and may contain assessment of an administrative fine. The amount of the fine for any single investigation or audit of an alarm company operator, a qualified manager, or an alarm agent shall not exceed two thousand five hundred dollars ($2,500).

A citation and fine assessment shall inform the alarm company operator, qualified manager, or alarm agent that if he or she desires ~~a review by the Alarm Company Operator Disciplinary Review Committee~~ an administrative hearing, the ~~review~~ hearing shall be requested by written notice to the Chief within 30 days of the issuance of the citation and assessment, as appropriate. If a ~~review~~ hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. A ~~review~~ hearing shall be held pursuant to the provisions of Section 7591.19.

If the alarm company operator, qualified manager, or alarm agent fails to request a ~~review~~ hearing or fails to pay the assessed fine within 30 days of the assessment, the license, certificate, or registration shall not be renewed pursuant to the provisions of this chapter until the assessed fine is paid.

Administrative fines collected pursuant to this section shall be deposited in the Private Investigator Fund.

7591.10. (a) The director may deny a license, certificate, or registration regulated by this chapter on the grounds that the applicant has done any of the following:

(1) Knowingly made a false statement of fact required to be revealed in the application for a license.

(2) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the bureau is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(3) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself, herself, or another, or to substantially injure another.

(4) Done any act which if done by a licensee would be grounds for suspension or revocation of a license.

(5) Done any act without a license for which a license is required under this chapter.

(6) Been refused a license under this chapter or had a license revoked.

(7) Been an officer, partner, or manager of any person who has been refused a license under this chapter or whose license has been suspended or revoked.

The ~~bureau~~ Director may deny a license, certificate, or registration pursuant to this section only if the crime or act is substantially related to the qualifications, functions, or duties of the license, certificate, or registration for which application has been made.

The denial of a license, certificate, or registration shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires ~~a review by the disciplinary review committee the review~~ an administrative hearing, the hearing shall be requested within 30 days of the issuance of the denial. A ~~review~~ hearing shall be held pursuant to the provisions of Section 7591.19.

(b) Notwithstanding any other provision of this chapter, no person shall be denied a license, certificate, or registration solely on the basis that he or she has been convicted of a felony, if he or she has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, or solely on the basis that he or she has been convicted of a misdemeanor, if he or she has met all applicable requirements of the criteria of rehabilitation as provided in Section 7591.12.

7591.11. The ~~bureau~~ Director shall deny a firearms permit, pursuant to Section 12021 of the Penal Code, to any licensee, qualified manager, or alarm agent who has been convicted of a felony, unless the felony conviction has been reduced pursuant to Section 17 of the Penal Code or the person has been pardoned by the Governor. The licensee, qualified manager, or alarm agent shall not have a right to ~~a review or~~ a hearing if the denial is made pursuant to this section.

~~7591.17. The Governor shall appoint an Alarm Company Operator Disciplinary Review Committee.~~

~~The disciplinary review committee shall consist of three members who are actively engaged in business as licensed alarm company operators and two public members. The committee shall meet every 60 days, or more or less frequently as may be required. The members shall be paid per diem pursuant to Section 103 and shall be reimbursed for actual travel expenses. The members shall serve at the pleasure of the Governor.~~

~~7591.18. The Alarm Company Operator Disciplinary Review Committee shall perform the following functions:~~

~~(a) Affirm, rescind, or modify all appealed decisions concerning administrative fines assessed by the bureau against alarm company operators or their employees.~~

~~(b) Affirm, rescind, or modify all appealed decisions concerning denial, revocation, or suspension of licenses, and certificates, registrations, or permits issued by the bureau, except denials or suspensions ordered by the director in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.~~

7591.19. (a) ~~An alarm company operator, qualified manager, or alarm agent may request a review by the Alarm Company Operator Disciplinary Review Committee to contest the assessment of an administrative fine or to appeal a denial, revocation, or suspenison unless the denial or suspension is ordered by the director in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or in accordance with Section 7591.8.~~

~~A request for a review shall be by written notice to the bureau within 30 days of the issuance of the citation and assessment, denial or suspension.~~

~~Following a review by the disciplinary review committee, the appellant shall be notified within 30 days, in writing, by regular mail, of the committee's decision.~~

~~If the appellant disagrees with the decision made by the Alarm Company Operator Disciplinary Review Committee, he or she may request a hearing as outlined in subdivision (b). A request for a hearing following a decision by the disciplinary review committee shall be by written notice to the bureau within 30 days of the committee's decision.~~

~~If the appellant does not request a hearing within 30 days, the review committee's decision shall become final.~~

~~(b)~~ An alarm company operator, qualified manager, or alarm agent may request a hearing in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if he or she contests an assessment of an administrative fine, or to appeal a denial, suspension, or revocation. ~~A hearing may also be requested if the appellant disagrees with the decision made by the Alarm Company Operator Disciplinary Review Committee.~~

A request for a hearing shall be by written notice to the bureau within 30 days of the issuance of an assessment of an administrative fine, or a denial, suspension, or revocation ~~the decision by the review committee~~ by the director, chief, or bureau. ~~A hearing pursuant to this subdivision shall be available only after a review by the disciplinary review committee.~~

~~7591.20. The disciplinary review committee shall be provided all evidence used by the bureau in reaching its decision prior to hearing an appeal.~~

Board for Geologist and Geophysicists

7801. ~~"Board," as used in this chapter, means the Board for Geologists and Geophysicists. Any reference in any law or regulation to the State Board of Registration for Geologists and Geophysicists shall be deemed to refer to the Board for Geologists and~~

~~Geophysicists.~~ Any reference to the "Board" in this chapter, or to the State Board of Registration for Geologists and Geophysicists in any law or regulation, shall refer to the Department of Consumer Affairs, to the Director of the Department of Consumer Affairs, as indicated by the context.

~~7810. The Board for Geologists and Geophysicists is within the department and is subject to the jurisdiction of the department. Except as provided in this section, the board shall consist of eight members, five of whom shall be public members, two of whom shall be **geologists**, and one of whom shall be a geophysicist.~~

~~Each member shall hold office until the appointment and qualification of the member's successor or until one year has elapsed from the expiration of the term for which the member was appointed, whichever occurs first. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the remainder of the unexpired term.~~

~~Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expired. No person shall serve as a member of the board for more than two consecutive terms.~~

~~The Governor shall appoint three of the public members and the three members qualified as provided in Section 7811. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies that occurred on or after January 1, 1983.~~

~~At the time the first vacancy is created by the expiration of the term of a public member appointed by the Governor, the board shall be reduced to consist of seven members, four of whom shall be public members, two of whom shall be geologists, and one of whom shall be a geophysicist. Notwithstanding any other provision of law, the term of that member shall not be extended for any reason, except as provided in this section.~~

~~This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).~~

7810.1. Protection of the public shall be the highest priority for the ~~Board for Geologists and Geophysicists~~ Department in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

~~7811. Each member of the board shall be a citizen of the United States, shall be at least 30 years of age, and shall have been a resident of this state for at least five years immediately preceding his appointment. Each of the first appointed geologist members of the board shall have at least 12 years active experience and shall be a qualified geologist; each subsequent geologist member of the board shall be a geologist registered under this chapter. The first appointed geophysicist member shall have at least 12 years active experience and shall be a qualified geophysicist. Each subsequent geophysicist member shall be a geophysicist registered under this chapter. The board shall include not less than one engineering~~ geologist and one petroleum geologist, as determined by the Governor.

~~7815. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

7815.5. The ~~board~~ Director may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the ~~board~~ Director and vested in him or her by this chapter.

This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

~~7816. The board shall meet annually and at such other times as it may determine.~~

~~7817. Five members of the board shall constitute a quorum for the transaction of business; provided, however, that four members of the board shall constitute a quorum for the transaction of business when the board's membership is reduced to seven pursuant to Section 7810.~~

7818. The ~~board~~ Department, pursuant to the provisions contained in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, may adopt, amend or repeal rules and regulations to carry out the provisions of this chapter.

7819. Except as otherwise provided by law, all records of the ~~board~~ Department relating to Geologists and Geophysicists shall be open to inspection by the public during regular office hours.

~~7820. The board shall have and use a seal bearing the name "State Board for **Geologists** and **Geophysicists**."~~

7821. The ~~board~~ Department shall prepare annually a list of the names and addresses of every person who is registered by it and a list of every person whose registration has been suspended or

revoked within the previous year. Such lists shall be mailed to the county clerks of each county and shall be held by him as a public record.

7822. The ~~board~~ Department may, by regulation, provide for the division of the certification of registration into different specialties, including, but not limited to, petroleum, mining, and ground water, and may issue certificates in one or more of the specialties in which the applicant demonstrated proficiency. The ~~board~~ Department shall provide such a certificate for those qualified in engineering geology.

7823. The ~~board~~ Director shall have the authority to appoint committees as required or as deemed advisable to perform duties as the ~~board~~ Director may direct; provided, however, that the ~~board~~ Director shall not delegate any final decisionmaking authority to any committee ~~that has as a member any person who is not a member of the board~~.

Membership on those committees is at the pleasure of the ~~board~~ Director.

No member of a committee shall receive any other compensation than his or her necessary expenses, as approved by the ~~board~~ Director, connected with the performance of his or her duties as a member of the committee.

7825. The ~~board~~ Department shall establish relations with bodies which regulate the practice of geology and geophysics, or closely related geologic and geophysical disciplines, or which register geologists and geophysicists in the other states, and may establish relations with such bodies in other countries, for the purposes of working toward (1) uniformly high professional standards and (2) mutual recognition of registration.

7840. An application for registration as a geologist or for registration as a geophysicist shall be made to the ~~board~~ Department on a form prescribed by it and shall be accompanied by the application fee fixed by this chapter.

7850.5. An applicant who has passed the examination for a certified specialty geologist and has otherwise qualified under this chapter in the specialty, upon payment of the fee fixed by this chapter shall have a certificate issued to him or her as a certified specialty geologist.

A certificate of certified specialty geologist shall be signed by the ~~president and~~ Director or executive officer and issued under the seal of the ~~board~~ Department.

7850.6. An applicant who has passed the examination for a certified specialty geophysicist and has otherwise qualified under this chapter in the specialty, upon payment of the fee fixed by this chapter shall have a certificate issued to him or her as a certified specialty geophysicist. A certificate of certified specialty geophysicist shall be signed by the ~~president and~~ Director or executive officer and issued under the seal of the ~~board~~ Department.

7855. Any applicant who is denied registration or authorization shall, in writing, be so notified and informed of the reason therefor. Within 30 days after receipt of notice, such applicant may make written request to the ~~board~~ Department for a hearing which, if granted, shall be conducted as specified in Section 7861.

Court Reporters Board

8000. ~~There is in the Department of Consumer Affairs a Court Reporters Board of California, which consists of five members, three of whom shall be public members and two of whom shall be holders of certificates issued under this chapter who have been actively engaged as shorthand reporters within this state for at least five years immediately preceding their appointment.~~ Any reference to the "board" in this chapter, or to Court Reporters Board of California in any law or regulation, shall refer to the Department of Consumer Affairs or, if appropriate, the Director of the Department of Consumer Affairs.

This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473), except that the review shall be limited to only those unresolved issues identified by the Joint Legislative Sunset Review Committee.

~~8001. Appointment as a member of the board shall be for a term of four years. Members of the board shall hold office until the appointment and qualification of their successors or until one year shall have elapsed since the expiration of the term for which they were appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms except as provided in Section 131. Vacancies occurring shall be filled by appointment for the unexpired term.~~

~~The Governor shall appoint one of the public members and the two certified members qualified as provided in Section 8000. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member.~~

~~8002. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

8003. ~~At each yearly meeting a chairman and vice chairman shall be elected from the membership of the board. Three members shall~~

~~constitute a quorum for the transaction of business.~~ The ~~board~~ department shall keep a complete record of all its proceedings and all certificates issued, renewed, or revoked, together with a detailed statement of receipts and disbursements.

8004. The expenses of the ~~members of the board and the expenses of the board~~ department that are necessary to carry out the provisions of this chapter shall be paid from the fees collected under this chapter and such expenses shall not exceed the amount so collected.

~~8005. The Court Reporters Board of California is charged with the executive functions necessary for effectuating the purposes of this chapter. It may appoint committees as it deems necessary or proper. The board may appoint, prescribe the duties, and fix the salary of an executive officer. Except as provided by Section 159.5, the board may also employ other employees as may be necessary, subject to civil service and other provisions of law.~~

~~This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473), except that the review shall be limited to the board's examination program.~~

8005.1. Protection of the public shall be the highest priority for the ~~Court Reporters Board of California~~ department in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

8008. The ~~board~~ department has the following powers and duties:

(a) To adopt a seal.

(b) ~~By affirmative vote of at least three members of the board, to~~ To suspend, revoke, or impose any other disciplinary action against a certificate for any cause specified in this chapter.

(c) To charge and collect all fees as provided for in this chapter.

(d) To require the renewal of all certificates.

(e) To issue subpoenas, to administer oaths, and to take testimony concerning any matter within the jurisdiction of the ~~board~~ department.

(f) To investigate the actions of any licensee, upon receipt of a verified complaint in writing from any person, for alleged acts or omissions constituting grounds for disciplinary action under the chapter.

(g) To administer the Transcript Reimbursement Fund described in Section 8030.2

Structural Pest Control Board

8502. "Board" refers to the ~~Structural Pest Control Board~~ Department of Consumer Affairs.
8520. (a) ~~There is in the Department of Consumer Affairs a Structural Pest Control Board, which consists of seven members~~…….
Any reference to the "board" in this chapter, or to the Structural Pest Control Board in any law or regulation, shall refer to the Department of Consumer Affairs or, if appropriate, the Director of the Department of Consumer Affairs.
8520.1. Protection of the public shall be the highest priority for the ~~Structural Pest Control Board~~ Department of Consumer Affairs in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.
~~8521. The board is composed of seven members, three of whom shall be, and shall have been for a period of not less than five years preceding the date of their appointment, operators licensed under this chapter actively engaged in the business of pest control and who are residents of this state, and four public members who shall not be licentiates of the board.~~
~~8522. Members of the board shall be appointed for a term of four years, subject to removal by the appointing power at his or her pleasure.~~
~~Vacancies shall be filled by the appointing power for the unexpired term.~~
~~Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which he or she was appointed, whichever first occurs. No person shall serve as a member of the board for more than two consecutive terms.~~
~~Each appointment shall be for a four-year term expiring June 1 of the fourth year following the year in which the previous term expires.~~
~~The Governor shall appoint two of the public members and the two licensed members qualified as provided in Section 8521. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.~~
~~The Governor shall appoint the member who is a licentiate of the board provided at the 1983 portion of the 1983-84 Regular Session of the Legislature on or before January 15, 1984, and that member's term shall expire on January 15, 1988. Each appointment thereafter shall be for a four-year term expiring on January 15th.~~
~~8523. The board shall organize and elect a president who shall serve for one year.~~
~~The board shall meet annually during the month of October.~~
~~Special meetings may be called at any time by the president or by any three members of the board, upon notice for such time and in such manner as the board may provide.~~
~~8524. Four members of the board shall constitute a quorum for the transaction of business, for the performance of any duty, or the exercise of any power or authority of the board.~~
~~A vacancy on the board shall not impair the power of the remaining members to perform all duties and exercise all powers of the board providing the members remaining constitute a quorum.~~

~~8526. Each member of the board shall receive a per diem and expenses as provided in Section 103.~~

~~8527. The board shall adopt and use a seal. The seal shall have the words "Structural Pest Control Board, State of California," and such other devices as the board may desire, engrossed thereon. The registrar shall have the care and custody of the seal.~~

Professional Engineers and Land Surveyors

8706. ~~"Board" refers to the Board for Professional Engineers and Land Surveyors.~~ Any reference to the "board" in this chapter, or to the Board of Registration for Professional Engineers and Land Surveyors or to the Board for Professional Engineers and Land Surveyors in any law or regulation, shall refer to the Department of Consumer Affairs, or if specified or if the context otherwise indicates, shall refer to the Director of the Department of Consumer Affairs.

8707. ~~"Executive officer" refers to the executive officer of the board.~~ Any reference to the "Executive Officer" in this chapter shall refer to the Director of the Department of Consumer Affairs.

8710. (a) ~~The Board for Professional Engineers and Land Surveyors~~ The Department of Consumer Affairs is vested with power to administer the provisions and requirements of this chapter, and may make and enforce rules and regulations that are reasonably necessary to carry out its provisions.

(b) ~~The board~~ The Department of Consumer Affairs may adopt rules and regulations of professional conduct that are not inconsistent with state and federal law. The rules and regulations may include definitions of incompetence and negligence. Every person who holds a license or certificate issued by the ~~board~~ Department pursuant to this chapter, or a license or certificate issued to a civil engineer pursuant to Chapter 7 (commencing with Section 6700), shall be governed by these rules and regulations.

~~(c) This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section shall render the board subject to the review required by Division 1.2 (commencing with Section 473).~~

8711. The ~~executive officer of the board~~ Department shall keep a complete record of all applications for license and the ~~board's~~ Department's action thereon.

8712. The ~~executive officer~~ Department shall prepare, once every two years, a roster containing the names and addresses of all licensed land surveyors, and the names and addresses of the holders of delinquent licenses. The roster shall be a part of the roster of registered professional engineers issued by the ~~board~~ Department.

A copy of the roster shall be filed with the Secretary of State.

Copies of the roster shall be available to the general public.

The roster shall be a public record.

8715. The ~~board~~ Director of the Department of Consumer Affairs may establish licensed land surveyor technical advisory committees to advise and assist the board with respect to the following:

(1) The review and verification of applications for licensure.

(2) The evaluation and investigation of potential violations of this chapter.

(3) The amendment, repeal, adoption, or revision of board rules, regulations, policies, or procedures.

8715.1. Each member of each technical advisory committee shall be appointed by the ~~board~~ Director of the Department of Consumer Affairs and shall serve at the pleasure of the ~~board~~ Director.
Each committee shall be composed of no more than five members.

8720. The ~~board~~ Director of the Department of Consumer Affairs, when it deems necessary, may establish land surveyors review committees to hear all matters assigned by the ~~board~~ Director, including, but not limited to, any contested case which is assigned by the ~~board~~ Director. Each committee shall exist so long as the ~~board~~ Director deems that it is necessary.

8720.1. Each review committee shall consist of no fewer than three licensed land surveyors appointed by the ~~board~~ Director of the Department of Consumer Affairs. Each member of a committee shall have the same qualifications and shall be subject to the same rules and regulations as if he were ~~a member~~ of the ~~board~~ Department.

8720.4. At the conclusion of any hearing which is conducted by a committee, the committee shall prepare a proposed decision, in such form that it may be adopted by the ~~board~~ Director of the Department of Consumer Affairs as the decision in the case, and shall transmit it to the ~~board~~ Director. The proposed decision shall be subject to the same procedure as the proposed decision of a hearing officer under subdivisions (b) and (c) of Section 11517 of the Government Code.

8720.5. The ~~board~~ Director of the Department of Consumer Affairs may adopt, amend, or repeal, in accordance with the provisions of Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code, rules and regulations necessary to implement the provisions of this article.

8720.6. Each member of a land surveyors review committee or other ~~board~~ Director-appointed committee and any ~~board~~ Director-appointed representative of the ~~board~~ Department shall be granted the same immunity as is granted to a public employee pursuant to Article 3 (commencing with Section 820) of Chapter 1 of Part 2 of Division 3.6 of Title 1 of the Government Code.

Service Agency Advisory Committee

~~**12541**. (a) The department shall establish a seven-member advisory committee consisting of the following members:~~
~~(1) Two members representing registered service agencies.~~
~~(2) Two members representing county sealers or directors of weights and measures.~~
~~(3) One member representing device manufacturers.~~
~~(4) One member representing industry clients of service agencies.~~

~~(5) One member representing the general public.~~
~~(b) Except as provided in subdivision (c), the term of office of the members of the committee is three years. Vacancies shall be filled by the department for any unexpired term.~~
~~(c) Initial appointments to the committee shall be made as follows:~~
~~(1) One representative of registered service agencies, and one representative of county sealers or directors of weights and measures shall be appointed for one year.~~
~~(2) One representative of device manufacturers, one representative of county sealers or directors of weights and measures, and one representative of industry clients of service agencies shall be appointed for two years.~~
~~(3) One representative of registered service agencies, and one representative of the general public shall be appointed for three years.~~
~~(d) The committee shall be advisory to the department in all matters concerning the registration of service agencies.~~

Civil Code

56.30. The disclosure and use of the following medical information shall not be subject to the limitations of this part:
(a) (Mental health and developmental disabilities) Information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100) of the Welfare and Institutions Code.
(b) (Public social services) Information and records that are subject to Sections 10850, 14124.1, and 14124.2 of the Welfare and Institutions Code.

(c) (State health services, communicable diseases, developmental disabilities) Information and records maintained pursuant to former Chapter 2 (commencing with Section 200) of Part 1 of Division 1 of the Health and Safety Code and pursuant to the Communicable Disease Prevention and Control Act (subdivision (a) of Section 27 of the Health and Safety Code).

(d) (Licensing and statistics) Information and records maintained pursuant to Division 2 (commencing with Section 1200) and Part 1 (commencing with Section 102100) of Division 102 of the Health and Safety Code; pursuant to Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code; and pursuant to Section 8608, 8817, or 8909 of the Family Code.

(e) (Medical survey, workers' safety) Information and records acquired and maintained or disclosed pursuant to Sections 1380 and 1382 of the Health and Safety Code and pursuant to Division 5 (commencing with Section 6300) of the Labor Code.

(f) (Industrial accidents) Information and records acquired, maintained, or disclosed pursuant to Division 1 (commencing with Section 50), Division 4 (commencing with Section 3200), Division 4.5 (commencing with Section 6100), and Division 4.7 (commencing with Section 6200) of the Labor Code.

(g) (Law enforcement) Information and records maintained by a health facility which are sought by a law enforcement agency under Chapter 3.5 (commencing with Section 1543) of Title 12 of Part 2 of the Penal Code.

(h) (Investigations of employment accident or illness) Information and records sought as part of an investigation of an on-the-job accident or illness pursuant to Division 5 (commencing with Section 6300) of the Labor Code or pursuant to Section 105200 of the Health and Safety Code.

(i) (Alcohol or drug abuse) Information and records subject to the federal alcohol and drug abuse regulations (Part 2 (commencing with Section 2.1) of subchapter A of Chapter 1 of Title 42 of the Code of Federal Regulations) or to Section 11977 of the Health and Safety Code dealing with narcotic and drug abuse.

(j) (Patient discharge data) Nothing in this part shall be construed to limit, expand, or otherwise affect the authority of the California Health Facilities Commission to collect patient discharge information from health facilities.

(k) Medical information and records disclosed to, and their use by, the Insurance Commissioner, the Director of the Department of Managed Health Care, the Division of Industrial Accidents, the ~~Workers' Compensation~~Employment & Benefits Appeals Board, the Department of Insurance, or the Department of Managed Health Care.

Education Code

1330. (a) The Superintendent of Public Instruction or the Board of Governors of the California Community Colleges, as appropriate, shall represent, and exercise rights of appeal to the ~~Unemployment Insurance~~Employment & Benefits Appeals Board under this part on behalf of school employers held under Section 1336 of the Unemployment Insurance Code.

(b) The Superintendent of Public Instruction or Board of Governors of the California Community Colleges is hereby authorized to obtain pertinent personnel records and data from any school employer and to act as an agent individually or collectively for school employers in matters pertaining to unemployment insurance.

(c) Each county superintendent of schools shall have the responsibility of establishing, coordinating, and maintaining, either directly or by contract, an unemployment insurance management system for each school employer participating in the School Employees Fund under Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code. A management system shall include general administration, claims management, appointment of hearing representatives, representation of school employers at hearings, and other duties related to the unemployment insurance program in their jurisdiction. These duties and responsibilities may be delegated to any school district, community college district, another county superintendent of schools, or any combination of these entities, including programs under joint powers agreements for the purpose of consolidation for economy and employment of specialists, including the services of a regional data center operated by a county superintendent of schools or the data-processing services of a school district or a community college district. School employers not participating in the School Employees Fund shall be responsible for the development and maintenance of their own unemployment insurance management system required by this subdivision.

(d) Each school employer shall perform pursuant to the type of financing elected, and shall, as required, respond to the Superintendent of Public Instruction or Board of Governors of the California Community Colleges and the county superintendent of schools or designated agency as soon as possible, in no case later than 48 hours, to inquiries made on behalf of the county superintendent or the Superintendent of Public Instruction or Board of Governors of the California Community Colleges in reference to any aspect of eligibility, notice of claim or appeal under the unemployment insurance program. Each county superintendent or agent thereof who is responsible for administering the unemployment insurance program shall be responsible for timely responses to any inquiry by the administrator, Superintendent of Public Instruction,

State Treasurer, Controller, or other officer or person responsible for disbursements from the School Employees Fund in the State Treasury as established by Section 822 of the Unemployment Insurance Code, or the Unemployment Fund in the State Treasury. Any school employer which fails to pay the contributions, interest, charges or levies within the time required shall be liable for interest on moneys due at the rate of 1 percent per month or fraction thereof from and after the date of delinquency until paid. If the school employer fails, without good cause, to pay any sums required within the time required, a penalty of 10 percent of the amount noticed, billed or required shall be made by the administrator. The administrator may for good cause waive all or a portion of interest and penalty.

(e) The administrator of the School Employees Fund shall, from available interest earnings, pursuant to investments authorized by Section 822 of the Unemployment Insurance Code, transfer each year an amount equal to two dollars ($2) per covered employee for all districts participating in the School Employees Fund under Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 of the Unemployment Insurance Code, to the Superintendent of Public Instruction or the Board of Governors of the California Community Colleges, as appropriate. The Superintendent of Public Instruction or the Board of Governors of the California Community Colleges, as appropriate, shall apportion the two dollars ($2) per covered employee amount, less actual state administrative costs not to exceed five cents ($0.05) per covered employee, to the county superintendent of schools to cover costs of administering the unemployment insurance management system specified in subdivision (c).

(f) For the fiscal year 1978-79, and each fiscal year thereafter, the administrator of the School Employees Fund shall transfer the funds by December 31 of each year based on the reports received from the Superintendent of Public Instruction or Board of Governors of the California Community Colleges by November 30 of each year. The reports shall be compiled from the number of covered employees as reported by the county superintendent of schools or community colleges, as appropriate, to the Superintendent of Public Instruction or the Board of Governors of the California Community Colleges by November 1 of each year, based on the covered employees employed in the preceding calendar month. The funds shall be apportioned by the Superintendent of Public Instruction and the Board of Governors of the California Community Colleges prior to January 31 of each year to the county superintendent of schools, less the actual administrative costs of the Superintendent of Public Instruction or the Board of Governors of the California Community Colleges, which shall not exceed an aggregate amount of five cents ($0.05) per covered

employee. Funds for the cost of administering the unemployment insurance management system shall be apportioned to each county superintendent of schools according to the number of covered employees in each district reported by him or her, and shall be used only for the purpose of covering actual administrative costs incurred pursuant to Section 1330.

Re: Student Aid Commission

11001. The Chancellor of the California State University shall establish an advisory committee to assist in selecting proposals to be funded and developing criteria for project evaluation. The committee shall be composed of the following members:
(a) Two certificated secondary school teachers, including at least one junior high or intermediate school teacher, appointed by the Superintendent of Public Instruction.
(b) Two certificated secondary school employees with responsibility for curriculum administration, appointed by the Superintendent of Public Instruction.
(c) One director of a regional consortium participating in the California Student Opportunity Access Program established pursuant to Chapter 113 of the Statutes of 1978, appointed by the Office of Higher Education and Financial Aid ~~Student Aid Commission.~~
(d) Two representatives of the California Community Colleges, to be appointed by the Board of Governors of the California Community Colleges, at least one of whom shall be a faculty member. (e) Two representatives of the California State University, to be appointed by the Chancellor of the California State University, at least one of whom shall be a faculty member. (f) Two representatives of the University of California, appointed by the President of the University of California, at least one of whom shall be a faculty member. (g) One representative, appointed by the Director of the ~~California Postsecondary Education Commission~~Office of Higher Education and Financial Aid. Faculty appointments to the advisory committee shall be made by the appropriate appointing authority through consultation with the faculty senate.

Public Library Construction and Renovation Board

19952. As used in this chapter, the following terms have the following meanings:
(a) "Committee" means the California Library Construction and Renovation Finance Committee created pursuant to Section 19972.
(b) "Fund" means the California Library Construction and Restoration Fund created pursuant to Section 19955.
(c) "Board" ~~means the California Library Construction and Renovation Board. The board includes the State Librarian, the Treasurer, the Director of Finance, the Assembly Member appointed by the Speaker of the Assembly, and the Senator appointed by the Senate Rules Committee.~~ means the Board of Directors of the California Infrastructure and Economic Development Bank, created pursuant to Government Code Section 63021.5 ~~Legislative members of the board shall meet with, and participate in, the work of the board to the extent that their participation is not incompatible with their duties as Members of the Legislature. For the~~

~~purposes of this chapter, Members of the Legislature who are members of the board shall constitute a joint legislative committee on the subject matter of this chapter~~.

19972. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the California Library Construction and Renovation Finance Committee is hereby created. For purposes of this chapter, the California Library Construction and Renovation Finance Committee is the "committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Treasurer, the State Librarian, the Director of Finance, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the ~~California Library Construction and Renovation Board~~ Board of Directors of the California Infrastructure and Economic Development Bank is designated the "board." "Board" means ~~the California Library Construction and Renovation Board.~~ the Board of Directors of the California Infrastructure and Economic Development Bank.

19986. As used in this chapter, the following terms have the following meanings:

(a) "Committee" means the California Library Construction and Renovation Finance Committee established pursuant to Section 19972.

(b) "Fund" means the California Public Library Construction and Renovation Fund.

(c) "Board" means the ~~California Public Library Construction and Renovation Board~~ Board of Directors of the California Infrastructure and Economic Development Bank. ~~This board is comprised of the State Librarian, the Treasurer, the Director of Finance, an Assembly Member appointed by the Speaker of the Assembly, a Senator appointed by the Senate Rules Committee, and a member appointed by the Governor.~~

~~Legislative members of the board shall meet with, and participate in, the work of the board to the extent that their participation is not incompatible with their duties as Members of the Legislature. For the purposes of this chapter, Members of the Legislature who are members of the board shall constitute a joint legislative committee on the subject matter of this chapter. "Board" means the California Library Construction and Renovation Board~~.

20002. (a) For purposes of this chapter, the California Library Construction and Renovation Finance Committee established pursuant to Section 19972 is the "committee" as that term is used in the State General Obligation Bond Law.

(b) For purposes of the State General Obligation Bond Law, the Ca~~lifornia Public Library Construction and Renovation Board established pursuant to subdivision (c) of Section 19986~~ Board of Directors of the California Infrastructure and Economic Development Bank, created pursuant to Government Code Section 63021.5 is designated the "board." ~~"Board" means the California Library Construction and Renovation Board.~~

Brown v. Board of Education of Topeka Advisory Commission

~~33600. The Brown v. Board of Education of Topeka Advisory Commission is established in the department.~~

~~33601. The Brown v. Board of Education of Topeka Advisory Commission shall consist of two members appointed by the Senate Committee on Rules, two members appointed by the Speaker of the Assembly, and five members appointed by the Governor. At least one of the members appointed by the Governor shall be chosen from a national civil rights organization, and one of the members appointed by the Governor shall represent the department. The nine appointed members shall be broadly reflective of the general public of the state.~~

~~33603. (a) The commission, during the 2004-05 school year, shall develop community and educational awareness programs to commemorate the 50th anniversary of the Supreme Court decision in Brown v. Board of Education of Topeka (1954) 347 U.S. 483, only after a determination is made by the Department of Finance that private donations in an amount sufficient to fund those programs have been deposited with the state.~~

~~33604. The members of the Brown v. Board of Education of Topeka Advisory Commission shall serve without compensation, and no public funds may be used to compensate the members for expenses.~~

~~33605. This article shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.~~

49116. (a) While school is in session, an employer shall not employ a minor 14 or 15 years of age for more than three hours in any day, nor more than 18 hours in any week, nor during school hours, except that a minor enrolled in and employed pursuant to a school-supervised and school-administered work experience and career exploration program may be employed for no more than 23 hours, any portion of which may be during school hours.

(b) An employer shall not employ a minor 16 or 17 years of age for more than four hours in any day in which that minor is required by law to attend school for 240 minutes or more, except as follows:

(1) The minor is employed in personnel attendance occupations, as defined in the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency Minimum Wage Order No. 15, school-approved work experience, or cooperative vocational education programs.

(2) The minor has been issued a permit to work pursuant to subdivision (c) of Section 49112 and is employed in accordance with the provisions of that permit.

(c) If evidence is shown, to the satisfaction of the authority issuing the permit to work, that the schoolwork or the health of the minor is being impaired by the employment, that authority may revoke the permit.

(d) Nothing in this section shall apply to any minor employed to deliver newspapers to consumers.

Student Aid Commission

66021.2. Consistent with the state's historic commitment to provide educational opportunity by ensuring both student access to and selection of an institution of higher education for students with financial need, the long-term policy of the Ortiz-Pacheco-Poochigian-Vasconcellos Cal Grant Program established pursuant to Chapter 1.7 (commencing with Section 69430) of Part 42 shall be as follows:

(a) Commencing with the 2001-02 academic year and every year thereafter, an applicant for a Cal Grant A or B award shall receive an award that is not in excess of the financial need amount determined by the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ pursuant to Section 69432.9 if he or she complies with all of the following requirements:

66022. (a) The governing board of every community college district, the Trustees of the California State University, the Regents of the University of California, and the Board of Directors of the Hastings College of the Law shall adopt regulations providing for the withholding of institutional services from students or former students who have been notified in writing at the student's or former student's last known address that he or she is in default on a loan or loans under the Federal Family Education Loan Program. "Default," for purposes of this section, means the failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances where the guarantee agency finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for 180 days for a loan repayable in monthly installments, or 240 days for a loan repayable in less frequent installments.

(b) The regulations adopted pursuant to subdivision (a) shall provide that the services withheld may be provided during a period when the facts are in dispute or when the student or former student demonstrates to either the governing board of the community college district, the

Trustees of the California State University, the Regents of the University of California, or the Board of Directors of the Hastings College of the Law,
as appropriate, or to the Office of Higher Education and Financial Aid ~~Student Aid Commission~~, or both the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ and the appropriate entity or its designee-, that reasonable progress has been made to repay the loan or that there exists a reasonable justification for the delay as determined by the institution. The regulations shall specify the services to be withheld from the student and may include, but are not limited to, the following:
(1) The provision of grades.
(2) The provision of transcripts.
(3) The provision of diplomas. The adopted regulations shall not include the withholding of registration privileges.
(c) When it has been determined that an individual is in default on a loan or loans specified in subdivision (a), the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall give notice of the default to all institutions through which that individual acquired the loan or loans. (d) This section shall not impose any requirement upon the University of California or the Hastings College of the Law unless the Regents of the University of California or the Board of Directors of the Hastings College of the Law, respectively, by resolution, make this section applicable. (e) Guarantors, or those who act as their agents or act under their control, who provide information to postsecondary educational institutions pursuant to this section, shall defend, indemnify, and hold harmless the governing board of every community college district, the Trustees of the California State University, the Regents of the University of California, and the Board of Directors of the Hastings College of the Law from action resulting from compliance with this section when the action arises as a result of incorrect, misleading, or untimely information provided to the postsecondary educational institution by the guarantors, their agents, or those acting under the control of the guarantors.

66900. (a) It is the intent of the Legislature that the ~~California Postsecondary Education Commission (CPEC)~~Office of Higher Education and Financial Aid be responsible for coordinating public, independent, and private postsecondary education in California and providing independent policy analyses and recommendations to the Legislature and the Governor on postsecondary education issues. In this respect, the Legislature finds as follows: (1) California, in its adoption of the 1960 Master Plan for Higher Education, established the Coordinating Council for Higher Education, the ~~commission~~Office of Higher Education and Financial Aid's predecessor as the statewide coordinating and planning board for higher education. (2) In 1973, the Legislature's Joint Committee on Higher Education reviewed the 1960 Master Plan for Higher Education and ultimately advanced a report that included recommendations for strengthening California's higher education plan. The committee's work resulted in the disestablishment of the Coordinating Council for Higher Education and the establishment of the California Postsecondary Education Commission. (3) Assembly Bill 770 (Chapter 1187 of the Statutes of 1973) strengthened the membership of the commission by having a majority of its members represent the general public. That bill also increased the commission's responsibilities with respect to advising the Legislature and the Governor on issues related to governance, operation, and financing of higher education in California. (4) Since 1974, the commission has served as the state's independent planning and coordination agency for

postsecondary education policy, responsible for providing analyses and recommendations to the Legislature and the Governor related to long-range planning for public postsecondary education and the state policy and programs involving independent and private postsecondary education sectors. (5) In 1990, Senate Bill 1570 (Chapter 1587 of the Statutes of 1990) codified the commission's mission statement developed by the 1989 Joint Committee for the Review of the Master Plan for Higher Education. (6) The commission has administered specifically designated federal programs and in July 1993, it was named the state's designated agency to administer the new federal state postsecondary review entity (SPRE). (b) It is the intent of the Legislature that the commission maintain the essential role it plays in coordinating all sectors of postsecondary education, both public and private, given the size, scope, and complexity of California's higher education system. (c) It is further the intent of the Legislature, as follows: (1) That the education policy recommendations of the ~~commission~~Office of Higher Education and Financial Aid shall be a primary consideration in developing state policy and funding for postsecondary education. (2) That the ~~commission~~Office of Higher Education and Financial Aid shall develop and maintain a data collection system capable of documenting the performance of postsecondary education institutions in meeting the post high school education and training needs of California's diverse population. (3) That the ~~commission~~Office of Higher Education and Financial Aid, as the state's planning and coordinating agency, shall ensure the effective utilization of public postsecondary education resources, thereby eliminating waste and unnecessary duplication, and shall promote diversity, innovation, and responsiveness to student and societal needs. (4) That the ~~commission~~Office of Higher Education and Financial Aid shall encourage the participation of faculty members, students, administrators, and members of the general public in carrying out its duties and responsibilities.

66901. ~~There is hereby created the California Postsecondary Education Commission, which shall be advisory to the Governor, the Legislature, other appropriate governmental officials, and institutions of postsecondary education. The commission shall be composed of the following members: (a) One representative of the Regents of the University of California designated by the regents, one representative of the Trustees of the California State University designated by the trustees, and one representative of the Board of Governors of the California Community Colleges designated by the board. Representatives of the regents, the trustees, and the board of governors shall be chosen from among the appointed members of their respective boards, but in no instance shall an ex officio member of a governing board serve on the commission. (b) One representative of the independent California colleges and universities that are formed and operated as nonprofit corporations in this state and are accredited by a regional association that is recognized by the United States Department of Education. This member shall be appointed by the Governor from a list or lists submitted by an association or associations of those institutions. (c) The chair or the designee of the chair of the Council for Private Postsecondary and Vocational Education. (d) The President of the State Board of Education or his or her designee from among the other members of the board. (e) Nine representatives of the general public appointed as follows: three by the Governor, three by the Senate Rules Committee, and three by the Speaker of the Assembly. It is the intent of the Legislature that the commission be broadly and equitably representative of the general public in the appointment of its public members and that the appointing authorities, therefore, shall confer to assure that their combined appointments include adequate representation on the basis of sex and on the basis of the significant racial, ethnic, and economic groups in the state. (f) Two student representatives, each of whom shall be enrolled at a~~

~~California postsecondary education institution at the time of appointment and during the term of service, except that a student member who graduates from an institution with no more than six months of his or her term remaining shall be permitted to serve for the remainder of the term. The Governor shall appoint the student members from persons nominated by the appropriate student organizations of each of the postsecondary education segments. For each student member of the commission, the appropriate student organization may submit a list of nominees. The list shall specify not less than three and not more than five nominees. The appropriate student organization for each segment shall be a composite group of at least five representative student government associations, as determined by the commission. (g) The student member appointed to the commission shall not be enrolled in the same segment as the outgoing student member or in the same segment of the other sitting student member. (h) No person who is employed by any institution of public or private postsecondary education shall be appointed to or serve on the commission, except that a person who is not a permanent, full-time employee and who has part-time teaching duties that do not exceed six hours per week may be appointed to and serve on the commission. The commission members designated in subdivisions (a), (c), and (d) shall serve at the pleasure of their respective appointing authorities. The member designated in subdivision (b) shall serve a three-year term. The members designated in subdivision (e) shall each serve a six-year term. The members designated in subdivision (f) shall each serve a two-year term. The respective appointing authority may appoint an alternate for each member who may, during the member's absence, serve on the commission and vote on matters before the commission. When vacancies occur prior to expiration of terms, the respective appointing authority may appoint a member for the remainder of the term. Any person appointed pursuant to this section may be reappointed to serve additional terms. All terms subsequent to the initial appointments, which became effective on January 10, 1974, shall begin on January 1 of the year in which the respective terms are to start. Any person appointed pursuant to this section who no longer has the position that made him or her eligible for appointment may nonetheless complete his or her term of office on the commission. No person appointed pursuant to this section shall, with respect to any matter before the commission, vote for or on behalf of, or in any way exercise the vote of, any other member of the commission. The commission shall meet as often as it deems necessary to carry out its duties and responsibilities. Any member of the commission who in any calendar year misses more than one-third of the meetings of the full commission forfeits his or her office, thereby creating a vacancy. The commission shall select a chair from among the members representing the general public. The chair shall hold office for a term of one year and may be selected to successive terms. There is established an advisory committee to the commission and the director, consisting of the chief executive officers of each of the public segments, or their designees, the Superintendent of Public Instruction or his or her designee, and an executive officer from each of the groups of institutions designated in subdivisions (b) and (c) to be designated by the respective commission representative from these groups. Commission meeting agenda items and associated documents shall be provided to the committee in a timely manner for its consideration and comments. The commission may appoint any subcommittees or advisory committees it deems necessary to advise the commission on matters of educational policy. The advisory committees may consist of commission members or nonmembers, or both, including students, faculty members, segmental representatives, governmental representatives, and representatives of the public. The commission shall appoint and may remove a director in the manner hereafter specified. The director shall appoint persons to any staff positions the commission may authorize. The commission shall prescribe rules for the transaction of its own~~

~~affairs, subject, however, to all the following requirements and limitations: (1) The votes of all representatives shall be recorded. (2) Effective action shall require the affirmative vote of a majority of all the duly appointed members of the commission, not including vacant commission seats. (3) The affirmative votes of two-thirds of all the duly appointed members of the commission, not including vacant commission seats, shall be necessary to the appointment of the director.~~ The Office of Higher Education and Financial Aid hereby succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the California Postsecondary Education Commission, which shall no longer exist.

66902. The ~~commission~~Office of Higher Education and Financial Aid shall have power to require the governing boards and the institutions of public postsecondary education to submit data on plans and programs, costs, selection and retention of students, enrollments, plant capacities and other matters pertinent to effective planning, policy development, articulation and coordination, and shall furnish information concerning such matters to the Governor and to the Legislature as requested by them.

66903. The ~~commission~~Office of Higher Education and Financial Aid has the following functions and responsibilities in its capacity as the statewide postsecondary education planning and coordinating agency and adviser to the Legislature and the Governor: (a) It shall require the governing boards of the segments of public postsecondary education to develop and submit to the ~~commission~~Office of Higher Education and Financial Aid institutional and systemwide long-range plans in a form determined by the ~~commission~~Office of Higher Education and Financial Aid after consultation with the segments. (b) It shall prepare a state plan for postsecondary education that shall integrate the planning efforts of the public segments with other pertinent plans. The ~~commission~~Office of Higher Education and Financial Aid shall seek to resolve conflicts or inconsistencies among segmental plans in consultation with the segments. If these consultations are unsuccessful, the ~~commission~~Office of Higher Education and Financial Aid shall report the unresolved issues to the Legislature with recommendations for resolution. In developing the plan, the ~~commission~~Office of Higher Education and Financial Aid shall consider at least the following factors: (1) The need for, and location of, new facilities. (2) The range and kinds of programs appropriate to each institution or system. (3) The budgetary priorities of the institutions and systems of postsecondary education. (4) The impact of various types and levels of student charges on students and on postsecondary education programs and institutions. (5) The appropriate levels of state-funded student financial aid. (6) The access and admission of students to postsecondary education. (7) The educational programs and resources of independent and private postsecondary institutions. (8) The provisions of this division differentiating the functions of the public systems of higher education. (c) It shall update the plan periodically, as appropriate. (d) It shall participate in appropriate stages of the executive and the legislative budget processes as requested by the executive and the legislative branches, and shall advise the executive and the legislative branches as to whether segmental programmatic budgetary requests are compatible with the state plan. It is not intended that the ~~commission~~Office of Higher Education and Financial Aid hold independent budget hearings. (e) It shall advise the Legislature and the Governor regarding the need for, and location of, new institutions and campuses of public higher education. (f) It shall review proposals by the public segments for new programs, the priorities that guide them, and the degree of coordination with nearby public, independent, and private postsecondary educational institutions, and shall make recommendations regarding those

proposals to the Legislature and the Governor. (g) In consultation with the public segments, it shall establish a schedule for segmental review of selected educational programs, evaluate the program approval, review, and disestablishment processes of the segments, and report its findings and recommendations to the Legislature and the Governor. (h) It shall serve as a stimulus to the segments and institutions of postsecondary education by projecting and identifying societal and educational needs and encouraging adaptability to change. (i) It shall periodically collect or conduct, or both collect and conduct, studies of projected manpower supply and demand, in cooperation with appropriate state agencies, and disseminate the results of those studies to institutions of postsecondary education and to the public in order to improve the information base upon which student choices are made. (j) It shall periodically review and make recommendations concerning the need for, and availability of, postsecondary programs for adult and continuing education. (k) It shall develop criteria for evaluating the effectiveness of all aspects of postsecondary education. (l) It shall maintain and update annually an inventory of all off-campus programs and facilities for education, research, and community services operated by public and independent institutions of postsecondary education. (m) (1) It shall act as a clearinghouse for postsecondary education information and as a primary source of information for the Legislature, the Governor, and other agencies. It shall develop and maintain a comprehensive data base that does all of the following: (A) Ensures comparability of data from diverse sources. (B) Supports longitudinal studies of individual students as they progress through the state's postsecondary educational institutions, based upon the ~~commission~~Office of Higher Education and Financial Aid's existing student data base through the use of a unique student identifier. (C) Is compatible with the California School Information System and the student information systems developed and maintained by the public segments of higher education, as appropriate. (D) Provides Internet access to data, as appropriate, to the sectors of higher education. (E) Provides each of the educational segments access to the data made available to the ~~commission~~Office of Higher Education and Financial Aid for the purposes of the data base, in order to support, most efficiently and effectively, statewide, segmental, and individual campus educational research information needs. (2) The ~~commission~~Office of Higher Education and Financial Aid, in implementing paragraph (1), shall comply with the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) relating to the disclosure of personally identifiable information concerning students. (3) The ~~commission~~Office of Higher Education and Financial Aid may not make available any personally identifiable information received from a postsecondary educational institution concerning students for any regulatory purpose unless the institution has authorized the ~~commission~~Office of Higher Education and Financial Aid to provide that information on behalf of the institution. (4) The ~~commission~~Office of Higher Education and Financial Aid shall provide 30-day notification to the chairpersons of the appropriate legislative policy and budget committees of the Legislature, to the Director of Finance, and to the Governor prior to making any significant changes to the student information contained in the data base. (n) It shall establish criteria for state support of new and existing programs, in consultation with the public segments, the Department of Finance, and the Joint Legislative Budget Committee. (o) It shall comply with the appropriate provisions of the federal Education Amendments of 1972 (P.L. 92-318), as specified in Section 67000. (p) It shall consider the relationship among academic education and vocational education and job training programs, and shall actively consult with representatives of public and private education. (q) It shall review all proposals for changes in eligibility pools for admission to public institutions and segments of postsecondary education and shall make recommendations to the Legislature, the

Governor, and institutions of postsecondary education. In carrying out this subdivision, the ~~commission~~Office of Higher Education and Financial Aid periodically shall conduct a study of the percentages of California public high school graduates estimated to be eligible for admission to the University of California and the California State University. The changes made to this subdivision during the 2001-02 Regular Session of the Legislature shall be implemented only during those fiscal years for which funding is provided for the purposes of those provisions in the annual Budget Act or in another measure. (r) It shall report periodically to the Legislature and the Governor regarding the financial conditions of independent institutions, their enrollment and application figures, the number of student spaces available, and the respective cost of utilizing those spaces as compared to providing additional public spaces. The reports shall include recommendations concerning state policies and programs having a significant impact on independent institutions. (s) Upon request of the Legislature or the Governor, it shall submit to the Legislature and the Governor a report on all matters so requested that are compatible with its role as the statewide postsecondary education planning and coordinating agency. Upon request of individual Members of the Legislature or personnel in the executive branch, the ~~commission~~Office of Higher Education and Financial Aid shall submit information or a report on any matter to the extent that sufficient resources are available. From time to time, it also may submit to the Legislature and the Governor a report that contains recommendations as to necessary or desirable changes, if any, in the functions, policies, and programs of the several segments of public, independent, and private postsecondary education. (t) In consultation with the public segments, it shall consider the development of facilities to be used by more than one segment of public higher education, commonly called "joint-use facilities." It shall recommend to the Legislature criteria and processes for different segments to utilize bond funds for these intersegmental, joint-use facilities. (u) It may undertake other functions and responsibilities that are compatible with its role as the statewide postsecondary education planning and coordinating agency.

66903.2. The Office of Statewide Health Planning and Development shall consult with the ~~commission~~Office of Higher Education and Financial Aid in the development by the office of its Health Manpower Plan and recommendations for meeting the needs in California for health science personnel. This consultation shall focus on whether health science education enrollment levels are adequate to meet the state's health manpower needs by category and specialty within each category.

66903.3. The ~~commission~~Office of Higher Education and Financial Aid may delegate to the executive director any power, duty, purpose, function, or jurisdiction that the ~~commission~~Office of Higher Education and Financial Aid may lawfully delegate, including the authority to enter into and sign contracts on behalf of the ~~commission~~Office of Higher Education and Financial Aid. The executive director may redelegate any of those powers, duties, purposes, functions, or jurisdictions to his or her designee, unless by statute, or rule or regulation, the executive director is expressly required to act personally.

66903.5. (a) The ~~commission~~Office of Higher Education and Financial Aid shall conduct, or contract to conduct, a review and analysis of California community college districts' admission procedures and attrition rates for their two-year associate degree nursing programs. The review and analysis shall include, but not necessarily be limited to, information regarding the admission

procedures and attrition rates for the Los Angeles County College of Nursing and Allied Health and other relevant nursing programs, to the extent that information is available. The ~~commission~~Office of Higher Education and Financial Aid shall submit findings of the review and analysis, along with relevant recommendations, to the Governor and the Legislature on or before January 10, 2003. (b) This section shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2004, deletes or extends that date. 66904. It is the intent of the Legislature that sites for new institutions or branches of the University of California and the California State University, and the classes of off-campus centers as the ~~commission~~Office of Higher Education and Financial Aid shall determine, shall not be authorized or acquired unless recommended by the ~~commission~~Office of Higher Education and Financial Aid. It is further the intent of the Legislature that California community colleges shall not receive state funds for acquisition of sites or construction of new institutions, branches, or off-campus centers unless recommended by the ~~commission~~Office of Higher Education and Financial Aid. Acquisition or construction of nonstate-funded community college institutions, branches, and off-campus centers, and proposals for acquisition or construction shall be reported to, and may be reviewed and commented upon by, the ~~commission~~Office of Higher Education and Financial Aid. It is further the intent of the Legislature that existing or new institutions of public education, other than those described in subdivision (a) of Section 66010, shall not be authorized to offer instruction beyond the 14th grade level. All proposals for new postsecondary educational programs shall be forwarded to the ~~commission~~Office of Higher Education and Financial Aid for review together with supporting materials and documents that the ~~commission~~Office of Higher Education and Financial Aid may specify. The ~~commission~~Office of Higher Education and Financial Aid shall review the proposals within a reasonable length of time, which time shall not exceed 60 days following submission of the program and the specified materials and documents. For the purposes of this section, "new postsecondary educational programs" means all proposals for new schools or colleges, all series of courses arranged in a scope or sequence leading to (1) a graduate or undergraduate degree, or (2) a certificate of a type defined by the ~~commission~~Office of Higher Education and Financial Aid, which have not appeared in a segment's or district's academic plan within the previous two years, and all proposals for new research institutes or centers which have not appeared in a segment's or district's academic plan within the previous two years. It is further the intent of the Legislature that the advice of the ~~commission~~Office of Higher Education and Financial Aid be utilized in reaching decisions on requests for funding new and continuing graduate and professional programs, enrollment levels, and capital outlay for existing and new campuses, colleges, and off-campus centers.

66905. It is the intent of the Legislature that the ~~California Postsecondary Education Commission~~Office of Higher Education and Financial Aid annually review and fix the salary of its executive director according to a methodology established by the ~~commission~~Office of Higher Education and Financial Aid. This methodology shall take into consideration the salary of directors of coordinating boards for higher education in states with postsecondary education systems comparable to California' s in size, complexity, and level of state expenditures. The comparison states shall include seven major industrial states, including Illinois, New Jersey, New York, Ohio, and Texas. The ~~commission~~Office of Higher Education and Financial Aid shall notify the Chairperson of the Joint Legislative Budget Committee of this annual salary amount. Notwithstanding the provisions of Section 19825 of the Government Code, the salary shall

become effective no sooner than 30 days after written notice of the salary is provided to the chairperson of the committee, or no sooner than a lesser time as the chairperson, or his or her designee, may determine.

~~66906. Each member of the commission shall receive a stipend of fifty dollars ($50) for each day in which he or she attends any meeting of the commission or any meeting of any committee or subcommittee of the commission, of which committee or subcommittee he or she is a member, and which committee or subcommittee meeting is conducted for the purpose of carrying out the powers and duties of the commission and, in addition, shall receive his or her actual and necessary traveling expenses incurred in the course of his or her duties.~~

Article 1.5 (commencing with section 66910) is added to Chapter 11 of Part 40 of Division 5 of Title 3 of the Education Code.

66910. The Office of Higher Education and Financial Aid is hereby created as a separate independent entity in state government. The Office of Higher Education and Financial Aid shall be governed by its executive officer, who shall serve at the pleasure of the Governor and who shall be confirmed by the Senate.

66910.1. The Office of Higher Education and Financial Aid succeeds to, and is vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the following entities, which shall no longer exist:

(1) Loan Advisory Council;
(2) Student Aid Commission;
(3) California Postsecondary Education Commission.

For purposes of this section, the above entities shall be known as predecessor entities.

66910.2. All regulations and orders adopted by the predecessor entities and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the predecessor entities or any of their predecessors shall mean the Office of Higher Education and Financial Aid. Any action by or against the predecessor entities or any of their predecessors shall not abate but shall continue in the name of the Office of Higher Education and Financial Aid, and the Office of Higher Education and Financial Aid shall be substituted for the predecessor entities and any of their predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

66910.3. No contract, lease, license, bond, or any other agreement to which the predecessor entities or any of their predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the Office of Higher Education and Financial Aid assuming all of the rights, obligations, liabilities, and duties of the predecessor entities and any of

their predecessors. That assumption by the Office of Higher Education and Financial Aid shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the predecessor entities or any of their predecessors, shall become the indebtedness of the Office of Higher Education and Financial Aid. Any on-going obligations or responsibilities of the predecessor entities for managing and maintaining bond issuances shall be transferred to the Office of Higher Education and Financial Aid without impairment to any security contained in the bond instrument.

66910.4. The unexpended balance of all funds available for use by the predecessor entities or any of their predecessors in carrying out any functions transferred to the Office of Higher Education and Financial Aid shall be available for use by the Office of Higher Education and Financial Aid. All books, documents, records, and property of the predecessor entities shall be transferred to the Office of Higher Education and Financial Aid.

66910.5. Positions filled by appointment by the Governor in the predecessor entities shall be transferred to the Office of Higher Education and Financial Aid. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Office of Higher Education and Financial Aid with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

66910.6. Any officer or employee of the predecessor entities who is performing a function transferred to the Office of Higher Education and Financial Aid and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Office of Higher Education and Financial Aid pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the predecessor entities shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Office of Higher Education and Financial Aid, as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

67312. (a) The Board of Governors of the California Community Colleges and the Trustees of the California State University shall, for their respective systems, and the Regents of the University of California may, do the following: (1) Work with the ~~California Postsecondary Education Commission~~Office of Higher Education and Financial Aid and the Department of Finance to develop formulas or procedures for allocating funds authorized under this chapter. (2) Adopt rules and regulations necessary to the operation of programs funded pursuant to this chapter. (3) Maintain the present intersegmental efforts to work with the ~~California Postsecondary Education Commission~~Office of Higher Education and Financial Aid and other interested parties, to coordinate the planning and development of programs for students with disabilities, including, but not limited to, the establishment of common definitions for students with disabilities and uniform formats for reports required under this chapter. (4) Develop and implement, in consultation with students and staff, a system for evaluating state-funded programs and services for disabled students on each campus at least every five years. At a minimum, these

systems shall provide for the gathering of outcome data, staff and student perceptions of program effectiveness, and data on the implementation of the program and physical accessibility requirements of Section 794 of Title 29 of the Federal Rehabilitation Act of 1973. (b) Commencing in January 1990, and every two years thereafter, the Board of Governors of the California Community Colleges and the Trustees of the California State University shall, for their respective systems, and the Regents of the University of California may, submit a report to the Governor, the education policy committees of the Legislature, and the ~~California Postsecondary Education Commission~~Office of Higher Education and Financial Aid on the evaluations developed pursuant to subdivision (a). These biennial reports shall also include a review on a campus-by-campus basis of the enrollment, retention, transition, and graduation rates of disabled students. (c) The ~~California Postsecondary Education Commission~~Office of Higher Education and Financial Aid shall review these reports and submit its comments and recommendations to the Governor and education policy committees of the Legislature.

67382. (a)(1) On or before January 1, 2004, and every three years thereafter, the State Auditor shall report the results of an audit of a sample of not less than six institutions of postsecondary education in California that receive federal student aid, to evaluate the accuracy of their statistics and the procedures used by the institutions to identify, gather, and track data for publishing, disseminating, and reporting accurate crime statistics in compliance with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. Sec. 1092 (f)(1) and (5)).

(2) The results of the annual audits described in paragraph (1) shall be submitted to the respective chairs of the Assembly Higher Education Committee and the Senate Education Committee.

(b) The ~~California Postsecondary Education Commission~~Office of Higher Education and Financial Aid shall provide on its Internet Web site a link to the Internet Web site of each California institution of higher education that includes on that Web site the institution's criminal statistics information.

(c) The Legislature finds and declares that institutions of higher education that are subject to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. Sec. 1092(f)(1) and (5)), should establish and publicize a policy that allows victims or witnesses to report crimes to the campus police department or to a specified campus security authority, on a voluntary, confidential, or anonymous basis.

68120.5. Any determination of eligibility pursuant to Section 68120 shall be consistent with any findings of the ~~Workers' Compensation~~Employment & Benefits Appeals Board, using the same procedures as in workers' compensation

hearings, as to whether the death of the person described under subdivision (a) of that section was industrial.

69506.5. Notwithstanding Section 69506, the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ may, whenever it is determined to be in the best interest of the state, develop and adopt regulations that modify the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking any state-funded financial assistance or the federal definition for establishing the dependent and independent status of students seeking any state-funded financial assistance. It is the Legislature's intent that these regulations promote consistency between federal and state standards, encourage the maximum contribution from parents while being sensitive to individual student financial and personal circumstances, and encourage a simple financial aid application process.

(a) The regulations developed pursuant to this section shall be adopted as Office of Higher Education and Financial Aid ~~Student Aid Commission~~ regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code **.**

(b) Prior to adopting or amending regulations pursuant to this section, the Office of Higher Education and Financial Aid ~~commission~~ shall conduct, and make public, a full analysis which includes at least an examination and explanation of the cost of the change, the effect on student applicant and recipient eligibility and award levels, and the effects of implementing the criteria on those programs administered by the Office of Higher Education and Financial Aid ~~commission~~.

(c) Not later than July 1 of the year following any modifications to the methodology for determining expected family contribution or the federal definition of student dependence or independence made pursuant to this section, the Office of Higher Education and Financial Aid ~~commission~~ shall report to the Governor and the Legislature the impact of the changes on those programs administered by the Office of Higher Education and Financial Aid ~~commission~~.

69507.5. (a) Except as provided in subdivision (b), no student shall receive a grant or fellowship administered by the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ if he or she has previously defaulted on any student loan, or has failed to repay a federal or state student grant where required to do so.

(b) If a student has made satisfactory arrangements to repay a default on a previous student loan, or to repay grant funds where required to do so, the student may be eligible to receive a grant or fellowship administered by the Office of Higher Education and Financial Aid ~~Student Aid Commission~~.

69508. When federal regulations defining the financial independence of students are altered, the Office of Higher Education and Financial Aid ~~Student Aid~~

~~Commission~~ shall as soon as possible report to the Legislature on what changes are necessary to conform this article to federal standards.

69509. (a) Upon the commencement of any cause of action, including an emergency action, by the Office of Higher Education and Financial Aid ~~commission~~ against an educational institution in connection with the Federal Family Education Loan Program or other state student financial aid program, the Office of Higher Education and Financial Aid ~~director of the commission~~ may order that all or any part of state financial aid funds scheduled to be delivered to that institution by the Office of Higher Education and Financial Aid ~~commission~~, whether payable to that institution or its students, be withheld from the institution and deposited in a separate state account. However, in order to alleviate the financial hardships imposed upon students by withholding the delivery of state financial aid funds to an educational institution, the Office of Higher Education and Financial Aid ~~director of the commission~~, at any time after the initial withholding, may release state financial aid funds to these students, giving first priority to the release of funds for subsistence payments.

(b) The Office of Higher Education and Financial Aid ~~director~~ shall give notice to the institution and affected students of any action taken pursuant to subdivision (a).

(c) The Office of Higher Education and Financial Aid ~~director~~, upon the termination of any action taken pursuant to subdivision (a), shall order the disposition of the withheld funds in a manner consistent with the outcome of the cause of action and in the best interest of the affected students. The Office of Higher Education and Financial Aid ~~director~~ may order that the funds be withheld from an institution permanently, in which case those funds shall be returned to the state fund or account from which it originated, for subsequent use by the Office of Higher Education and Financial Aid ~~commission~~.

(d) "Cause of action" and "emergency action," for the purposes of this section, mean those actions described in Sections 30302 and 30304 of Title 5 of the California Code of Regulations, and as those sections may subsequently be amended, concerning the limitation, suspension, and termination of eligibility under the Federal Family Education Loan Program.

69509.5. (a) Within five days of the commencement of any cause of action, including an emergency action, by the Office of Higher Education and Financial Aid ~~commission~~ against a private postsecondary educational institution in connection with the Federal Family Education Loan Program, the the Office of Higher Education and Financial Aid ~~director of the commission~~ shall give notice, in writing, of the commencement of the action to the Council for Private Postsecondary and Vocational Education .

(b) "Cause of action" and "emergency action" for the purposes of this section, mean those actions described in Sections 30302 and 30304 of Title 5 of the California Code of Regulations, and as those sections may subsequently be amended, concerning the limitation, suspension, and termination of eligibility under the Federal Family Education Loan Program.

(c) The Office of Higher Education and Financial Aid ~~director of the commission~~, or its ~~his or her~~ designee, shall give written notice to the Council for Private Postsecondary and Vocational Education when, in the administration of a program review concerning any private postsecondary educational institution's participation in the Cal Grant Program or the Federal Family Education Loan Program, evidence indicates that a private postsecondary educational institution is in violation of the standards adopted by its responsible accrediting agency or when it is in violation of Section 94800, Sections 94811 to 94825, inclusive, or Section 94930.
(d) The Office of Higher Education and Financial Aid ~~director of the commission~~ may develop selection criteria for the scheduled review of any private postsecondary or vocational educational institution.
(e) This section shall become operative on January 1, 1997.

69510 . ~~Student Aid Commission shall be composed of the following 15 members:~~
~~(a) One representative from public, proprietary, or nonprofit postsecondary schools located in California.~~
~~(b) One representative from a California independent college or university.~~
~~(c) One representative each from the University of California, the California State University, and the California Community Colleges.~~

~~(d) Two members each of whom shall be a student enrolled in a California postsecondary educational institution at the time of appointment, and shall be enrolled in a California postsecondary educational institution for the duration of the term. A student member who graduates from an institution with no more than six months of his or her term remaining shall be permitted to serve for the remainder of the term.~~
~~(e) Three public members.~~
~~(f) One representative from a California secondary school.~~
~~(g) Two representatives appointed by the Senate Rules Committee.~~
~~(h) Two representatives appointed by the Speaker of the Assembly.~~

Any reference to the Student Aid Commission shall refer to the Office of Higher Education and Financial Aid.
69511 . ~~(a) Except as provided in subdivision (b), each member of the commission shall have a four-year term; provided, that members appointed pursuant to subdivision (d) of Section 69510 shall have terms of two academic years.~~
~~(b) The term of one member appointed pursuant to subdivision (g) of Section 69510 and the term of one member appointed pursuant to subdivision (h) of Section 69510, effective January 1, 1991, shall be for five years. Each subsequent term for members appointed pursuant to this subdivision shall be for four years.~~
~~(c) At no time shall both student representatives be enrolled in~~

~~the same segment of postsecondary education in California. For purposes of this subdivision, each postsecondary education program listed in subdivisions (a), (b), and (c) of Section 69510 is a segment of postsecondary education in California.~~

~~(d) Appointment to the commission of members appointed pursuant to subdivisions (a) to (f), inclusive, of Section 69510 shall be made by the Governor subject to confirmation by the Senate.~~

~~(e) Any vacancy shall be filled by the appointment of a person who will have the same status as the predecessor of the appointee. The appointee shall hold office only for the balance of the unexpired term.~~

~~(f) Each member of the commission shall receive a stipend of one hundred dollars ($100) for each day in which he or she attends any meeting of the commission or any meeting of any committee or subcommittee of the commission, of which committee or subcommittee he or she is a member, and which committee or subcommittee meeting is conducted for the purpose of carrying out the powers and duties of the commission. In addition, each member shall receive his or her actual and necessary traveling expenses incurred in the course of his or her duties.~~

(g) Whenever by the provisions of any act of Congress a program of scholarships or grants for undergraduate students is established which permits administration of the program within a state by a state agency, the Office of Higher Education and Financial Aid ~~Student Aid Commission,~~ as established by Section 69510, shall administer the act within the state if the Governor and the Office of Higher Education and Financial Aid ~~Student Aid Commission~~, by a majority vote of its entire membership, determine that the participation by the state in the federal scholarship or grant program under the act would not interfere with or jeopardize the continuation of the scholarship program established under Sections 69530 to 69547, inclusive.

The Office of Higher Education and Financial Aid ~~commission~~ shall constitute the state commission on federal scholarships or grants and is hereby empowered to formulate a plan for development and administration of any such federal scholarship or grant program within the state. Subject to the provisions of this chapter, the Office of Higher Education and Financial Aid ~~commission~~ is hereby vested with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof, in the administration of any act of Congress establishing a scholarship or grant program and the rules and regulations adopted thereunder. Before adopting a state plan, the Office of Higher Education and Financial Aid ~~Student Aid Commission~~, acting as the state commission on federal scholarships or grants, shall hold public hearings as provided in the California Administrative Procedure Act.

~~69511 .5. (a) Notwithstanding Section 69511 , the Governor shall appoint each student member of the Student Aid Commission pursuant to subdivision (d) of Section 69510 from the persons nominated in accordance with the provisions of subdivision (b).~~

~~(b) For each student member of the commission, the appropriate~~

~~student organization may submit a list of nominees. The list shall specify not less than three and not more than five nominees. The appropriate student organization for each segment shall be a composite group of at least five representative student government associations, as determined by the commission.~~

~~(c) The student member appointed to the commission shall not be enrolled in the same segment as the outgoing student member or in the same segment of the other sitting student member.~~

~~(d) Participating student organizations designated in subdivision (b) shall inform students within their respective segment of pending student vacancies on the commission.~~

~~(e) The person appointed as a student member of the Student Aid Commission pursuant to this section shall be subject to confirmation by the Senate as required in subdivision (d) of Section 69511 .~~

~~69512. The members of the commission shall annually select a chairperson from the members of the commission.~~

~~69513. The commission shall appoint a director who shall be the chief executive officer for the commission and who shall serve at the pleasure of the commission. The Legislature hereby requests the commission to designate that executive officer as the person holding the position confidential to it, within the meaning of subdivision (e) of Section 4 of Article VII of the Constitution.~~

The Office of Higher Education and Financial Aid ~~commission~~ may employ other employees as it deems necessary to carry out its functions under this chapter.

69513.1. The Office of Higher Education and Financial Aid ~~commission~~ may delegate to the director any power, duty, purpose, function, or jurisdiction that the Office of Higher Education and Financial Aid ~~commission~~ may lawfully delegate, including the authority to enter into and sign contracts on behalf of the Office of Higher Education and Financial Aid ~~commission~~.

~~69513.5. In no event shall the director of the commission, any employee of the commission, or any individual retained by the commission serve as chairperson or a member of an advisory committee of the commission. This prohibition shall include, but not be limited to, all advisory committees established by statute and all advisory committees established by the commission.~~

69514. The Office of Higher Education and Financial Aid ~~commission~~ shall do all of the following:

(a) Report, on or before April 1 of each year, statistical data examining the impact and effectiveness of state-funded programs. The Office of Higher Education and Financial Aid ~~commission~~ shall utilize common criteria in determining the impact of these programs and shall have the authority to obtain any data from postsecondary educational institutions necessary for the

reports.

69514.5. (a) The Community College Student Financial Aid Outreach Program is hereby established. The Office of Higher Education and Financial Aid ~~commission~~ shall, in consultation with the office of the Chancellor of the California Community Colleges, develop and administer this program for the purpose of providing financial aid training to high school and community college counselors and advisors who work with students planning to attend or attending a community college. This training shall also address the specific needs of all of the following: (1) Community college students intending to transfer to a four-year institution of higher education. (2) Foster youth. (3) Students with disabilities.

(b) The program shall provide specialized information on financial aid opportunities available to community college students, with a particular focus on students who plan to transfer to a four-year college or university. The Office of Higher Education and Financial Aid ~~commission~~ shall work in collaboration with the Chancellor of the California Community Colleges and other segments of higher education to develop and distribute this specialized information to assist community college students who are planning to transfer to a four-year college or university. Each year, the program shall offer financial aid workshops for high school and community college counselors, targeted for students planning to attend a community college or to transfer from a community college to a four-year institution of higher education. The program shall assist community college counselors in conducting student and family workshops that provide general information about financial aid and technical assistance in completing financial aid forms.

(c) The program shall concentrate its efforts on high schools and community colleges that are located in geographic areas that have a high percentage of low-income families.

69515. As used in this division, "commission" means the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ created by this article.

69517. (a) The Office of Higher Education and Financial Aid ~~Student Aid Commission~~, in consultation with an advisory committee of students and representatives of postsecondary institutions, may make adjustments to award selection procedures and selection criteria. In determining adjustments, the Office of Higher Education and Financial Aid ~~commission~~ shall consider at least all of the following factors:

(1) The impact of the adjustments on the distribution of funds and awards among income groups, ethnic groups, and grade point average levels.

(2) The impact of the adjustments on the distribution of funds and awards among postsecondary education segments.

(3) The costs of implementing proposed adjustments.

(4) The availability of financial aid from other sources for students who qualify for an award.

(b) The Office of Higher Education and Financial Aid ~~commission~~ may also consider the impact of inflation in the proposed adjustments pursuant to subdivision (a).

(c) In proposing changes to the procedures and criteria for award selection that would result in a substantive change in the recipient population, the Office of Higher Education and Financial Aid ~~commission~~ shall submit the proposed changes for public review and comment in accordance with procedures established in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code **.**

69517.5. The Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall, with the assistance of the Attorney General's office, seek refunds on any awards to students in this chapter which resulted from the student or his or her parents, or both, reporting information concerning their status incorrectly, with the incorrect information leading to the establishment of the student's financial eligibility to receive an award.

69518. (a) By September 15 of each fiscal year, the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall submit budget change proposals to the Department of Finance for inclusion in the Governor's Budget prepared pursuant to Section 12 of Article IV of the California Constitution.

(b) The budget change proposals submitted pursuant to subdivision (a) shall include, but not be limited to, an analysis of the impact of any proposed adjustments in the distribution of funds and awards.

(c) Any supporting materials prepared for the Office of Higher Education and Financial Aid's ~~Student Aid Commission's~~ consideration and public review and comment pursuant to this section, including, when it becomes available, data pertaining to the impact of any proposed adjustments on the distribution of funds and awards among income groups, ethnic groups, grade point average levels, and postsecondary education segments, shall be incorporated within the expenditure plan.

(d) If the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ proposes, in its budget change proposals, adjustments to the maximum grant, number of grants, and the income ceiling for grant awards made pursuant to Section 69532, at least the following factors shall be considered in determining the appropriate adjustments:

(1) The impact of inflation.

(2) The availability of financial aid from other sources for students who would qualify for a grant award.

(3) Any changes in the level of educational support provided to students at public colleges and universities in the state.

(4) The impact of proposed adjustments in the maximum grant and in the income ceiling upon the utilization of public and private postsecondary educational institutions.

(5) The number of applicants eligible to receive an award in the previous year who did not receive an award in the previous year.

69522 . (a) The Office of Higher Education and Financial Aid ~~commission~~ may establish an auxiliary organization

for the purpose of providing operational and administrative services for the Office of Higher Education and Financial Aid's ~~commission 's~~ participation in the Federal Family Education Loan Program.

(b) The auxiliary organization shall be established as a nonprofit public benefit corporation subject to the Nonprofit Public Benefit Corporation Law in Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code , except that, if there is a conflict between this article and the Nonprofit Public Benefit Corporation Law, this article shall prevail.

(c) The Office of Higher Education and Financial Aid ~~commission~~ shall maintain its responsibility for financial aid program administration, policy leadership program evaluation, and information development and coordination. The auxiliary organization shall provide operational and support services essential to the administration of the Federal Family Education Loan Program, if those services are determined by the Office of Higher Education and Financial Aid ~~commission~~ to be consistent with the overall mission of the Office of Higher Education and Financial Aid ~~commission~~. The implementation and effectuation of the auxiliary organization shall be carried out so as to enhance the administration and delivery of Office of Higher Education and Financial Aid ~~commission~~ programs and services.

(d) The operations of the auxiliary organization shall be conducted in conformity with an operating agreement approved annually by the Office of Higher Education and Financial Aid ~~commission~~. On and after January 1, 2002, the Office of Higher Education and Financial Aid ~~commission~~ may approve an operating agreement for a period not to exceed five years. Prior to approval, the Office of Higher Education and Financial Aid ~~commission~~ shall provide the proposed operating agreement to the Department of Finance for its review and comment. The operations of the auxiliary organization shall be limited to services prescribed in that agreement.

(e) The Office of Higher Education and Financial Aid ~~commission~~ shall oversee the development and operations of the auxiliary organization in a manner that ensures broad public input and consultation with representatives of the financial aid community, colleges and universities, and state agencies.

69522 .5. (a) Notwithstanding any other provision of law, employees of the Office of Higher Education and Financial Aid ~~commission~~ may be assigned to work for the auxiliary organization to provide services pursuant to this article. While they are assigned to work for the auxiliary organization, these employees shall remain employees of the Office of Higher Education and Financial Aid ~~commission~~ and the status,

rights, and benefits of these employees shall be based on their employment as civil service employees of the Office of Higher Education and Financial Aid ~~commission~~.

(b) Employees of the auxiliary organization shall not be employees of the State of California, and shall not be subject to the requirements of Chapter 10.3 (commencing with Section 3512) of, or of Chapter 10.5 (commencing with Section 3525) of, Division 4 of Title 1 of the Government Code . Employees of the auxiliary organization shall have the right to representation consistent with the National Labor Relations Act (29 U.S.C. Secs. 151 et seq.).

69523. (a) For purposes of this section, the following definitions apply:

(1) "Executive employee" is any management employee with responsibility for the development and execution of the auxiliary organization's policy.

(2) "Full-time employee" is a person who is employed in a permanent position for 40 hours per week or for the required number of hours of a particular work shift, whichever is lesser. Persons employed on a temporary, intermittent, irregular time base, or on a limited-term basis, are not full-time employees unless those employees are engaged on a continuing 12-month basis and are employed for 40 hours per week or for the required number of hours of a particular work shift, whichever is the lesser.

(3) "Temporary employee" is either of the following:

(A) An employee employed for a research project, workshop, institute, or other special project funded by any grant, contract, or gift.

(B) An employee whose contract of employment is for a fixed term not exceeding three years.

(b) The operating agreement approved by the Office of Higher Education and Financial Aid ~~commission~~ pursuant to Section 69522 may include provisions requiring the board of directors of the auxiliary organization to provide salaries, working conditions, and benefits for the full-time employees of the auxiliary organization that are comparable to those provided Office of Higher Education and Financial Aid ~~commission~~ employees performing similar services.

69525. (a) The auxiliary organization established pursuant to Section 69522 shall be governed by a board of directors nominated and appointed by the Office of Higher Education and Financial Aid ~~commission~~. One member of the board of directors shall be an employee of the auxiliary organization, and one member of the board of directors shall be a student enrolled in a California public or private postsecondary educational institution. The Office of Higher Education and Financial Aid ~~commission~~ shall determine the composition of

the remainder of the
board of directors, including both the size and categories of membership of the board.

(b) The board of directors shall, during each fiscal year, hold at least one business meeting each quarter. The board of directors shall have the benefit of the advice and counsel of at least one attorney admitted to practice law in this state and at least one licensed certified public accountant. Neither the attorney nor the certified public accountant need be members of the board.

(c) No member of the board of directors shall be financially interested in any contract or other transaction entered into by the board of which he or she is a member, and, except as provided in subdivision (d), any contract or transaction entered into in violation of this subdivision is void.

(d) No contract or other transaction entered into by the board of directors is void under subdivision (c), nor shall any member of that board be disqualified or deemed guilty of misconduct in office under those provisions, if both of the following circumstances exist:

(1) The member's financial interest is disclosed or known to the board of directors and noted in the minutes, and the board of directors thereafter authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of that financially interested member or members.

(2) The contract or transaction is just and reasonable as to the auxiliary organization at the time it is authorized or approved.

(e) Subdivision (d) does not apply if any of the following circumstances exists:

(1) The contract or transaction is between the auxiliary organization and a member of the board of directors.

(2) The contract or transaction is between the auxiliary organization and a partnership or unincorporated association of which any member of the board of directors is a partner or in which he or she is the owner or holder, directly or indirectly, of a proprietorship interest.

(3) The contract or transaction is between the auxiliary organization and a corporation in which any member of the board of directors is the owner or holder, directly or indirectly, of 5 percent or more of the outstanding common stock.

(4) A member of the board of directors is interested in a contract or transaction within the meaning of subdivision (c) and, without first disclosing that interest to the board of directors at a public meeting of the board, influences or attempts to influence another member or members of the board to enter into the contract or transaction.

(f) It is unlawful for any person to utilize any information, not

a matter of public record, that is received by him or her by reason of his or her membership on the board of directors, for personal pecuniary gain, regardless of whether he or she is or is not a member of the board of directors at the time that gain is realized.

(g) The board of directors of the auxiliary organization shall conduct its business in public meetings in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

69526. (a) The board of directors shall approve all expenditures and fund authorizations of the auxiliary organization. Authorizations of expenditure of funds for use outside of the normal business operations of the auxiliary organization shall be approved by an officer of the Office of Higher Education and Financial Aid ~~commission~~ and in accordance with Office of Higher Education and Financial Aid ~~commission~~ policy.

(b) The Office of Higher Education and Financial Aid ~~commission~~, in consultation with the Department of Finance or its successor and the board of directors of the auxiliary organization, shall do all of the following:

(1) Institute a standard accounting and reporting system for the management and operations of the auxiliary organization.

(2) Implement financial standards that will ensure the fiscal viability of the auxiliary organization. The standards shall include proper provision for professional management, adequate working capital, adequate reserve funds for current operations and capital replacements, and adequate provisions for new business requirements.

(3) Institute procedures to ensure that transactions of the auxiliary organization are consistent with the mission of the Office of Higher Education and Financial Aid ~~commission~~.

(4) Develop policies for the expenditure of funds derived from indirect cost payments not required to implement paragraph (2). The use of those funds shall be regularly reported to the board of directors.

(c) The auxiliary organization shall not accept any grant, contract, bequest, trust, or gift, unless it is so conditioned that it may be used only for purposes consistent with the policies of the Office of Higher Education and Financial Aid ~~commission~~.

69527. (a) A certified public accountant shall be selected by the auxiliary organization and shall audit all funds of the auxiliary organization in accordance with applicable auditing and reporting procedures developed by the Office of Higher Education and Financial Aid ~~commission~~ and the Department of Finance or its successor.

The auxiliary organization shall contract for and receive the audit

annually, and shall submit the audit to the Office of Higher Education and Financial Aid ~~commission~~ and the Department of Finance or its successor. The auxiliary organization shall publish and disseminate its annual audited statement and make it available to any person upon request. Distribution of the published audited statement of financial condition at a regularly scheduled meeting of the board of directors shall be deemed compliance with this requirement.

(b) The Department of Finance or its successor may review the performance and operation of the auxiliary organization.

69528. The auxiliary organization may contract with the Office of Higher Education and Financial Aid ~~commission~~ for the provision of support services, which may include, but are not limited to, accounting, personnel, clerical, administrative support, and other services necessary for the administration of the auxiliary organization.

69529. The operating agreement with the board of directors of the auxiliary organization, approved by the Office of Higher Education and Financial Aid ~~commission~~ pursuant to subdivision (d) of Section 69522 , shall cover all of the following:

(a) Any support services provided or special programs administered by the auxiliary organization.

(b) The sources of revenue available to the auxiliary organization, including agreements concerning federal administrative cost allowances, guarantee fees charged to borrowers, and retention of funds obtained through collections on defaulted loans.

(c) Support and administrative services to be provided by Office of Higher Education and Financial Aid ~~commission~~ staff, including accounting, personnel, clerical, administrative support, and other services necessary for the administration of the auxiliary organization.

69529.5. The Office of Higher Education and Financial Aid ~~commission~~ shall report the following information to the Legislature on January 1, 1998, and on January 1 of each year thereafter, with respect to the operation of the auxiliary organization:

(a) A description of the services provided by the auxiliary organization.

(b) The auxiliary organization's annual budget, funded activities, and personnel, including the sources of revenue available to fund its operations.

(c) Descriptions of changes made in the delivery of loans to California students and enhancements to programs and activities

administered by the Office of Higher Education and Financial Aid ~~commission~~. The descriptions shall reflect all
changes, both positive and negative.

69532. Cal Grant Program awards shall be known as "Cal Grant A awards," "Cal Grant B awards," "Cal Grant C awards," and "Cal Grant T awards." The maximum award in each category shall be determined in the annual Budget Act.

(a) Cal Grant A awards shall be used only for tuition and student fees in an instructional program of no less than two academic years. Commencing as soon as feasible, but no later than the award cycle that provides awards for the 1999-2000 academic year, the eligibility criteria for first-time Cal Grant award recipients who are community college students and transfer to a four-year college or university shall be no more stringent than the eligibility criteria for other first-time Cal Grant award recipients attending a four-year college or university.

(b) Cal Grant B awards shall be used only for tuition, student fees, and subsistence costs in an instructional program of no less than one academic year. Subsistence costs are living expenses, transportation, supplies, and books. Commencing as soon as feasible, but no later than the award cycle that provides awards for the 1999-2000 academic year, the eligibility criteria for first-time Cal Grant award recipients who are community college students and transfer to a four-year college or university shall be no more stringent than the eligibility criteria for other first-time Cal Grant award recipients attending a four-year college or university.

(c) Cal Grant C awards shall be used only for occupational or technical training in a course of no less than four months. There shall be a minimum of 1,570 new Cal Grant C awards each year.

(d) Cal Grant T awards shall be used only for tuition and student fees for a maximum of one academic year of full-time attendance in a program of professional preparation that has been approved by the Commission on Teacher Credentialing. There shall be a minimum of 3,000 new Cal Grant T awards each year. As a condition of receiving a Cal Grant T award, a recipient shall teach for one year in a high-priority school as defined in subdivision (c) of Section 44765 for each two thousand dollar ($2,000) incentive provided pursuant to Section 69532 through the Cal Grant T Program, for a period not to exceed four years. Any recipient who fails to meet his or her teaching obligation shall repay the Cal Grant T award.

(e) The Office of Higher Education and Financial Aid ~~California Student Aid Commission~~ shall evaluate the Cal Grant T Award program from its inception to determine, of the total number of recipients, the number of recipients who become employed as public school teachers. This evaluation shall be reported on an annual basis to the Governor and the Legislature beginning July 1, 2001.

69533. Cal Grant awards authorized pursuant to Section 69532 shall be defined as full-time equivalent grants. Awards to part-time students shall be a fraction of a full-time grant, as determined by the Office of Higher Education and Financial Aid ~~commission.~~

69534.1. (a) The Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall authorize the use of standardized student financial aid application forms for California. These forms shall be simple in nature and collect common data elements required by the federal government and those elements needed to meet the objectives of state-funded and institutional financial aid programs.

(b) These forms shall be utilized for the Cal Grant Program, all other programs funded by the state or a public institution of postsecondary education (except for the Board of Governors' Financial Assistance Program authorized by Chapter 1118 of the Statutes of 1987, for which a simplified form designed for that sole purpose may be used), and all federal programs administered by a public postsecondary education institution.

(c) Supplemental forms may be utilized if the forms are essential to accomplishing the objectives of individual programs. All supplemental forms utilized by public postsecondary educational institutions shall be subject to approval by the Office of Higher Education and Financial Aid ~~commission~~, and forms shall be identical for programs with similar objectives, as determined by the Office of Higher Education and Financial Aid ~~commission~~.

(d) Public postsecondary institutions are encouraged to, but may decide whether to, use the standard application forms for funds provided by private donors.

(e) The Legislature finds and declares that it is in the best interest of students that all postsecondary education institutions in California participating in federal and state-funded financial aid programs accept the standard application forms authorized by the Office of Higher Education and Financial Aid ~~Student Aid Commission~~.

69534.4. The Office of Higher Education and Financial Aid ~~Student Aid Commission~~ may enter into contracts with a public agency or a private entity to improve the processing and distribution of grants, fellowships, and loans through the use of electronic networks and unified data bases.

69535. (a) Cal Grant Program awards shall be based upon the financial need of the applicant. The level of financial need of each applicant shall be determined by the Office of Higher Education and Financial Aid ~~commission~~ pursuant to Article 1.5 (commencing with Section 69503).

(b) For the applicants so qualifying, academic criteria or criteria related to past performances shall be utilized as the criteria in determining eligibility for grants.

(c) All Cal Grant Program award recipients shall be residents of California, as determined by the Office of Higher Education and Financial Aid ~~commission~~ pursuant to Part 41 (commencing with Section 68000), and shall remain eligible only if

they are in attendance and making satisfactory progress through the instructional programs, as determined by the Office of Higher Education and Financial Aid ~~commission~~.

(d) Part-time students shall not be discriminated against in the selection of Cal Grant Program award recipients, and awards to part-time students shall be roughly proportional to the time spent in the instructional program, as determined by the Office of Higher Education and Financial Aid ~~commission~~.

First-time Cal Grant Program award recipients who are part-time students shall be eligible for a full-time renewal award.

(e) Cal Grant Program awards shall be awarded without regard to race, religion, creed, sex, or age.

(f) No applicant shall receive more than one type of Cal Grant Program award concurrently. Except as provided in subdivisions (b) and (c) of Section 69535.1, no applicant shall:

(1) Receive one or a combination of Cal Grant Program awards in excess of a total of four years of full-time attendance in an undergraduate program.

(2) Have obtained a baccalaureate degree prior to receiving a Cal Grant Program award, except as provided in Section 69540.

(g) Cal Grant Program awards, except as provided in subdivision (c) of Section 69535.1, may only be used for educational expenses of a program of study leading directly to an undergraduate degree or certificate, or for expenses of undergraduate coursework in a program of study leading directly to a first professional degree, but for which no baccalaureate degree is awarded.

(h) Commencing in 1999, the Office of Higher Education and Financial Aid ~~commission~~ shall, for students who accelerate college attendance, increase the amount of award proportional to the period of additional attendance resulting from attendance in classes that fulfill requirements or electives for graduation during summer terms, sessions, or quarters. In the aggregate, the total amount a student may receive in a four-year period may not be increased as a result of accelerating his or her progress to a degree by attending summer terms, sessions, or quarters.

(i) The Office of Higher Education and Financial Aid ~~commission~~ shall notify Cal Grant award recipients of the availability of funding for the summer term, session, or quarter through prominent notice in financial aid award letters, materials, guides, electronic information, and other means that may include, but not be limited to, surveys, newspaper articles, or attachments to communications from the Office of Higher Education and Financial Aid ~~commission~~ and any other published documents.

(j) The Office of Higher Education and Financial Aid ~~commission~~ may provide by appropriate rules and regulations for reports, accounting, and statements from the award winner and college or university of attendance pertaining to the use

or application of the award as the Office of Higher Education and Financial Aid ~~commission~~ may deem proper.

(k) The Office of Higher Education and Financial Aid ~~commission~~ may establish Cal Grant Program awards in one hundred dollar ($100) increments.

(l) A Cal Grant Program award may be utilized only at the following institutions or programs:

(1) Any California private or independent postsecondary educational institution or program that participates in two of the three federal campus-based student aid programs and whose students participate in the Pell Grant program.

(2) Any nonprofit regionally accredited institution headquartered and operating in California that certifies to the Office of Higher Education and Financial Aid ~~commission~~ that 10 percent of the institution's operating budget, as demonstrated in an audited financial statement, is expended for the purposes of institutionally funded student financial aid in the form of grants and that demonstrates to the Office of Higher Education and Financial Aid ~~commission~~ that it has the administrative capacity to administer the funds.

(3) Any California public postsecondary educational institution or program.

69535.5. The Office of Higher Education and Financial Aid ~~Student Aid Commission~~ may determine that an advanced payment is essential to assure that funds provided pursuant to this chapter to assist students to enroll in postsecondary education are available at the time students enroll. Upon making that determination, the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ may, based on institutional academic calendars, advance per term to authorized postsecondary educational institutions the funds for eligible students who have indicated they will attend those institutions less an amount based on historical claim enrollment attrition information. Each institution shall disburse the funds in accordance with the provisions set forth in the Institutional Agreement between the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ and the institution.

69537. An individual selected for a Cal Grant A award who enrolls in a California community college may elect to have the award held in trust for him or her for a period not to exceed two academic years, except that the Office of Higher Education and Financial Aid ~~commission~~ may extend the period in which his or her award may be held in trust for up to three academic years if, in the Office of Higher Education and Financial Aid's ~~commission's~~ judgment, the student's rate of academic progress has been as rapid as could be expected in light of the personal and financial conditions that the student has encountered. The Office of Higher Education and Financial Aid ~~commission~~ shall, in that case, hold the award in trust, to be granted to the award winner upon receipt of his or her request therefor within that period, provided that at the time of making the request he or she meets all of the requirements of this chapter. Upon receipt of the request the Office of Higher Education and Financial Aid ~~commission~~ shall

assess or reassess the financial needs of the award winner. The Office of Higher Education and Financial Aid ~~commission~~ may prescribe the forms and procedures to be utilized for the purposes of this section. The Office of Higher Education and Financial Aid ~~commission~~ may award to another eligible individual any award being so held in trust, subject to this section and any other conditions and restrictions that may be imposed by the Office of Higher Education and Financial Aid ~~commission~~, to the end that all authorized awards are being continually utilized. Following the first year for which any Cal Grant award is made, the awards shall be included in the number of the continuing awards available for any year and not the authorized new awards for the year.

69538. (a) To be eligible for a Cal Grant B award, the applicant shall be a disadvantaged student under criteria to be established by the Office of Higher Education and Financial Aid ~~commission~~, which shall take into consideration those financial, educational, cultural, language, home, community, environmental, and other conditions that hamper access to and persistence in postsecondary programs.

(b) The Legislature recognizes that the role of the community colleges, as the least expensive level of California higher education , is a crucial role in increasing the higher education opportunities for disadvantaged students, and it is the intent of the Legislature that the additional opportunities for higher education provided pursuant to this section shall be initiated primarily on the public community college level.

(c) Regarding the intent that the additional opportunities for higher education provided under this section be initiated primarily on the public community college level, the Office of Higher Education and Financial Aid ~~commission~~ shall continue to allocate Cal Grant B awards as they were allocated up to and including the 1997-98 academic year.

(d) Awards under this section shall be for subsistence costs. The Office of Higher Education and Financial Aid ~~commission~~ may also award these grants and an additional amount to pay tuition and fees to attend college at a public or private four-year college or university or other eligible postsecondary educational institution. No more than 2 percent of new recipients enrolling for the first time in an institution of postsecondary education shall be eligible for tuition payments and fees in their first academic year of attendance.

(e) An individual selected for a Cal Grant B award who enrolls in a public community college in his or her first year of attendance, and who is determined to be financially ineligible for renewal of the award in the second year of attendance at a public community college but would be financially eligible for renewal, if he or she had elected to attend a four-year college, may elect to have the award held in trust for a period not to exceed two academic years, except that the Office of Higher Education and Financial Aid ~~commission~~ may extend the period in which the award is held in trust for up to three academic years, if, in the Office of Higher Education and Financial Aid's ~~commission's~~ judgment, the individual's rate of academic progress has been as rapid as could be expected for the personal and financial conditions that the individual has encountered. The Office of Higher Education and Financial Aid ~~commission~~

shall, in this case, hold the award in trust, to be granted to the individual upon receipt of his or her request therefor e within that period, provided that at the time of making the request the individual meets all the requirements of this chapter. Upon receipt of the request, the Office of Higher Education and Financial Aid ~~commission~~ shall assess or reassess the financial needs of the individual. The Office of Higher Education and Financial Aid ~~commission~~ may prescribe the forms and procedures to be utilized for the purposes of this section. The Office of Higher Education and Financial Aid ~~commission~~ may award to another eligible individual any award being so held in trust, subject to the provisions of this section and any other conditions and restrictions that may be imposed by the Office of Higher Education and Financial Aid ~~commission~~, to the end that all authorized awards are continually being utilized. Following the first year for which any award is made, the awards shall be included in the number of the continuing awards available for any year and not the authorized new awards for the year.

69539. A Cal Grant C award shall be utilized for occupational or technical training.

(a) "Occupational or technical training" means that phase of education coming after the completion of a secondary school program and leading toward recognized occupational goals approved by the Office of Higher Education and Financial Aid ~~commission~~.

(b) The Office of Higher Education and Financial Aid ~~commission~~ may use criteria it deems appropriate in selecting students with occupational talents to receive grants for occupational or technical training.

(c) The Cal Grant C recipients shall be eligible for renewal of their grants until they have completed their occupational or technical training in comformance with terms prescribed by the Office of Higher Education and Financial Aid ~~commission~~. In no case shall the grants exceed two calendar years.

(d) Cal Grant C awards shall be for institutional fees, charges, and other costs including tuition, plus training-related costs, such as special clothing, local transportation, required tools, equipment, supplies, and books. In determining the amount of grants and training-related costs, the Office of Higher Education and Financial Aid ~~commission~~ shall take into account other state and federal programs available to the applicant.

(e) Cal Grant C awards shall be awarded in areas of occupational or technical training as determined by the Office of Higher Education and Financial Aid ~~commission~~ after consultation with appropriate state and federal agencies.

69540. (a) Students who have completed a baccalaureate degree and who have been admitted to a program of professional teacher preparation at an institution approved by the California Commission on Teacher Credentialing are eligible to receive a Cal Grant T award for the equivalent of one year of full-time attendance. Payment for this additional year is limited to only those courses required for an initial teaching authorization. An award under this section may not be used for other courses.

(b) The Office of Higher Education and Financial Aid ~~commission~~ shall allocate Cal Grant T awards using
academic criteria or criteria related to past performance similar to
that used in awarding Cal Grant A awards.

69541. (a) The Office of Higher Education and Financial Aid ~~Student Aid Commission~~, to the extent funds are appropriated for the purposes of this section in the annual Budget Act, shall provide a supplemental grant equal to two thousand eight hundred dollars ($2,800) to recipients of Cal Grant awards who fulfill the following requirements:
(1) The person has been declared a dependent or ward of the court pursuant to Section 300 or Section 602 of the Welfare and Institutions Code .
(2) The person, within the 60-day period immediately prior to his or her 18th birthday, had a permanent plan of long-term foster care or guardianship.
(3) The person received aid pursuant to Part 3 (commencing with Section 11000) of Division 9 of the Welfare and Institutions Code .

(b) The State Department of Social Services shall enter into an interagency agreement with the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ to allocate funds to the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ appropriated in the Budget Act for the purposes of this section.

69544. The Office of Higher Education and Financial Aid ~~commission~~ from time to time shall adopt such rules and regulations as it may determine, not in conflict with this chapter, as may be necessary or appropriate for effectuating the provisions of this chapter.

69546. The Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall each year recommend to the Legislature concerning the allocation of funds from the federal state student incentive grant program and the programs authorized in subdivisions (a), (b), and (c) of Section 69532.

69546.5. The Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall allocate federal and state student incentive grant funds among the Cal Grant A, B, and C programs.

69547. As used in this division, "part-time student" means a student who is enrolled in not less than one-half of the course load of a full-time student as determined by the Office of Higher Education and Financial Aid ~~commission~~.

69561 . (a) The Student Opportunity and Access Program is administered by the Office of Higher Education and Financial Aid ~~Student Aid Commission~~.
(b) The Office of Higher Education and Financial Aid ~~Student Aid Commission~~ may apportion

funds on a progress payment schedule for the support of projects designed to increase the accessibility of postsecondary educational opportunities for any of the following elementary and secondary school students:

(1) Students who are from low-income families.

(2) Students who would be the first in their families to attend college.

(3) Students who are from schools or geographic regions with documented low-eligibility or college participation rates.

(c) These projects shall primarily do all of the following:

(1) Increase the availability of information for these students on the existence of postsecondary schooling and work opportunities.

(2) Raise the achievement levels of these students so as to increase the number of high school graduates eligible to pursue postsecondary learning opportunities.

(d) Projects may assist community college students in transferring to four-year institutions, to the extent that project resources are available.

(e) Projects may provide assistance to low-income fifth and sixth grade students and their parents in order to implement outreach efforts designed to use the future availability of financial assistance as a means of motivating students to stay in school and complete college preparatory courses.

(f) Each project shall be proposed and operated through a consortium that involves at least one secondary school district office, at least one four-year college or university, at least one community college, and at least one of the following agencies:

(1) A nonprofit educational, counseling, or community agency.

(2) A private vocational or technical school accredited by a national, state, or regional accrediting association recognized by the United States Department of Education .

(g) The Office of Higher Education and Financial Aid ~~commission~~, in awarding initial project grants, shall give priority to proposals developed by more than three eligible agencies. Projects shall be located throughout the state in order to provide access to program services in rural, urban, and suburban areas.

(h) The governing board of each project, comprising at least one representative from each entity in the consortium, shall establish management policy, provide direction to the project director, set priorities for budgetary decisions that reflect the specific needs of the project, and assume responsibility for maintaining the required level of matching funds, including solicitations from the private sector and corporate sources.

(i) Prior to receiving a project grant, each consortium shall conduct a planning process and submit a comprehensive project proposal to include, but not be limited to, the following information:

(1) The agencies participating in the project.
(2) The students to be served by the project.
(3) The ways in which the project will reduce duplication and related costs.
(4) The methods for assessing the project's impact.
(j) Each project shall include the direct involvement of secondary school staff in the daily operations of the project, with preference in funding to those projects that effectively integrate the objectives of the Student Opportunity and Access Program with those of the school district in providing services that are essential to preparing students for postsecondary education .
(k) Each project shall maintain within the project headquarters a comprehensive student-specific information system on students receiving services through the program in grades 11 and 12 at secondary schools within the participating districts. This information shall be maintained in a manner consistent with the law relating to pupil records.
(l) At least 30 percent or the equivalent of each project grant shall be allocated for stipends to peer advisers and tutors who meet all of the following criteria:
(1) Work with secondary school students.
(2) Are currently enrolled in a college or other postsecondary school as an undergraduate or graduate student.
(3) Have demonstrated financial need for the stipend.
(m) Each project should work cooperatively with other projects in the program and with the Office of Higher Education and Financial Aid ~~commission~~ to establish viable student services and sound administrative procedures and to ensure coordination of the activities of the project with existing educational opportunity programs. The Office of Higher Education and Financial Aid ~~Student Aid Commission~~ may develop additional regulations regarding the awarding of project grants and criteria for evaluating the effectiveness of the individual projects.

69561 .5. (a) In collaboration with the various segments of higher education , the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall develop and establish a pilot program entitled "Transfer: Making It Happen." This program shall encourage community college students to transfer to a four-year institution of higher education , and assist them in this endeavor by providing academic preparation and information on financial aid opportunities. The program shall be modeled after the "College: Making It Happen" program.
(b) The pilot program established by this section shall target students who attend those community colleges or high schools that participate in one of the Student Opportunity and Access Program consortia, who are primarily from low-income households, who would be the first in their families to attend college, or who are from

schools or geographic regions with documented low college eligibility or college participation rates.

(c) (1) The Student Opportunity and Access Program shall provide, in close collaboration with the personnel of the California Community Colleges who are responsible for advising students about transfer opportunities, each of the following direct student services under this section:

(A) Provision of specialized academic and financial aid information related to a transfer to an institution that grants baccalaureate degrees.

(B) Provision of personalized attention, such as one-on-one counseling and group workshops that inform students of opportunities to transfer to an institution that grants baccalaureate degrees.

(C) Working closely with community college transfer centers in strengthening direct services and outreach provided to students who plan to transfer to an institution that grants baccalaureate degrees.

(2) The services listed in paragraph (1) shall be offered to, but not necessarily limited to, students who indicate an interest in transferring to an institution that grants baccalaureate degrees. (d) (1) During the third year of the operation of the pilot program established by this section, the ~~California Postsecondary Education Commission~~Office of Higher Education and Financial Aid, in consultation with the Legislative Analysts' office, shall evaluate the program in order to determine its effectiveness. The evaluation shall include, but not necessarily be limited to, recommendations on both of the following: (A) How the program may improve the services it provides. (B) How the program may be expanded beyond those community colleges that participate in one of the Student Opportunity and Access Program consortia. (2) On or before December 1, 2004, the ~~California Postsecondary Education Commission~~Office of Higher Education and Financial Aid shall submit to the Governor and the Legislature a report including all of the findings and recommendations of its evaluation. (e) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

~~69562. The Student Aid Commission shall establish a 12-member project grant advisory committee to advise project directors and the commission on the development and operation of the projects, and consisting of the following:~~

~~(a) Three representatives of outreach programs, representing the University of California, the California State University, and the California Community Colleges, appointed by their respective governing boards.~~

~~(b) One representative of private colleges and universities, appointed by the Association of California Independent Colleges and Universities.~~

~~(c) One representative of the California Postsecondary Education Commission, appointed by the commission.~~

~~(d) Two secondary school staff, appointed by the Superintendent of Public Instruction.~~

~~(e) Two persons representing the general public, one appointed by the Speaker of the Assembly and the other by the Senate Rules Committee.~~
~~(f) Two postsecondary students, both appointed annually by the California Postsecondary Education Commission.~~
~~(g) One college campus financial aid officer, appointed by the commission.~~

69612 . (a) The Legislature finds and declares all of the following:

(1) There is a growing shortage of high-quality classroom teachers, and there is a need for qualified teachers throughout California.
(2) One of the most important elements in a pupil's success at learning is the quality of the teacher.
(3) The teacher shortage is most serious in particular subject areas, partly due to the shortage of students in these fields who enter the teaching profession.
(4) Many school districts have difficulty recruiting and retaining high-quality teachers for high-priority schools, for pupils with special needs, for schools serving rural areas or large populations of pupils from low-income and linguistic minority families, and for schools with a high percentage of teachers holding emergency permits.

(5) The rising costs of higher education , coupled with a shift in available financial aid from scholarships and grants to loans, make loan repayment options an important consideration in a student's decision to pursue a postsecondary education .
(6) The availability of financial aid and loan repayment assistance are important considerations for many students, especially economically disadvantaged students, in making their educational decisions.
(b) It is, therefore, the intent of the Legislature that all of the following occur:
(1) The Assumption Program of Loans for Education be designed to encourage persons to enter into the teaching profession in designated subject matter shortage areas and in schools serving large populations of pupils from low-income families, schools serving rural areas, schools with a high percentage of teachers holding emergency permits, or schools with any or all of these characteristics.
(2) That the enactment of this article accomplish all of the following:
(A) Providing outstanding postsecondary students, particularly economically disadvantaged students, with the assurance of financial assistance to encourage them to complete postsecondary education

programs leading to teaching credentials, and to seek employment as teachers.

(B) Providing persons who agree to become teacher trainees or teacher interns in a subject matter shortage area with the assurance of financial assistance to encourage them to complete the additional coursework necessary to obtain a teaching credential.

(C) Identifying subject matter areas or schools in which there are shortages of fully credentialed teachers and provide incentives for persons to obtain teaching credentials and seek teaching positions in those areas.

(D) Identifying schools serving rural areas, schools serving large populations of students from low-income families, or both, and schools with a high percentage of teachers holding emergency permits, and provide incentives for persons to obtain teaching credentials and seek teaching positions in those schools.

(E) Identifying high-priority schools and provide incentives for persons to obtain teaching credentials and seek teaching positions in those schools. For the purpose of this article, " high-priority school" means a school in the bottom half of the Academic Performance Index rankings established pursuant to subdivision (a) of Section 52056 at the time that a teacher is hired.

(3) Commencing with the 2000-01 school year, all persons eligible to enter into agreements for loan assumption pursuant to this article shall be persons who need to complete training or coursework in order to be fully credentialed, and who agree to obtain a credential and teach in a designated subject matter shortage area or in a school that, at the time that the teacher is hired, meets any of the following criteria:

(A) Serves a large population of pupils from low-income families.

(B) Has a high percentage of teachers holding emergency permits. For the purposes of this article, a school with a "high percentage of teachers holding emergency permits" is a school in which 20 percent or more of the teachers hold emergency permits, teach pursuant to waivers of credential requirements, or are interns.

(C) Is a high-priority school.

(4) Funding necessary for the administration of this article shall be included within the annual budget of the Office of Higher Education and Financial Aid ~~commission~~ in an amount necessary to meet the student loan obligations incurred by the Office of Higher Education and Financial Aid ~~commission~~.

69613. (a) (1) Any person enrolled in an eligible institution, or any person who agrees to participate in a teacher trainee or teacher internship program, may be eligible to enter into an agreement for loan assumption, to be redeemed pursuant to Section 69613.2 upon becoming employed as a teacher. In order to be eligible to enter into an agreement for loan assumption, an applicant shall satisfy all

of the conditions specified in subdivision (b).

(2) As used in this article, "eligible institution" means a postsecondary institution that is determined by the Office of Higher Education and Financial Aid ~~Student Aid commission~~ to meet both of the following requirements:

(A) The institution is eligible to participate in state and federal financial aid programs.

(B) The institution maintains a program of professional preparation that has been approved by the Commission on Teacher Credentialing.

(b) (1) The applicant has completed at least 60 semester units, or the equivalent, and is enrolled in an academic program leading to a baccalaureate degree at an eligible institution, has agreed to participate in a teacher trainee program or teacher internship program, or has been admitted to a program of professional preparation that has been approved by the Commission on Teacher Credentialing.

(2) The applicant is currently enrolled, or has been admitted to a program in which he or she will be enrolled on at least a half-time basis, as determined by the participating institution. The applicant shall agree to maintain satisfactory academic progress and a minimum of half-time enrollment, as defined by the participating eligible institution.

(3) The applicant has been judged by his or her postsecondary institution to have outstanding ability on the basis of criteria that may include, but need not be limited to, any of the following:

(A) Grade point average.

(B) Test scores.

(C) Faculty evaluations.

(D) Interviews.

(E) Other recommendations.

(4) The applicant has received, or is approved to receive, a loan under one or more of the following designated loan programs:

(A) The Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.).

(B) Any loan program approved by the Office of Higher Education and Financial Aid ~~Student Aid Commission~~.

(5) The applicant has agreed to teach full time for at least four consecutive academic years after obtaining a teaching credential in a public elementary or secondary school in this state, in a subject area that is designated as a current or projected shortage area by the Superintendent of Public Instruction, or at a school that, at the time that the teacher is hired, meets any of the following criteria:

(A) It serves a large population of pupils from low-income families, as designated by the Superintendent of Public Instruction.

(B) It has 20 percent or more teachers holding emergency permits. For the purposes of this paragraph, "teachers holding emergency permits" includes persons who teach pursuant to waivers of credential requirements or who are interns.

(C) It is a low-performing school.

(c) No applicant who has completed fewer than 60 units, or the equivalent, shall be eligible under this section to participate in the loan assumption program set forth in this article.

(d) The agreements entered into each year pursuant to subdivision (b) at each eligible institution or participating school district or county office of education shall be with applicants who meet the criteria specified in paragraph (3) of subdivision (b) of Section 69612 or agree to teach in any of the subject areas listed pursuant to that section. An agreement shall remain valid even if the subject area under which an applicant becomes eligible to enter into an agreement ceases to be a designated shortage field by the time the applicant becomes a teacher.

(e) For the purposes of calculating eligible years of teaching for the redemption of an award, the designation by the Superintendent of Public Instruction of a newly-opened school pursuant to Section 52056 shall apply retroactively from the time of opening the school.

(f) A person participating in the program pursuant to this section shall not enter into more than one agreement.

69613.1. The Superintendent of Public Instruction shall furnish the Office of Higher Education and Financial Aid ~~commission~~ with all of the following:

(a) Every January 1 thereafter, a list of teaching fields that have the most critical shortage of teachers. The superintendent shall review this list annually and revise the list as he or she deems necessary. Commencing January 1, 2001, the list of shortage areas furnished pursuant to this subdivision shall include the state special schools as a category separate from special education .

(b) A list of schools that serve a large population of pupils from low-income families, as designated for purposes of the Perkins Loan Program, or according to standards the superintendent deems appropriate.

(c) Commencing January 31, 2001, and every January 1 thereafter, a list of schools with a high percentage of teachers holding emergency permits. The list shall be established according to criteria determined by the superintendent.

(d) Commencing January 31, 2001, and every January 1 thereafter, a list of schools serving rural areas. The list shall be established according to standards deemed appropriate by the superintendent.

(e) Commencing January 31, 2001, and every January 1 thereafter, a

list of high-priority schools.

69613.2. The Office of Higher Education and Financial Aid ~~commission~~ shall commence loan assumption payments, as specified in Section 69613.4, upon verification that the applicant has fulfilled all of the following:

(a) The applicant has received a teaching credential requiring a baccalaureate degree, other than an emergency teaching permit, authorizing service for kindergarten or any of grades 1 to 12, inclusive.

(b) The applicant has provided full-time classroom instruction in a public elementary or secondary school for the equivalent of one school year.

(c) The applicant has met the requirements of the agreement and all other pertinent conditions of this article.

69613.4. (a) The terms of a loan assumption granted under this article shall be as follows, subject to the specific terms of each agreement:

(1) After a program participant has completed one school year of classroom instruction pursuant to Section 69613.2, the Office of Higher Education and Financial Aid ~~commission~~ shall assume up to two thousand dollars ($2,000) of the participant's outstanding liability under one or more of the designated loan programs.

(2) After a program participant has completed two consecutive school years of instruction, the Office of Higher Education and Financial Aid ~~commission~~ shall assume up to an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to five thousand dollars ($5,000).

(3) After a program participant has completed three consecutive school years of teaching service, the Office of Higher Education and Financial Aid ~~commission~~ shall assume up to a maximum of an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to eight thousand dollars ($8,000).

(4) After a program participant has completed four consecutive school years of teaching service, the Office of Higher Education and Financial Aid ~~commission~~ shall assume up to a maximum of an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to eleven thousand dollars ($11,000).

(b) For purposes of this section, "school year" means at least 175 school days or its equivalent.

69613.5. Notwithstanding paragraph (3) of subdivision (b) of Section 69612 and Section 69614, for the purposes of the recruitment of teachers from outside California, the Office of Higher Education and Financial Aid

~~commission~~ may make agreements available to out-of-state teachers who fulfill the terms of Section 69613.4 and are otherwise eligible to enter into agreements. A teacher who enters into an agreement pursuant to this section shall hold a valid teaching credential, in the subject area of the California teaching position, from the state in which he or she resides.

69613.6. (a) Except as provided in subdivision (b), if a program participant fails to complete a minimum of four consecutive school years of classroom instruction as required by this article, under the terms of the agreement pursuant to paragraph (5) of subdivision (b) of Section 69613, the participant shall assume full liability for all student loan obligations remaining after the Office of Higher Education and Financial Aid's ~~commission's~~ assumption of loan liability for the last year of qualifying teaching service pursuant to Section 69613.

(b) Notwithstanding subdivision (a), if a program participant becomes unable to complete one of the four consecutive years of teaching service due to serious illness, pregnancy, or other natural causes, the participant shall receive a deferral of the resumption of full liability for the loan for a period not to exceed one calendar year.

69614. (a) The Office of Higher Education and Financial Aid ~~commission~~ shall distribute program information and student applications to participate in the loan assumption program to each eligible institution and to each school district or county office of education operating a district intern program pursuant to Section 44381. Each eligible institution shall receive at least one application, and the remainder shall be distributed to eligible institutions proportionate to the number of teaching candidates from each institution who completed the coursework required for a teaching credential during the previous year. In addition, the Office of Higher Education and Financial Aid ~~commission~~ shall reexamine its outreach and marketing strategies to inform both potential undergraduates and persons employed outside of academia about the availability and benefits of the loan assumption program. To this end, the Office of Higher Education and Financial Aid ~~commission~~ shall enlist the and support of the California Center for the Teaching Profession, the University of California, the California State University, the Association of Independent California Colleges and Universities, and private employers and their associations throughout the state.

(b) Each eligible institution, school district, and county office of education shall sign an institutional agreement with the Office of Higher Education and Financial Aid ~~commission~~, certifying its intent to administer the loan assumption program according to all applicable published rules, regulations, and guidelines, and to make special efforts to notify students regarding the availability of the program, particularly economically disadvantaged students.

(c) To the extent feasible, each eligible institution shall coordinate the loan assumption program with other programs designed to recruit students to enter the teaching profession.

69615. (a) The Office of Higher Education and Financial Aid ~~commission~~ shall administer this article, and shall adopt rules and regulations for that purpose. The rules and regulations shall include, but need not be limited to, provisions regarding the period of time during which an agreement shall remain valid, the reallocation of resources in light of agreements that are not utilized by program participants, the failure, for any reason, of a program participant to complete a minimum of four consecutive years of classroom instruction, and the development of projections for funding purposes.

(b) The Office of Higher Education and Financial Aid ~~commission~~ shall solicit the advice of representatives from postsecondary education institutions, the State Department of Education , the Commission on Teacher Credentialing, school districts, and county offices of education regarding proposed rules and regulations.

69615.4. The Office of Higher Education and Financial Aid ~~commission~~ shall report annually to the Legislature regarding all of the following, on the basis of sex, age, and ethnicity:

(a) The total number of program participants.

(b) The number of agreements entered into with juniors, seniors, students enrolled in teacher training programs, and persons who agree to enroll in teacher trainee programs or teacher internship programs.

(c) The number of participants who agree to teach in a subject matter shortage area.

(d) The number of participants who agree to teach in schools with a high ratio of pupils from low-income families and in high-priority schools.

(e) The number of participants who agree to teach in schools serving rural areas.

(f) The number of participants who agree to teach in schools with a high percentage of teachers holding emergency permits.

(g) The number of participants who receive a loan assumption benefit, classified by payment year.

(h) The number of participants who have participated in the Science, Mathematics, and Technology Teacher Pipeline Program established by Chapter 1271 of the Statutes of 1993.

(i) The number of out-of-state teachers who enter into agreements.

(j) The number of participants who have participated in teacher trainee programs or teacher internship programs, classified by school district or county office of education .

69615.6. (a) Beginning no later than the 1986-87 school year, and each school year thereafter up to and including the 1997-98 school year, the Office of Higher Education and Financial Aid ~~commission~~ shall issue warrants for the assumption of up to 500 student loans for program participants eligible under this article.

(b) For the 1998-99 school year, the Office of Higher Education and Financial Aid ~~commission~~ shall issue warrants for the assumption of up to 4,500 student loans for program participants eligible under this article.

(c) For the 1999-2000 school year the Office of Higher Education and Financial Aid ~~commission~~ shall issue warrants for the assumption of up to 5,500 student loans for program participants eligible under this article.

(d) Commencing with the 2000-01 school year, and each school year thereafter, all of the following shall apply:

(1) The Office of Higher Education and Financial Aid ~~commission~~ shall enter into agreements for the assumption of up to 6,500 student loans for program participants eligible under this article.

(2) Notwithstanding the limitation of 6,500 warrants set forth in paragraph (1), the Office of Higher Education and Financial Aid ~~commission~~ shall issue warrants in a quantity determined by the Governor and the Legislature in the annual Budget Act for the assumption of student loans.

(3) Priority for these agreements shall be given to applicants who are recipients of federally subsidized loans or other need-based loans, as determined by the Office of Higher Education and Financial Aid ~~commission~~.

(4) Priority for these agreements shall be given to applicants who agree to obtain a teaching credential in mathematics or science.

(e) In any school year, the Office of Higher Education and Financial Aid ~~commission~~ may enter into no more than 500 agreements with applicants who participate in a intern program operated by a school district or a county office of education .

(f) The issuance of warrants under this article in any fiscal year shall be subject to the provision of funding therefor in the annual Budget Act.

69620 . There is hereby established the Child Development Teacher and Supervisor Grant Program, to be administered by the Office of Higher Education and Financial Aid ~~Student Aid Commission~~, with participation by students attending California public or private two-year or four-year postsecondary educational institutions who intend to teach or supervise in the field of child care and development in a licensed children's center. The Office of Higher Education and Financial Aid ~~Student Aid Commission~~ may enter into an agreement with another state or local agency to administer this program.

69622. (a) Participants shall be enrolled in an approved course of study leading to the teacher, site supervisor, or program director level of the Child Development Permit.

(b) An applicant shall be eligible to participate if he or she

meets one of the following criteria:

(1) Is nominated by a postsecondary institution.

(2) Is nominated by his or her employing agency that holds an approved waiver of staffing qualifications on behalf of the applicant.

(c) From the list of applicants who are eligible under subdivisions (a) and (b), the Office of Higher Education and Financial Aid ~~Student Aid Commission~~, or an agency designated by the Office of Higher Education and Financial Aid ~~commission~~, shall select participants on the basis of their demonstrated financial need and academic achievement, which may include, but not be limited to, high school grade-point average, college grade-point average, or academic test scores.

(d) Participants shall maintain no less than half-time enrollment and satisfactory academic progress as defined by the postsecondary educational institution.

(e) Recipients of a grant may renew their participation by maintaining satisfactory academic progress, financial need, and intent to pursue the approved course of study leading to the teacher, site supervisor, or program director level as provided in subdivision (a). The maximum amount any one recipient may receive through the grant program is six thousand dollars ($6,000).

(f) Participants may not concurrently receive benefits from the grant program under this article and from the Child Development Teacher Loan Assumption Program.

69623. (a) To receive a grant under this article, a participant shall enter into a contractual agreement with the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ under which the participant agrees to do all of the following:

(1) Pursue a course of study leading to the Child Development Permit at the teacher, site supervisor, or program director level.

(2) Maintain full-time employment in a licensed children's center in California for a period of one year for each year in which grant assistance was received and provide the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ with evidence of compliance with this requirement.

(b) Each participant shall complete and return to the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ an employment verification for each year of service as a teacher, instructor, or supervisor. A year of employment may be based on a calendar year or a school year.

(c) The Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall develop appropriate mechanisms to document and report annually to the State Department of Education regarding compliance with the requirements of paragraph (2) of subdivision (a).

69625. (a) In order to accomplish the purposes set forth in this article, commencing January 1, 1998, the Controller, the State Department of Education , the State Department of Social Services, or

any other state agency receiving funds from the Child Care Development Block Grant Act of 1990 (P.L. 97-35) shall make these funds available to the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ for this program only to the extent this program is incorporated into, and approved in, the state plan established pursuant to subsection (a) of Section 658E of Subchapter C as contained in Section 5082 of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508).

(b) For the purpose of implementing this article, the State Department of Education or designated state agency shall enter into an interagency agreement with the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ to allocate federal funds received annually for purposes of this program and to include funds for the administrative costs.

(c) On or before January 1, 1999, and each year thereafter, the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall report to the State Department of Education or designated state agency regarding the federal funding level required to award 100 new grants and all of the renewal grants annually. The State Department of Education or designated state agency shall take these amounts into consideration when developing the state plan referenced in subdivision (a). The State Department of Education or designated state agency shall notify the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ of any revision to the federal funding level as reflected in changes to the Child Care and Development Block Grant State Plan.

(d) This program is contingent upon the receipt of federal funds for the childcare and development block grant for the purposes of implementing this program.

69626. (a) The Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall administer the Child Development Teacher and Supervisor Grant Program. This includes determining the application procedures and the selection criteria for grant awards.

(b) It is the intent of the Legislature that the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ consult with the Child Development Division of the California Department of Education , postsecondary educational institutions, and child care and development representatives of statewide organizations regarding the development of the program, including the program requirements and selection criteria.

69627. Notwithstanding Section 7550.5 of the Government Code , the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall report to the Governor and the Legislature by January 1, 2001, on the Child Development Teacher and Supervisor Grant Program to assess the following:

(a) The number of applicants annually.

(b) The number of participants annually.

(c) The rate of compliance with academic and employment requirements.

(d) Participating postsecondary educational institutions.

(e) Needs assessment for program growth based on the eligible pool of applicants.

(f) Participation and success rates for each permit.

(g) The amount of grant funds awarded each year, by institution.

69740 . Unless the context requires otherwise, the definitions in this section govern the construction of this article.

(a) "Commission" means the Office of Higher Education and Financial Aid ~~Student Aid Commission~~.

(b) "Eligible education and training programs" means education and training programs approved by the Office of Higher Education and Financial Aid ~~commission~~ that lead to eligibility for a license to practice law as a licensed attorney.

(c) "Eligible expenses" means reasonable expenses associated with the costs of acquiring an education such as tuition, books, equipment, fees, room and board, and other expenses determined by the Office of Higher Education and Financial Aid ~~commission~~.

(d) "Eligible participant" means a licensed attorney who has been admitted to the program and is a resident of this state and who can provide proof of residency in this state.

(e) "Licensed attorney" means an attorney who resides in this state who has successfully passed the California bar examination and has been admitted to practice in this state or has otherwise been licensed to practice law in this state by the State Bar of California.

(f) "Loan repayment" means a loan that is paid in full or in part if the participant renders legal services in this state in a public interest area of the law.

(g) "Participant" means a licensed attorney who has been admitted to the program and has commenced practice as a licensed attorney in this state in a public interest area of the law.

(h) "Program" means the Public Interest Attorney Loan Repayment Program.

(i) "Public interest area of the law" means those areas of the law determined by the Office of Higher Education and Financial Aid ~~commission~~, in consultation with the advisory committee, to serve the public interest, including, but not necessarily limited to, providing direct legal service at a local (1) legal services organization, (2) prosecuting attorney's office, (3) child support agency office, or (4) criminal public defender's office. For the purposes of this article, a "legal services organization" is a legal services provider in California that serves a clientele over 70 percent of whom are low-income persons according to applicable federal income guidelines.

(j) "Required service obligation" means an obligation by the participant to provide legal services in this state in a public interest area of the law as established pursuant to this article.

69741. The Public Interest Attorney Loan Repayment Program is established for licensed attorneys who practice or agree to practice in public interest areas of the law in this state. The program shall be administered by the Office of Higher Education and Financial Aid ~~commission~~.

69741.5. The Office of Higher Education and Financial Aid ~~commission~~ is limited to making 3,000 awards of loan assumption annually. Participants are eligible for a maximum of eleven thousand dollars ($11,000) in loan assistance for four years, as follows:

(a) For the first year, two thousand dollars ($2,000) in loan repayment assistance.

(b) For the second, third, and fourth years, three thousand dollars ($3,000) in loan repayment assistance for each year.

69742. (a) The Office of Higher Education and Financial Aid ~~commission~~ shall establish eligibility criteria for participation in the program based upon need and merit. These criteria shall be based on all of the following, which are set forth in order of importance:

(1) The applicant's need, which shall be based on the applicant's salary, personal resources, and law school debt.

(2) The applicant's commitment to public interest law, which shall be determined by examining the applicant's employment and volunteer history, and taking into consideration a low-income applicant's need to work while in law school.

(3) The applicant's declared interest in practicing in areas of the state where the need for public interest attorneys is high.

(4) The applicant's academic achievements.

(b) The Office of Higher Education and Financial Aid ~~commission~~ shall adopt initial regulations for the program within one year of the effective date of the initial appropriation funding the program.

69743.5. The Office of Higher Education and Financial Aid ~~commission~~ shall select, from the qualified applicants, the individuals who are eligible to participate in the program. After each year-long period of full-time, or full-time equivalent, employment in a public interest area of the law, the loan repayment of the eligible participant shall be made to the lender.

69744. The Office of Higher Education and Financial Aid ~~commission~~ may use the funds appropriated for the

program, including reasonable administrative costs, for the purposes of loan repayments. The Office of Higher Education and Financial Aid ~~commission~~ shall annually establish the total amount of funding to be awarded for loan repayments. Allocation of funds shall be established based upon the best use of funding for that year, as determined by the Office of Higher Education and Financial Aid ~~commission~~.

69745. (a) Loans from both government sources and financial institutions may be repaid by the program. Each participant shall agree to allow the Office of Higher Education and Financial Aid ~~commission~~ access to loan records and to acquire information from lenders necessary to verify eligibility and to determine payments. Loans may not be renegotiated with lenders to accelerate repayment.

(b) Payments shall be made annually to the lender until the loan is repaid, fulfilled, or until the required service obligation is fulfilled and eligibility discontinues, whichever comes first.

(c) If the participant discontinues practicing in a public interest area of the law, payments against the loans of the participant shall cease to be effective on the date that the participant discontinues service.

69746. The Office of Higher Education and Financial Aid ~~commission~~ is not responsible for any outstanding payments on principal and interest to any lender once a participant's eligibility expires.

69747. (a) The Public Interest Attorney Loan Repayment Endowment Account is created in the State Treasury.

(b) The Office of Higher Education and Financial Aid ~~commission~~ shall deposit in the account all money received for the program. The account shall be self-sustaining and consist of funds appropriated by the Legislature for the program and private contributions to the program.

(c) With the exception of the operating costs associated with the management of the account by the Treasurer, the account shall be credited with all investment income earned by the account.

69748. (a) The Treasurer may invest, reinvest, manage, contract, sell, or exchange money in the account. Except as provided in subdivision (d) of Section 69747, earnings from the investment of the money in the account shall be retained by the account.

(b) Money in the account may be spent only for the purposes of the program as specified in this article.

(c) The Treasurer shall routinely consult and communicate with the Office of Higher Education and Financial Aid ~~commission~~ on the investment policy, earnings of the trust, and related needs of the program.

69750 .3. (a) Any qualifying member of the National Guard, the State

Military Reserve, or the Naval Militia enrolled in an institution of higher education participating in the loan assumption program set forth in this article is eligible to enter into an agreement for loan assumption, to be redeemed pursuant to Section 69750 .5. In order to be eligible to enter into a loan assumption agreement, an applicant shall satisfy both of the conditions specified in subdivision (b).

(b) (1) The applicant is currently enrolled in, or has been admitted to, a program in which he or she will be enrolled in at least 10 semester units or the equivalent. The applicant shall agree to maintain not less than 10 semester units per semester, or the equivalent, and to maintain satisfactory academic progress.

(2) In order to meet the costs associated with obtaining a baccalaureate degree, the applicant has received, or is approved to receive, a loan under one or more the following designated loan programs:

(A) The Federal Family Education Loan Program (20 U.S.C. Sec. 1071 et seq.).

(B) Any loan program approved by the Office of Higher Education and Financial Aid ~~Student Aid Commission~~.

(c) A person participating in the program pursuant to this article shall not be eligible to enter into more than one agreement under this article.

69750 .5. The Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall commence loan assumption payments, as required by Section 69750 .7, upon verification that the applicant has met the requirements of the loan assumption agreement and all other conditions of this article.

69750 .7. The terms of the loan assumption agreements granted under this article shall be as follows, subject to the specific terms of each warrant:

(a) After a program participant has completed one year of additional service as a qualifying member within the meaning of Section 66025.6, the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall assume up to two thousand dollars ($2,000) of the participant's outstanding liability under one or more of the designated loan programs.

(b) After a program participant has completed two consecutive years of additional service as a qualifying member within the meaning of Section 66025.6, the Office of Higher Education and Financial Aid ~~commission~~ shall assume up to an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to five thousand dollars ($5,000).

(c) After a program participant has competed three consecutive years of additional service as a qualifying member within the meaning of Section 66025.6, the Office of Higher Education and Financial Aid ~~commission~~ shall assume

up to a maximum of an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to eight thousand dollars ($8,000).

(d) After a program participant has completed four consecutive years of additional service as a qualifying member within the meaning of Section 66025.6, the Office of Higher Education and Financial Aid ~~commission~~ shall assume up to a maximum of an additional three thousand dollars ($3,000) of the participant's outstanding liability under one or more of the designated loan programs, for a total loan assumption of up to eleven thousand dollars ($11,000).

69751. (a) The Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall administer this article, and shall adopt rules and regulations for that purpose. The rules and regulations shall include, but need not be limited to, provisions regarding the period of time for which a loan assumption agreement shall remain valid, the reallocation of funds that are not utilized, and the development of projections for funding purposes. The Office of Higher Education and Financial Aid ~~commission~~ shall solicit the advice of representatives from postsecondary education institutions regarding the proposed rules and regulations.

(b) The Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall work in conjunction with lenders participating in federal loan programs to develop a streamlined application process for participation in the program set forth in this article.

69761. (a) The purposes of California's participation in the Federal Family Education Loan Program are as follows:

(1) To ensure that, in meeting their educational costs, a source of loans is available to assist the greatest number of eligible resident students.

(2) To ensure that loans are available to eligible resident students that meet the criterion set forth in paragraph (1), the Office of Higher Education and Financial Aid ~~commission~~ is authorized to provide a source of loans to eligible students within and outside California irrespective of their residence or the location of their educational institution, to assist them in meeting educational costs at eligible schools of their choice.

(3) To accept, receive and administer the funds provided under Title IV of the "Higher Education Act of 1965," and extensions thereof, or any similar act of Congress in any jurisdiction permitted under the Higher Education Act.

(b) The Legislature finds and declares that subdivision (a), as amended during the 1999 portion of the 1999-2000 Regular Session, reflects the intent of the Legislature in enacting Chapter 961 of the Statutes of 1996, and is therefore declaratory of existing law.

69761.5. The Office of Higher Education and Financial Aid ~~commission~~ shall serve as a state student loan guarantee agency, pursuant to P.L. 94-482, and subsequent federal regulations, including, but not limited to, the following provisions:

(a) The Office of Higher Education and Financial Aid ~~commission~~ shall be the designated state agency for receiving any federal funds for administrative costs and payments of insurance obligations.

(b) Educational loans to undergraduate and graduate students, or to their parent or parents, or to undergraduate and graduate students and to their parent or parents, shall not exceed the limits provided in federal law.

(c) Participating educational institutions shall notify lenders and the Office of Higher Education and Financial Aid ~~commission~~ of enrollment status changes and current addresses of participating students.

(d) No educational institution shall lend to more than 50 percent of its undergraduate students; this provision may be waived by the United States Secretary of Education if the limitation creates a hardship for present or prospective students.

(e) A student may receive a loan only if he or she is maintaining satisfactory progress in a course of study pursuant to practices of the institution in which the student is enrolled, and provided the student has not previously defaulted on any student loan. If a student has made satisfactory arrangements to repay a default on a previous student loan, the student may be eligible to receive a loan.

(f) An insurance premium may be charged student borrowers not to exceed the maximum rate allowable, pursuant to federal statutes and regulations.

69761.7. To promote responsible and timely repayment of guaranteed student loans, the Office of Higher Education and Financial Aid ~~commission~~ shall establish a process to ensure regular, annual credit reporting on the repayment status of borrowers whose loans are guaranteed by the Office of Higher Education and Financial Aid ~~commission~~ and whose paper has matured.

69763. (a) (1) The Office of Higher Education and Financial Aid ~~commission~~ shall administer the Federal Family Education Loan Program as authorized pursuant to this chapter. The Office of Higher Education and Financial Aid ~~commission~~ may enter into any contract with the United States Secretary of Education or any other federal officer or agency under Title IV of the Higher Education Act of 1965, any extension thereof, or any similar act of Congress, may cooperate with the government of the United States, or any agency or agencies thereof, in administration of the act of Congress and the rules and regulations adopted thereunder. The Office of Higher Education and Financial Aid ~~commission~~ shall adopt any rules and regulations it deems necessary for the proper administration of this chapter.

(2) Loans or loan guarantees issued by the Office of Higher Education and Financial Aid

~~commission~~,
irrespective of the domicile of the eligible student or the location of the educational institution attended by the eligible student, prior to the effective date of amendments made to this section during the 1999 portion of the 1999-2000 Regular Session, have been determined by the Legislature to be consistent with the purposes of California's participation in the Federal Family Education Loan Program, and within the authority of the Office of Higher Education and Financial Aid ~~commission~~ to administer that program, and consistent with the intent of the Legislature in enacting Chapter 961 of the Statutes of 1996.

(b) The rules and regulations adopted by the Office of Higher Education and Financial Aid ~~commission~~ pursuant to this section shall include a provision authorizing the Office of Higher Education and Financial Aid ~~commission~~ to impose a civil penalty in an amount not to exceed twenty-five thousand dollars ($25,000) per violation against any financial or educational institution that violates any applicable law, rule, regulation, limitation, consent agreement, or school or lender agreement, relative to a state financial aid program. The rules and regulations adopted pursuant to this section shall provide all of the following:

(1) No civil penalty shall be imposed against an institution without first affording that institution an opportunity to request a hearing and, if a request for a hearing is made, a hearing shall be held before a representative of the Office of Higher Education and Financial Aid ~~commission~~.

(2) No civil penalty shall be imposed against an institution unless an action against that institution has been initiated pursuant to Section 30302 or 30304 of Title 5 of the California Code of Regulations.

(c) Any moneys derived from the assessment of penalties pursuant to this section shall be deposited into the Student Loan Operating Fund.

69763.1. (a) If a borrower defaults on a guaranteed student loan and the lender's default claim has been paid, the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall fulfill the collection efforts required by federal law, which includes initiating a civil suit against the borrower for repayment of the loan.

(b) After the period specified in federal law for commencing action, the amount of the promissory note, plus interest and costs, may be collected by the filing of a certificate requesting judgment pursuant to subdivision (c) or by other appropriate civil action.

(c) If the loan principal, interest, and predefault and collection costs are not paid when due, and there is evidence that the borrower does not intend to pay under the terms of the promissory note or promissory notes, the Office of Higher Education and Financial Aid ~~commission~~ may file in the office of the Clerk of the Superior Court of Sacramento County, or any other county, a certificate specifying the amount of the loan principal, interest, and predefault and collection costs due, the name and last known address of the individual liable for the amount due, the fact that the Office

of Higher Education and Financial Aid ~~commission~~ has complied with all applicable state and federal laws in the computation of the amount due, and a request that judgment be entered against the individual in the amount of the loan principal, interest, and predefault and collection costs specified in the certificate.

(d) Prior to the filing of the certificate, the Office of Higher Education and Financial Aid ~~commission~~ shall, by mail, notify the individual of the amount that is due and of the opportunity for a hearing. If a hearing is requested, 10 days' notice shall be given of the time and place of the hearing, which shall be held in Sacramento County or, if properly requested, the county of residence of the person requesting the hearing. The hearing shall be conducted by a referee who shall submit findings and recommendations to the Office of Higher Education and Financial Aid ~~director of the commission~~, or an authorized representative, who shall decide the matter. The decision shall be effective upon notice to the interested parties. The Office of Higher Education and Financial Aid ~~director of the commission~~, or the authorized representative, may rescind the decision and reconsider the matter for good cause shown at any time within three years after the date the disputed loan first became due, or within one year from the hearing, whichever is later. If no hearing is requested within 15 days after mailing the notice required by this subdivision, the certificate required by subdivision (b) may be filed.

69763.2. (a) The clerk, immediately upon the filing of the certificate specified in Section 69763.1, shall enter a judgment for the people of the State of California against the individual in the amount of the loan principal, interest, and predefault and collection costs listed on the certificate. The clerk may file the judgment in the book entitled "California Student Aid Commission Judgments."

(b) Execution shall issue upon the judgment specified in subdivision (a) upon request of the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ in the same manner as execution may issue upon other judgments as prescribed in the Code of Civil Procedure.

(c) At least 10 days before executing any writ to collect, the Office of Higher Education and Financial Aid ~~commission~~ shall send notice of the intent to execute upon a writ to the borrower and to any cosigners, by certified mail, to the most recent addresses maintained in the files of the Office of Higher Education and Financial Aid ~~commission~~. Any person receiving the notice of the intent to execute upon a writ may request a hearing to contest the existence or the amount of the writ.

At the request of the individual, the Office of Higher Education and Financial Aid ~~commission~~ shall conduct a hearing pursuant to Section 69763.1, at which it shall be determined whether the loan principal, interest, and predefault and collection costs in the amount claimed by the Office of Higher Education and Financial Aid ~~commission~~ are due and whether the individual named on the certificate is liable for the amount. If no hearing is requested, the execution shall be commenced for the garnishment of wages, the attachment of property, or other legal collection action.

69763.3. At any time before wages are garnished or a lien is placed on property, a borrower may pay the Office of Higher Education and Financial Aid ~~Student Aid~~

~~Commission~~ the amount of the recorded judgment, plus costs. If that payment is made, wage garnishment or the attachment of property shall not commence. The payment shall not constitute a waiver of the right to a hearing.

69763.4. If the Office of Higher Education and Financial Aid ~~Student Aid Commission~~, or an authorized agent, has reasonable cause to believe that a lien on property may be jeopardized within the 10-day notice-of-intent period, the lien may be filed without prior notice. The Office of Higher Education and Financial Aid ~~commission~~ shall provide notice of the attachment of property by lien to the owner and to any other person known to be claiming an interest in the property, within 48 hours after filing, excluding Saturdays, Sundays, and the holidays specified in Section 6700 of the Government Code . Any hearing to contest the lien shall be requested within 10 days following transmittal of the notice.

69764. In the event that the amount of loans applied for under this article exceeds the amount of the loans that may be guaranteed pursuant to this article, the Office of Higher Education and Financial Aid ~~commission~~ may establish a system of priorities for the approval of loans.

69765. (a) The Office of Higher Education and Financial Aid ~~commission~~ shall guarantee any student loan made pursuant to this article in the amount specified in federal statutes and regulations.

(b) The Office of Higher Education and Financial Aid ~~commission~~ shall establish the ratio of reserve funds to loans outstanding.

69766. (a) The Federal Student Loan Reserve Fund and the Student Loan Operating Fund are hereby created in the State Treasury. On January 1, 2000, the State Guaranteed Loan Reserve Fund shall cease to exist, and funds deposited, or required to be deposited in that fund, shall be transferred to the Federal Student Loan Reserve Fund or the Student Loan Operating Fund and allocated to those funds in accordance with the requirements of federal law.

(b) All money received for the purposes of this article from federal, state or local governments, including any money deposited in the State Guaranteed Loan Reserve Fund, or from other private or public sources, shall be deposited in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund and allocated to those funds in accordance with the requirements of federal law. Funds deposited in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund are not part of the General Fund, as defined in Section 16300 of the Government Code . No moneys from the General Fund shall be deposited in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund.

(c) The contents of the Federal Student Loan Reserve Fund are

federal funds, administered in accordance with federal laws and regulations. The contents of the Student Loan Operating Fund are state funds within the custody and control of the Office of Higher Education and Financial Aid ~~Student Aid commission~~.

(d) Notwithstanding Section 13340 of the Government Code , all moneys deposited in the Federal Student Loan Reserve Fund and the Student Loan Operating Fund are hereby continuously appropriated, without regard to fiscal years, for purposes of this article. The continuous appropriation made by this section shall be available to assume the obligation under any outstanding budget act appropriation from the State Guaranteed Loan Reserve Fund as it existed prior to January 1, 2000.

(e) The total amount of all outstanding debts, obligations, and liabilities that may be incurred or created under this article, including any obligation to repay to the United States any funds provided under Title IV of the "Higher Education Act of 1965," and extensions thereof or amendments thereto, or any similar act of Congress, is limited to the amount contained in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund, and the state shall not be liable to the United States, or to any other person or entity, beyond the amount contained in the Federal Student Loan Reserve Fund or the Student Loan Operating Fund for any debts, obligations, and liabilities.

69766.1. (a) Notwithstanding Section 13340 of the Government Code , in addition to the purposes for which funds are appropriated pursuant to Section 69766, there is hereby continuously appropriated from the Federal Student Loan Reserve Fund and the Student Loan Operating Fund to the Office of Higher Education and Financial Aid ~~commission~~, the amount of funds necessary to make payments for the purchase of defaulted loans.

(b) Notwithstanding Section 13340 of the Government Code , there is hereby continuously appropriated from the Student Loan Operating Fund for transfer to the Federal Student Loan Reserve Fund, all federal reinsurance payments received on defaulted student loans and deposited in the Student Loan Operating Fund.

(c) The appropriation authorized by this section shall be operative only if the annual Budget Act for the fiscal year is not chaptered on or before July 15, and shall not exceed the amount deemed by the Office of Higher Education and Financial Aid ~~commission~~ to be required by federal law or regulation. The Office of Higher Education and Financial Aid ~~commission~~ shall notify the Joint Legislative Budget Committee of the amount of any payments issued pursuant to this section.

69768. (a) The funds in the Federal Student Loan Reserve Fund and

the Student Loan Operating Fund shall be paid out by the State Treasurer on warrants drawn by the Controller, or through a transfer between the Federal Student Loan Reserve Fund and the Student Loan Operating Fund, and requisitioned by the Office of Higher Education and Financial Aid ~~commission~~ in carrying out the purposes of this article and the federal act.

(b) The Office of Higher Education and Financial Aid ~~commission~~ is hereby authorized to make advance payments from the Student Loan Operating Fund to the auxiliary organization for services rendered to the Office of Higher Education and Financial Aid ~~commission~~ under Article 2.5 (commencing with Section 69522). Notwithstanding any other provision of law, advance payments to the auxiliary organization and any fees charged by the auxiliary organization for services rendered to the Office of Higher Education and Financial Aid ~~commission~~ pursuant to an operating agreement may be deposited with a private financial institution.

Loan Advisory Council

69769. The Office of Higher Education and Financial Aid ~~commission~~ shall ~~establish a Loan Advisory Council. The Loan Advisory Council shall be composed of 17 members, appointed by the commission, composed of~~ consult with representatives of students, postsecondary educational institutions, eligible lenders, and participating secondary markets. Any reference to the Loan Advisory Council shall refer to the Office of Higher Education and Financial Aid.

69769.3. (a) The Office of Higher Education and Financial Aid ~~Loan Advisory Council established pursuant to Section 69769~~ shall ~~be composed of~~ consult with ~~members appointed from~~ the following groups:

(1) Four representatives of the lending community participating in the Federal Family Education Loan Program.

(2) One representative each from the University of California, the California State University, the California Community Colleges, a private nonprofit postsecondary education institution, and a private for-profit postsecondary education institution.

(3) One representative from the California Association of Student Financial Aid Administrators.

(4) Five student representatives from the same postsecondary segments listed in paragraph (2). In no event shall a student representative be appointed to serve simultaneously as the representative of more than one of these five postsecondary groups.

(5) One representative from a secondary market participating in the Federal Family Education Loan Program.

(6) One representative from the California Lenders for Education Association.

(b) The representatives consulted ~~appointed~~ by the Office of Higher Education and Financial Aid ~~commission~~ pursuant to subdivision (a) shall be selected by the Office of Higher Education and Financial Aid ~~commission~~ from lists provided to its chair by each group described in that subdivision.

~~69769.5. The Loan Advisory Council shall review the activities and policies of the Federal Family Education Loan Program and shall regularly advise the commission of its findings and recommendations. The Loan Advisory Council may request information and data that it deems appropriate from the Student Aid Commission Secretary with respect to the Federal Family Education Loan Program or any other loan program administered by the commission.~~

~~69769.7. (a) The Loan Advisory Council shall annually elect a chair and a vice chair from its membership. Representatives who serve on, or are employed or retained by, the commission Secretary , and the nonvoting representative appointed by the United States Department of Education , if any, are ineligible for election to these positions.~~

~~(b) The chair of the Loan Advisory Council shall have the authority, in consultation with the chair of the commission Secretary , to convene meetings of the council. The chair shall also direct each council meeting and shall regularly present oral and written reports to the commission Secretary regarding the advice of the council. The vice chair of the Loan Advisory Council shall assume these responsibilities in the absence of the chair.~~

69772. The Office of Higher Education and Financial Aid ~~commission~~ shall annually report on the numbers of students participating in the program, total loan volume, and the postsecondary educational institutions in which participating students are enrolled.

69774. (a) The Office of Higher Education and Financial Aid ~~commission~~ shall provide, with each application form for the Federal Family Education Loan Program a notice to the student informing him or her that, for purposes of collecting on a defaulted loan, the Office of Higher Education and Financial Aid ~~commission~~ is entitled to seek employment, wage, and other information from the Employment Development Department on any person who defaults on a guaranteed student loan.

(b) A common application form may be utilized for student loans in compliance with the program eligibility and financial forms specified in Section 69534.1.

69775. The Office of Higher Education and Financial Aid ~~commission~~ shall develop and distribute in cooperation with postsecondary educational institutions and private lenders, simple, common consumer information for prospective student borrowers.

69776. The Office of Higher Education and Financial Aid ~~commission~~ may contract for all or part of administrative support services.

69776.5. The Office of Higher Education and Financial Aid ~~commission~~ may enter into contracts with a public agency or a private entity to improve the processing and distribution of guaranteed student loan applications through the use of electronic networks and unified data bases.

69777. The Office of Higher Education and Financial Aid ~~commission~~ shall encourage private lenders to increase participation in the guaranteed student loan program.

69951 . The California State Work-Study Program is hereby created to provide eligible college and university students with the opportunity to earn money to help defray their educational costs, while gaining valuable experience in educationally beneficial or career-related employment. The California State Work-Study Program shall be administered by the Office of Higher Education and Financial Aid ~~Student Aid Commission~~.

69952. (a) Any postsecondary educational institution currently eligible to participate in state-funded student financial aid programs pursuant to this chapter or in federal financial aid programs shall be eligible to be selected to participate in the California State Work-Study Program.

(b) Prior to participating in the program, each institution shall sign an institutional agreement with the Office of Higher Education and Financial Aid ~~Student Aid Commission~~, acknowledging its willingness to administer the program pursuant to this article and program regulations and guidelines adopted for that purpose by the Office of Higher Education and Financial Aid ~~commission~~. The agreement shall include the procedures that the institution shall use to ensure that each work-study position is related to the student's course of study or career interests.

(c) Each participating institution shall be required, as a condition of participation in the program, to comply with such auditing or other fiscal reporting requirements as the Office of Higher Education and Financial Aid ~~commission~~ may establish. These requirements shall be applied by the Office of Higher Education and Financial Aid ~~commission~~ so as to ensure that no payments received by any private institution pursuant to this article are applied to any sectarian or denominational purpose, or to the general aid or support of the institution.

69954. (a) All of the following entities shall be eligible to employ students participating in the California State Work-Study Program:

(1) Public postsecondary educational institutions.

(2) Public schools operated by school districts, county superintendents of schools, the Department of the Youth Authority, or

the State Department of Education .

(3) Nonsectarian, nonpolitical organizations or corporations, whether nonprofit or profit-seeking enterprises licensed to conduct business in California.

(4) Out-of-state employers licensed to conduct business in their home state, subject to the prior approval of the Student Aid Office of Higher Education and Financial Aid ~~commission~~.

(b) Private postsecondary educational institutions shall not be eligible to employ students participating in the California State Work-Study Program.

69958. (a) Potential work-study positions may be located by the institution or by eligible students in cooperation with the institution. Each position located shall be critically reviewed by the appropriate student financial aid and experiential education personnel to determine whether it satisfies all the conditions specified in Section 69960. To assist the institution in assessing the position, the employer shall submit a written statement to the institution which provides all of the following information:

(1) The total number of positions available.

(2) A job description of each available position, including the suggested rate of pay.

(3) The skills required of the prospective work-study employee.

(4) The educational benefits provided by the position.

(b) Once the institution has approved the work-study position, the employer and the institution, acting as the authorized agent of the Office of Higher Education and Financial Aid ~~Student Aid Commission~~, shall execute a written agreement which confirms the employer's eligibility to participate in the program and its willingness to comply with all program requirements, and specifies the responsibilities of each of the parties. The agreement shall be subject to annual renewal by mutual agreement of the institution and the employer.

(c) Following execution of the agreement pursuant to subdivision (b), the employer may interview prospective work-study employees. The institution shall provide the employer and each applicant for the work-study position with adequate information to facilitate a proper placement. Provided that the priorities specified in Section 69959 have been met, the employer may indicate his or her hiring preferences. No employer shall discriminate between applicants on the basis of race, color, sex, religion, or national origin, or subject any applicant to any other discriminatory practices prohibited by state or federal law.

69959. (a) The following priorities shall be followed at the time of job referral and placement:

(1) The primary objective shall be to place a student in an

educationally beneficial position that relates to the student's course of study, career objective, or the exploration of career objectives. Preference in awarding work-study positions shall be given to those students able to locate employment related to their academic program or potential career.

(2) The program shall include and emphasize placements for students with off-campus, private, profit-making employers.

(3) The program shall also include, pursuant to Section 69969.5, work-study positions to offer tutorial instruction to pupils in various pupil outreach activities, which may include, but need not be limited to, tutoring in core courses, pupil mentoring, curriculum development, and academic counseling during or after regular school hours.

(b) It is the intent of the Legislature that each participating institution shall strive to place a significant number of students with off-campus private sector employers and public school districts. In evaluating an institution's progress in achieving placements with off-campus employers, the Office of Higher Education and Financial Aid ~~commission~~ shall take into consideration the proximity of the campus to private sector jobs, local economic conditions, and other factors which may affect an institution's ability to place students in off-campus jobs.

69965. (a) The Office of Higher Education and Financial Aid ~~Student Aid Commission~~, in consultation with the advisory committee designated pursuant to Section 69966, shall select postsecondary educational institutions to participate in the program. In evaluating applications from educational institutions, the Office of Higher Education and Financial Aid ~~commission~~ shall primarily consider the following factors:

(1) Administrative capability.

(2) Ability to utilize available state funds.

(b) The Office of Higher Education and Financial Aid ~~commission~~ shall also consider:

(1) Geographical distribution of participating institutions.

(2) Segmental representation.

69966. The Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall administer the California State Work-Study Program in consultation with an advisory committee. The membership of the advisory committee, which may be an existing advisory committee established by the Office of Higher Education and Financial Aid ~~commission~~, shall be representative of, but need not be limited to, financial aid and student employment administrators from each segment of postsecondary education , students, public schools, employers, the ~~California Postsecondary Education Commission~~Office of Higher Education and Financial Aid, and experiential education personnel.

69967. The Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall do all of the following:

(a) Adopt any necessary rules, regulations, and guidelines to assist participating employers and institutions to administer the program.

(b) Ensure that student placements are consistent with the objectives stated in Section 69959.

(c) Monitor institutional expenditures to ensure proper allocation and utilization of work-study funds.

(d) At the close of each fiscal year, compile data regarding the population served by the program during that fiscal year.

(e) Review the administrative practices of each participating institution to ensure compliance with program requirements.

(f) Ensure that appropriate audits of the program are conducted.

69969. (a) It is the intent of the Legislature that funding for the purposes of the California State Work-Study Program be appropriated in the annual Budget Act.

(b) Available funds shall be allocated to each participating institution by the Office of Higher Education and Financial Aid ~~commission~~, including a minimum administrative allowance for each institution.

(c) The Office of Higher Education and Financial Aid ~~commission~~ may provide a supplementary administrative allowance to institutions that reflects the additional costs of placing students with off-campus, private, profit-making employers and public school districts.

89347. The Office of Higher Education and Financial Aid ~~Student Aid Commission~~ shall provide outreach services and technical assistance to foster youth at the two grade levels designated jointly by the California State University and the California Community Colleges. The State Department of Social Services and county welfare departments shall, in coordination with the Office of Higher Education and Financial Aid~~Student Aid Commission~~, communicate with foster youth at the two grade levels designated jointly by the California State University and the California Community Colleges in order to facilitate the Office of Higher Education and Financial Aid's ~~Student Aid Commission's~~ outreach and technical assistance efforts for those prospective students.

89529.15. As used in this article:

(a) "Employee" means any of the following:

(1) A permanent or probationary full-time employee of the trustees, regardless of period of service, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on or after October 1, 1976.

(2) A permanent or probationary part-time or intermittent employee of the trustees with at least the equivalent of six monthly compensated pay periods of service in the 18 months of pay periods immediately preceding the pay period in which the disability begins, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on or after January 1, 1979.

(3) In addition to those eligible under paragraph (1), an employee of the trustees appointed half-time or more for one year of service or one academic year, as defined by the trustees, or more, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on or after January 1, 1979.

(4) A permanent or probationary full-time employee of the trustees, regardless of period of service, who is a participant in the optional retirement program pursuant to Chapter 5.5 (commencing with Section 89600), provided that he or she would otherwise be eligible to participate in the Public Employees' Retirement System except for the election to participate in the optional retirement program.

(b) "Full pay" means the gross base salary earnable by the employee and subject to retirement contribution on the date of the commencement of his or her disability.

(c) "Disability" or "disabled" includes mental or physical illness and mental or physical injury including any illness or injury resulting from pregnancy, childbirth, or related medical condition. An employee is deemed disabled on any day in which, because of his or her physical, mental, or medical condition, he or she is unable to perform his or her regular or customary work.

(d) "Disability benefit period", with respect to any individual, means the continuous period of disability beginning with the first day with respect to which the individual files a valid claim for nonindustrial disability benefits. For the purpose of this article, two consecutive periods of disability due to the same or related cause or condition and separated by a period of not more than 14 days shall be considered as one disability benefit period.

(e) "Appeals board" means the California ~~Unemployment Insurance~~Employment & Benefits Appeals Board.

94155. On or before March 31 in each year the authority shall make an annual report of its activities for the preceding calendar year to the Governor and the Legislature. Each such report shall set forth a complete operating and financial statement covering the authority's operations during the year. The authority shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants. The authority shall also consult with the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ with respect to the need for additional financing of student loan projects.

94311.1. (a) Each individual submitting an application for a certificate of authorization for service, pursuant to paragraph (3) of subdivision (a) of Section 94311, shall provide the council with the following information: (1) A completed application as supplied by the council. (2) Certified copies of educational transcripts, where applicable. (3) Verified employment history.

(4) Other documentation of prior experience or education as may be required for verification. (b) To be eligible for a certificate of authorization for service, the applicant shall fulfill the applicable requirements as follows: (1) Instructors shall have all of the following qualifications: (A) No record of any violations of this chapter. (B) Verification that he or she possesses a combination of at least three years' experience and training or education in the occupation or job title category for which certification is sought. (C) An instructor for a program which leads to a degree shall possess a degree of equal or higher level in the occupation for which certification is sought. (2) Directors shall have both of the following qualifications: (A) Three years' experience in an administrative position in a public or an approved private postsecondary school. (B) No record of any violations of this chapter.
(3) Associate directors shall have both of the following qualifications: (A) Two years' experience in an administrative or other responsible position in a public or state approved private postsecondary school. (B) No record of any violations of this chapter.
(4) Financial aid directors shall have all of the following qualifications:

(A) Five years' experience in an administrative position in the financial aid office of a public or approved private postsecondary school.

(B) Verification of completion within the previous two years of a training seminar or workshop certified by the Office of Higher Education and Financial Aid ~~California Student Aid Commission~~ as providing up-to-date comprehensive information on financial aid programs and policies. (C) No record of any violations of this chapter. (D) Any other requirements the council deems necessary. (5) Financial aid officers shall possess all of the following qualifications:

(A) Verification of completion within the previous two years of a training seminar or workshop certified by the Office of Higher Education and Financial Aid ~~California Student Aid Commission~~ as providing up-to-date comprehensive information on financial aid programs and policies.

(B) No record of any violations of this chapter.

(C) Other requirements the council deems necessary. (c) An individual who is the sole owner of an institution may serve in the capacity of director for three years prior to meeting the qualifications of subparagraph (A) of paragraph (2) of subdivision (b). (d) Any individual filling a position left vacant by a previously certified financial aid director or financial aid officer shall verify with the council completion of the training referred to in subparagraph (A) of paragraph (5) of subdivision (b) within one year of accepting that position. (e) Each individual certified for authorization for service in the positions listed in paragraphs (1), (4), and (5) of subdivision (b) shall maintain at each private postsecondary educational institution where he or she is employed a validated transcript evidencing the successful completion of three continuing education units of recognized in-service training in their education, job title category, or employment field during every period of certification. These units may be completed through in-service training offered by accrediting associations, professional organizations, or council-approved programs. (f) Every certificate of authorization issued to a person who possesses the qualifications described in

paragraphs (1), (4), and (5) of subdivision (b) shall be valid for a period of three years. (g) In addition to the requirements set forth in this section, the council may impose additional requirements by regulation.

94330. (a) Each institution desiring to operate in this state shall make application to the council, upon forms to be provided by the council. The application shall include, as a minimum, at least all of the following: (1) A catalog published, or proposed to be published, by the institution containing the information specified in the criteria adopted by the council. The catalog shall include specific dates as to when the catalog applies. (2) A description of the institution's placement assistance, if any. (3) Copies of media advertising and promotional literature. (4) Copies of all student enrollment agreement or contract forms and instruments evidencing indebtedness. (5) Copies of participation agreements for state and federal financial aid programs. (6) The name and California address of a designated agent upon whom any process, notice, or demand may be served. (7) The information specified in Section 94312.2. (8) The institution's most current profit and loss statement and current balance sheet, or an audit prepared by a licensed certified public accountant in accordance with generally accepted auditing standards. (b) Each application shall be signed and certified under oath by the owners of the school or, if the school is incorporated, by the principal owners of the school (those who own at least 10 percent of the stock), or by the governing body of a nonprofit school.
(c) Following review of the application and any other further information submitted by the applicant, or required in conformity with Sections 94310 and 94311, and any investigation of the applicant as the council may deem necessary or appropriate, the council either shall grant or deny approval to operate to the applicant.
(d) The council shall review and investigate all institutions and courses of instruction approved under this chapter. Consideration in the scheduling of reviews and investigations shall be afforded to student complaints and information collected by the Attorney General, the Office of Higher Education and Financial Aid ~~Student Aid Commission,~~ any board within the Department of Consumer Affairs or its successor, or any other federal, state, or local agency.

(e) The approval to operate shall be issued to the owner or the governing body of the applicant institution, and shall be nontransferable. Any person that makes a proper application and complies with this chapter and each standard, rule, and regulation pertaining to this chapter shall be qualified to receive an approval to operate or an approval of the transfer of ownership.

(f) In the event that a shift in control or change of ownership of an institution occurs, an application for a new approval to operate for the institution under the changed ownership or control shall be filed with the council at least 20 days prior to the shift in control or change in ownership. Whenever an institution is operated at different locations, an application for approval shall be filed for each location. (g) No application for ownership or transfer of ownership shall be approved for any applicant that has been found previously in any judicial or administrative proceeding to have violated this chapter, or if there exists any of the grounds for denial set forth in Section 480 of the Business and Professions Code.
(h) No change in ownership of the institution shall be made until the application is approved. If an application for a new approval to operate is not timely filed as required by this section, the institution's approval to operate shall terminate. Upon approval of a change in ownership, the

council shall give written notice to the Office of Higher Education and Financial Aid ~~Student Aid Commission~~.

(i) For purposes of this section, a change in ownership occurs when there is a change of control of the institution, or where a person that previously did not own at least 25 percent of the stock or controlling interest of an institution or its parent corporation, acquires ownership of at least 25 percent of the stock of the institution or its parent corporation.

(j) At least 60 days prior to the expiration of an approval to operate, the institution shall complete and file with the council an application form for renewal of its approval to operate. The renewal application shall be reviewed and acted upon as provided in this section. (k) The council may refuse to issue or renew any private postsecondary or vocational educational institution's approval to operate, or may revoke any approval to operate for any one, or any combination, of the following causes: (1) A violation of this chapter, or any standard, rule, or regulation established under this chapter. (2) Furnishing false, misleading, or incomplete information to the council, or the failure to furnish information requested by the council or required by this chapter. (3) A finding that an owner, a person in control, a director, or an officer of an institution is not in compliance with Section 94311.4, 94316.6, or 94316.8, whichever is applicable. (4) A finding that a signatory to an application for an approval to operate was responsible for the closure of any institution in which there were unpaid liabilities to the state or federal government, or uncompensated pecuniary losses suffered by students without restitution. (5) The failure of the institution to maintain the minimum educational standards prescribed by this chapter, or to maintain standards that are the same as, or substantially equivalent to, those represented in the school's applications and advertising.
(6) Presenting to prospective students information that is false or misleading relating to the school, to employment opportunities, or to enrollment opportunities in institutions of higher learning after entering into or completing courses offered by the school. (7) The failure to maintain financial resources adequate for the satisfactory conduct of the courses of instruction offered as required by statute. (8) The failure to provide timely and correct refunds to students. (9) Paying a commission or valuable consideration to any persons for acts or services in violation of this chapter. (10) Attempting to confer a degree, diploma, or certificate to any student in violation of this chapter. (11) Misrepresenting to any students or prospective students that they are qualified, upon completion of any course, for admission to professional examination under any state occupational licensing provision. (12) The failure to correct any deficiency or act of noncompliance under this chapter, or the standards, rules, regulations, and orders established and adopted under this chapter within reasonable time limits set by the council.
(13) The conducting of business or instructional services at any location not approved by the council. (14) Failure on the part of an institution to comply with provisions of law or regulations governing sanitary conditions of that institution specified in Division 2 (commencing with Section 500) and Division 3 (commencing with Section 5000) of the Business and Professions Code. If there is reasonable cause to believe that there has been a violation by a private postsecondary or vocational educational institution of the standards prescribed by this chapter, the council shall conduct an investigation of the institution. (15) The applicant, owner, or persons in control have been found previously in any judicial or administrative procedure to have violated this chapter or admitted to having violated this chapter. (l) Proceedings in connection with the denial of an application to operate or the revocation of an approval to operate shall be

conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the council shall have all of the powers granted in that chapter. Any action by the council to place an institution on probation shall be subject to appeal to the full council, and the council shall establish procedures that provide the institution with adequate notice and an opportunity to be heard and to present evidence as to why the action recommended by staff or by a visiting committee shall not be taken.
(m) Upon taking any action to suspend or revoke an institution's approval to operate, or to deny an application for reapproval to operate, the council shall provide written notice to the Office of Higher Education and Financial Aid ~~Commission~~, the United States Department of Education, and to any appropriate accrediting association. (n) A college or university operating under paragraph (5) of subdivision (w) of Section 94302 shall file annually with the council evidence to demonstrate its status as a nonprofit religious corporation under the Corporations Code.

94344. (a) The governing board or other governing authority of any private California postsecondary or vocational educational institution shall adopt regulations providing for the withholding of institutional services from students or former students who have been notified, in writing, at the student's or former student's last known address, that he or she is in default on a loan or loans under any of the following loan programs:
(1) The Stafford Student Loan program.
(2) The Supplemental Loans for Students program.
(3) Any program directly or indirectly financed by the California Educational Facilities Authority.
"Default," as used in this section, with respect to a loan under the Stafford Student Loan program or Supplemental Loans for Students program means the failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances where the guarantee agency finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for 180 days for a loan repayable in monthly installments, or 240 days for a loan repayable in less frequent installments. "Default," as used in this section, with respect to a program directly or indirectly financed by the California Educational Facilities Authority, means the failure of a borrower to make an installment payment when due, or to meet other terms of the loan, within that period and under the circumstances determined by the California Educational Facilities Authority with respect to that program.
(b) The regulations adopted pursuant to subdivision (a) shall provide that the services withheld may be provided during a period when the facts are in dispute and when the student or former student demonstrates to either the governing board or other appropriate governing authority of the institution, or the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ and the appropriate entity or its designee, that reasonable progress has

been made to repay the loan or that there exists a reasonable justification for the delay as determined by the institution. The regulations shall specify the services to be withheld from the student and may include, but are not limited to, the following:

(1) The provision of grades.

(2) The provision of transcripts.

(3) The provision of diplomas. The adopted regulations shall not include the withholding of registration privileges.

(c) When it has been determined that an individual is in default on a loan or loans under either of the loan programs specified in subdivision (a), the Office of Higher Education and Financial Aid ~~Commission~~ shall give notice of the default to all institutions through which that individual acquired the loan or loans.

(d) Guarantors, or those who act as their agents or act under their control, who provide information to institutions pursuant to this section, shall defend, indemnify, and hold harmless the governing board or other governing authority of the institutions from action resulting from compliance with this section when the action arises as a result of incorrect, misleading, or untimely information provided to the institution by the guarantors, their agents, or those acting under the control of the guarantors.

94779.1. (a) The bureau shall work together with the staff of the Joint Committee on Boards, Commissions, and Consumer Protection, along with representatives of regulated institutions, the ~~California Postsecondary Education Commission~~Office of Higher Education and Financial Aid, ~~the California Student Aid Commission,~~ students, and other interested parties to revise this chapter to streamline its provisions and eliminate contradictions, redundancies, ambiguities, conflicting provisions, and unnecessary provisions, including consideration of having accreditation by the United States Department of Education approved regional accrediting bodies replace some of the bureau's approval requirements of degree-granting institutions, educational programs, and instructors. In addition, the bureau, in conjunction with these various entities, shall evaluate the provisions of this chapter to determine what additional changes are advisable to improve the effectiveness of the state's regulation of private postsecondary and vocational education, including, but not limited to, the need to regulate out-of-state postsecondary institutions that offer educational programs to California students via the Internet and the feasibility of that regulation, and the type and timeliness of information required to be provided to the bureau. (b) The bureau shall objectively assess the cost of meeting its statutory obligations, determine the staffing necessary to meet those obligations, determine whether the current fee structure allows for collection of revenue sufficient to support the necessary staffing, and report that information to the Director of Consumer Affairs and the Joint Committee on Boards, Commissions, and Consumer Protection by March 1, 2005. (c) The bureau shall continue to make additional improvements to its data collection and dissemination systems so that it will provide improved reporting of information regarding the private postsecondary and vocational education sector, and improved monitoring of reports, initial and renewal applications, complaint and enforcement records, and collection of fees among other information necessary to serve the bureau's wide-ranging data management needs effectively.

94804. (a) The review of a private postsecondary educational institution's original application for approval, or a renewal application to the council, or an approved institution already in operation, shall include a determination of the institution's financial responsibility. An institution shall be considered financially responsible if it has sufficient assets to do all of the following: (1) Provide the educational services stated in its official publications and statements. (2) Comply with the standards and requirements specified in Article 8 (commencing with Section 94900), Article 9 (commencing with Section 94915), or Article 9.5 (commencing with Section 94931), whichever is applicable. (3) Provide the administrative and financial resources to fully comply with this article. (4) Comply with any applicable provisions of Section 94855. (b) An institution shall not be considered financially responsible under any of the following conditions: (1) The institution fails to have available sufficient funds and accounts receivable to pay all operating expenses due within 30 days. For the purpose of this paragraph, "funds" means cash or assets that can be converted into cash within seven days. (2) Under generally accepted accounting principles, the institution had, at the end of its latest fiscal year, a ratio of current assets to current liabilities of less than 1.25 to 1. For the purpose of this paragraph, "current assets" does not include any of the following: (A) intangible assets, including goodwill, going concern value, organization expense, startup costs, long-term prepayment of deferred charges, and nonreturnable deposits, or (B) state or federal grant funds that are not the property of the institution but are held for future disbursement for the benefit of students. Unearned tuition shall be accounted for in accordance with generally accepted accounting principles. When another government agency requires an institution to file annual financial audit prepared by a certified public accountant, that agency's current ratio standard may apply in lieu of the ratio specified in this paragraph if the ratio of current assets to current liabilities under that standard is 1 to 1 or greater. (c) (1) In determining an institution's compliance with subdivision (a), the council, at the institution's request, may consider the financial resources of a parent corporation if the parent corporation files with the council, and at all times complies with, an irrevocable and unconditional agreement approved by its board of directors that satisfies all of the requirements of paragraph (2): (2) The agreement described in paragraph (1) shall provide that the parent corporation do all of the following: (A) Consent to be sued in California. (B) Consent to be subject to the administrative jurisdiction of the council and the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ in connection with the
institution's compliance with this chapter. (C) Appoint an agent for service of process in California and all notices required by this chapter. (D) Agree to pay any refund, claim, penalty, or judgment that the institution is obligated to pay. (E) File financial reports, maintain financial records, and permit the inspection and copying of financial records to the same extent as is required of the institution. (3) For the purposes of this subdivision, a "parent corporation" means a corporation that owns more than 80 percent of the stock of the institution whose financial resources are at issue. (d) If the council determines that an institution is not financially responsible, the council, under terms and conditions prescribed by the council, may require the institution to submit for its latest complete fiscal year and its current fiscal year, each of the following: (1) A financial audit of the institution conducted by a licensed certified public accountant, in accordance with generally accepted auditing standards. (2) The institution's financial plan for establishing financial responsibility. (3) Any other information requested by the council. This subdivision does not prevent the council from taking any other actions authorized under this chapter.

94855. (a) As a condition of maintaining its approval to operate, an institution offering any educational programs or educational services subject to this article shall meet the following financial resource requirements in addition to the financial requirements of Section 94804. (1) Satisfy minimum standards prescribed by Section 94900, 94905, or 94915, whichever is applicable. (2) Provide the education, training, skill, and experience that the institution, in any manner represented it would provide. (3) Pay timely refunds as required by Sections 94867, 94869, 94870, 94873, and 94877. (b) (1) In determining an institution's compliance with subdivision (a), the council, at the institution's request, may consider the financial resources of a parent corporation if the parent corporation files with the council, and at all times complies with, an irrevocable and unconditional agreement approved by its board of directors that satisfies all of the requirements of paragraph (2). (2) The agreement described in paragraph (1) shall provide that the parent corporation do all of the following: (A) Consent to be sued in California. (B) Consent to be subject to the administrative jurisdiction of the council and the Office of Higher Education and Financial Aid~~Student Aid Commission~~ in connection with the institution's compliance with this chapter. (C) Appoint an agent for service of process in California and all notices required by this chapter.
(D) Agree to pay any refund, claim, penalty, or judgment that the institution is obligated to pay. (E) File financial reports, maintain financial records, and permit the inspection and copying of financial records to the same extent as is required of the institution. (3) For the purposes of this subdivision, a "parent corporation" means a corporation that owns more than 80 percent of the stock of the institution whose financial resources are at issue. (c) If an institution does not comply with Section 94804, the council may do any or any combination of the following: (1) Require the institution to establish and implement a financial plan to ensure compliance with Section 94804. (2) Require the institution to post satisfactory security for the performance of its financial obligations pursuant to Section 94804. (3) Require the institution to furnish additional information such as an audit report of financial statements prepared by a California licensed certified public accountant who is not an employee, officer, or director of the institution. (4) Proceed pursuant to Section 94879. (d) In any action or proceeding involving an institution's failure to comply with Section 94804, there shall be a presumption affecting the burden of proof that the institution does not have sufficient financial resources if the institution fails to meet any of the standards set forth in Section 94804.

94874. (a) Every institution shall maintain for a period of not less than five years at its principal place of business in California accurate records that show all of the following: (1) The names, telephone numbers, and home and local addresses of each student. (2) The courses of instruction offered by the institution and the curriculum for each course. (3) The name, address, and educational qualifications of each member of its faculty. (4) The information required by subdivision (j) of Section 94854 and subdivision (b) of Section 94859. (5) All information and records required by this chapter or required by the council. (b) All records that an institution is required to maintain by this chapter or that relate to the institution's compliance with this chapter shall be made immediately available by the institution for inspection and copying during normal business hours by the council, the Attorney General, any district attorney or city attorney, and the Office of Higher Education and Financial Aid ~~Student Aid Commission~~. (c) An institution shall make available to a student, or a person designated by the student, all of the student's records, except for transcripts of grades as described in subdivision (d) and (e). (d) As provided in

Section 94948, an institution may withhold a student's transcript or grades if the student is in default on a student tuition contract. (e) If the student has made partial payment of his or her tuition
obligation, the institution may only withhold that portion of the grades or transcript that corresponds to the amount of tuition or loan obligation that the student has not paid. If the course of study consists of only one course, the institution may withhold the grades or the transcript until the tuition or loan obligation is paid in full. (f) Each institution shall be deemed to have authorized the accrediting agency that accredited the institution to provide to the council, the Attorney General, any district attorney or city attorney, or the Office of Higher Education and Financial Aid ~~Student Aid Commission~~, within 30 days of written notice, copies of all documents and other material concerning the institution that is maintained by the accrediting agency. (g) Within 30 days of receiving written notice from the council, the Attorney General, any district attorney or city attorney, or the Office of Higher Education and Financial Aid ~~Student Aid Commission~~, an accrediting agency shall provide the requesting official with all documents or other material concerning an institution accredited by that accrediting agency that are designated specifically or by category in the written notice. (h) If the council, the Attorney General, any district attorney or city attorney, or the Office of Higher Education and Financial Aid ~~Student Aid Commission~~ is conducting a confidential investigation of an institution and so informs the accrediting agency, the accrediting agency shall not inform that institution of the investigation. (i) If an accrediting agency willfully fails to comply with this section, the accrediting agency shall be liable for a civil penalty of not less than two thousand five hundred dollars ($2,500) or more than twenty-five thousand dollars ($25,000) for each violation. Penalties awarded pursuant to this section shall be deposited in the Private Postsecondary and Vocational Education Administration Fund or any successor fund.

94920. (a) Each individual submitting an application for a certificate of authorization for service, pursuant to paragraph (3) of subdivision (b) of Section 94915, shall provide the council with the following information: (1) A completed application as supplied by the council. (2) Certified copies of educational transcripts, where applicable. (3) Verified employment history. (4) Other documentation of prior experience or education as required by the council for verification. (b) To be eligible for a certificate of authorization for service, the applicant shall fulfill the following requirements: (1) Instructors shall have all of the following qualifications: (A) No record of any violations of this chapter. (B) Verification that he or she possesses a combination of at least three years' experience and training or education in the occupation or job title category for which the certification is sought. (C) An instructor for a program that leads to a degree shall possess a degree of equal or higher level in the occupation for which certification is sought. (2) Directors shall have both of the following qualifications: (A) Three years' experience in an administrative position in a public or an approved private postsecondary school. (B) No record of any violations of this chapter.
(3) Associate directors shall have both of the following qualifications: (A) Two years' experience in an administrative or other responsible position in a public or state approved private postsecondary school. (B) No record of any violations of this chapter. (4) Financial aid directors shall have all of the following qualifications: (A) Five years' experience in an administrative position in the financial aid office of a public or approved private postsecondary school. (B) Verification of completion within the previous two years of a training seminar or workshop

certified by the Office of Higher Education and Financial Aid~~Student Aid Commission~~ as providing up-to-date comprehensive information on financial aid programs and policies. (C) No record of any violations of this chapter. (D) Any other requirements the council deems necessary.
(5) Financial aid officers shall possess all of the following qualifications:
(A) Verification of completion within the previous two years of a training seminar or workshop certified by the Office of Higher Education and Financial Aid~~Student Aid Commission~~ as providing up-to-date comprehensive information on financial aid programs and policies. (B) No record of any violations of this chapter. (C) Other requirements the council deems necessary. (c) An individual who is the sole owner of an institution may serve in the capacity of director for three years prior to meeting the qualifications of subparagraph (A) of paragraph (2) of subdivision (b). (d) Any individual filling a position left vacant by a previously certified financial aid director or financial aid officer shall verify with the council completion of the training referred to in subparagraph (A) of paragraph (5) of subdivision (b) within one year of accepting that position. (e) Each individual certified for authorization for service in the positions listed in paragraphs (1), (4), and (5) of subdivision (b) shall maintain at each private postsecondary educational institution where he or she is employed a validated transcript evidencing the successful completion of three continuing education units of recognized in-service training in their education, job title category, or employment field during every period of certification. These units may be completed through in-service training offered by accrediting associations, professional organizations, or council-approved programs.
(f) Every certificate of authorization issued to a person who possesses the qualifications described in paragraphs (1), (4), and (5) of subdivision (b) shall be valid for a period of three years. (g) In addition to the requirements set forth in this section, the council may impose additional requirements by regulation.

94930. (a) All institutions that were certified to offer flight instruction by the Federal Aviation Administration (FAA) and that operated in California on December 31, 1990, pursuant to prior authority of subdivision (a) or (b) of former Section 94311, shall receive approval from the council for a period not to exceed three years. On or before June 30, 1999, the council shall work in cooperation with the FAA to review each of these institutions to determine whether the institution is in compliance with the requirements of this chapter. It is the intent of the Legislature that all institutions whose cumulative gross student loan default rate is above 40 percent, as determined by the Office of Higher Education and Financial Aid ~~Student Aid Commission~~, shall be reviewed by the FAA and the council to determine if these institutions are in compliance with the requirements of this chapter and should continue to be approved to offer educational programs in California. It is further the intent of the Legislature that the bureau develop a memorandum of understanding with the FAA to delineate the responsibilities of each agency for the approval and monitoring of these institutions that were operating on December 31, 1990, under the prior authority of subdivision (a) or (b) of former Section 94311. (b) Institutions certified to offer flight instruction by the FAA, or its successor agency, shall comply with all of the requirements of Sections 94800, 94810, 94814, and 94816, Sections 94820 to 94826, inclusive, and Sections 94828 and 94829 and Article 7 (commencing with Section 94850) if applicable, but shall not be required to file any materials with the council that are not required by the FAA or

its successor agency, except those minimally necessary to administer the Student Tuition Recovery Fund as determined by the council. The responsibility for monitoring and enforcing institutional compliance for these institutions shall be with the council. (c) This chapter does not apply to individual flight instructors not requiring any advance payments, who do not negotiate a formal contract of indebtedness, and who do not have an established place of business other than their residences.

94948. (a) The governing board or other governing authority of any private postsecondary or vocational educational institution shall adopt rules providing for the withholding of institutional services from students or former students who have been notified, in writing, at the student's or former student's last known address, that he or she is in default on a loan or loans under either of the following loan programs:

(1) The Stafford Student Loan program.

(2) The Supplemental Loans for Students program.

(3) Any program directly or indirectly financed by the California Educational Facilities Authority.

"Default," as used in this section, with respect to a loan under the Stafford Student Loan program or Supplemental Loans for Students program means the failure of a borrower to make an installment payment when due, or to meet other terms of the promissory note under circumstances where the guarantee agency finds it reasonable to conclude that the borrower no longer intends to honor the obligation to repay, provided that this failure persists for 180 days for a loan repayable in monthly installments, or 240 days for a loan repayable in less frequent installments. "Default," as used in this section, with respect to a program directly or indirectly financed by the California Educational Facilities Authority, means the failure of a borrower to make an installment payment when due, or to meet other terms of the loan, within that period and under the circumstances determined by the California Educational Facilities Authority with respect to that program.

(b) The rules adopted pursuant to subdivision (a) shall provide that the services withheld may be provided during a period when the facts are in dispute and when the student or former student demonstrates to either the governing board or other appropriate governing authority of the institution, or the Office of Higher Education and Financial Aid~~Student Aid Commission~~ and the appropriate entity or its designee, that reasonable progress has been made to repay the loan or that there exists a reasonable justification for the delay as determined by the institution. The rules shall specify the services to be withheld from the student and may include, but are not limited to, the following:

(1) The provision of grades.

(2) The provision of transcripts.

(3) The provision of diplomas.

The rules shall not include the withholding of registration

privileges.

(c) When it has been determined that an individual is in default on a loan or loans under either of the loan programs specified in subdivision (a), the Office of Higher Education and Financial Aid~~Student Aid Commission~~ shall give notice of the default to all institutions through which that individual acquired the loan or loans.

(d) Guarantors, or those who act as their agents or act under their control, who provide information to institutions pursuant to this section, shall defend, indemnify, and hold harmless the governing board or other governing authority of the institutions from action resulting from compliance with this section when the action arises as a result of incorrect, misleading, or untimely information provided to the institution by the guarantors, their agents, or those acting under the control of the guarantors.

Family Code

17400. (a) Each county shall maintain a local child support agency, as specified in Section 17304, that shall have the responsibility for promptly and effectively establishing, modifying, and enforcing child support obligations, including medical support, enforcing spousal support orders established by a court of competent jurisdiction, and determining paternity in the case of a child born out of wedlock. The local child support agency shall take appropriate action, including criminal action in cooperation with the district attorneys, to establish, modify, and enforce child support and, when appropriate, enforce spousal support orders when the child is receiving public assistance, including Medi-Cal, and, when requested, shall take the same actions on behalf of a child who is not receiving public assistance, including Medi-Cal.

(b) Notwithstanding Sections 25203 and 26529 of the Government Code, attorneys employed within the local child support agency may direct, control, and prosecute civil actions and proceedings in the name of the county in support of child support activities of the Department of Child Support Services and the local child support agency.

(c) Actions brought by the local child support agency to establish paternity or child support or to enforce child support obligations shall be completed within the time limits set forth by federal law. The local child support agency's responsibility applies to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction. In any action brought for modification or revocation of an order that is being

enforced under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.), the effective date of the modification or revocation shall be as prescribed by federal law (42 U.S.C. Sec. 666(a)(9)), or any subsequent date.

(d) (1) The Judicial Council, in consultation with the department and representatives of the California Family Support Council, the Senate Committee on Judiciary, the Assembly Committee on Judiciary, and a legal services organization providing representation on child support matters, shall develop simplified summons, complaint, and answer forms for any action for support brought pursuant to this section or Section 17404. The Judicial Council may combine the summons and complaint in a single form.

(2) The simplified complaint form shall provide notice of the amount of child support that is sought pursuant to the guidelines set forth in Article 2 (commencing with Section 4050) of Chapter 2 of Part 2 of Division 9 based upon the income or income history of the support obligor as known to the local child support agency. If the support obligor's income or income history is unknown to the local child support agency, the complaint shall inform the support obligor that income shall be presumed to be the amount of the minimum wage, at 40 hours per week, established by the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency pursuant to Section 1181.11 of the Labor Code unless information concerning the support obligor's income is provided to the court. The complaint form shall be accompanied by a proposed judgment. The complaint form shall include a notice to the support obligor that the proposed judgment will become effective if he or she fails to file an answer with the court within 30 days of service. Except as provided in paragraph (2) of subdivision (a) of Section 17402, if the proposed judgment is entered by the court, the support order in the proposed judgment shall be effective as of the first day of the month following the filing of the complaint.

(3) (A) The simplified answer form shall be written in simple English and shall permit a defendant to answer and raise defenses by checking applicable boxes. The answer form shall include instructions for completion of the form and instructions for proper filing of the answer.

(B) The answer form shall be accompanied by a blank income and expense declaration or simplified financial statement and instructions on how to complete the financial forms. The answer form shall direct the defendant to file the completed income and expense declaration or simplified financial statement with the answer, but shall state that the answer will be accepted by a court without the income and expense declaration or simplified financial statement.

(C) The clerk of the court shall accept and file answers, income and expense declarations, and simplified financial statements that are completed by hand provided they are legible.

(4) (A) The simplified complaint form prepared pursuant to this subdivision shall be used by the local child support agency or the Attorney General in all cases brought under this section or Section 17404.

(B) The simplified answer form prepared pursuant to this subdivision shall be served on all defendants with the simplified complaint. Failure to serve the simplified answer form on all defendants shall not invalidate any judgment obtained. However, failure to serve the answer form may be used as evidence in any proceeding under Section 17432 of this code or Section 473 of the Code of Civil Procedure.

(C) The Judicial Council shall add language to the governmental summons, for use by the local child support agency with the governmental complaint to establish parental relationship and child support, informing defendants that a blank answer form should have been received with the summons and additional copies may be obtained from either the local child support agency or the superior court clerk.

(e) In any action brought or enforcement proceedings instituted by the local child support agency pursuant to this section for payment of child or spousal support, an action to recover an arrearage in support payments may be maintained by the local child support agency at any time within the period otherwise specified for the enforcement of a support judgment, notwithstanding the fact that the child has attained the age of majority.

(f) The county shall undertake an outreach program to inform the public that the services described in subdivisions (a) to (c), inclusive, are available to persons not receiving public assistance. There shall be prominently displayed in every public area of every office of the agencies established by this section a notice, in clear and simple language prescribed by the Director of Child Support Services, that the services provided in subdivisions (a) to (c), inclusive, are provided to all individuals, whether or not they are recipients of public assistance.

(g) (1) In any action to establish a child support order brought by the local child support agency in the performance of duties under this section, the local child support agency may make a motion for an order effective during the pendency of that action, for the support, maintenance, and education of the child or children that are the subject of the action. This order shall be referred to as an order for temporary support. This order has the same force and effect as a like or similar order under this code.

(2) The local child support agency shall file a motion for an order for temporary support within the following time limits:

(A) If the defendant is the mother, a presumed father under Section 7611, or any father where the child is at least six months

old when the defendant files his or her answer, the time limit is 90 days after the defendant files an answer.

(B) In any other case where the defendant has filed an answer prior to the birth of the child or not more than six months after the birth of the child, then the time limit is nine months after the birth of the child.

(3) If more than one child is the subject of the action, the limitation on reimbursement shall apply only as to those children whose parental relationship and age would bar recovery were a separate action brought for support of that child or those children.

(4) If the local child support agency fails to file a motion for an order for temporary support within time limits specified in this section, the local child support agency shall be barred from obtaining a judgment of reimbursement for any support provided for that child during the period between the date the time limit expired and the motion was filed, or, if no motion is filed, when a final judgment is entered.

(5) Except as provided in Section 17304, nothing in this section prohibits the local child support agency from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the Department of Child Support Services.

(6) Nothing in this section otherwise limits the ability of the local child support agency from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

(h) As used in this article, "enforcing obligations" includes, but is not limited to, any of the following:

(1) The use of all interception and notification systems operated by the department for the purposes of aiding in the enforcement of support obligations.

(2) The obtaining by the local child support agency of an initial order for child support that may include medical support or that is for medical support only, by civil or criminal process.

(3) The initiation of a motion or order to show cause to increase an existing child support order, and the response to a motion or order to show cause brought by an obligor parent to decrease an existing child support order, or the initiation of a motion or order to show cause to obtain an order for medical support, and the response to a motion or order to show cause brought by an obligor parent to decrease or terminate an existing medical support order, without regard to whether the child is receiving public assistance.

(4) The response to a notice of motion or order to show cause brought by an obligor parent to decrease an existing spousal support

order when the child or children are residing with the obligee parent and the local child support agency is also enforcing a related child support obligation owed to the obligee parent by the same obligor.

(5) The transfer of child support delinquencies to the Franchise Tax Board under subdivision (c) of Section 17500 in support of the local child support agency.

(i) As used in this section, "out of wedlock" means that the biological parents of the child were not married to each other at the time of the child's conception.

(j) (1) The local child support agency is the public agency responsible for administering wage withholding for current support for the purposes of Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.).

(2) Nothing in this section limits the authority of the local child support agency granted by other sections of this code or otherwise granted by law, except to the extent that the law is inconsistent with the transfer of delinquent child support to the Franchise Tax Board.

(k) In the exercise of the authority granted under this article, the local child support agency may intervene, pursuant to subdivision (b) of Section 387 of the Code of Civil Procedure, by ex parte application, in any action under this code, or other proceeding in which child support is an issue or a reduction in spousal support is sought. By notice of motion, order to show cause, or responsive pleading served upon all parties to the action, the local child support agency may request any relief that is appropriate that the local child support agency is authorized to seek.

(l) The local child support agency shall comply with all regulations and directives established by the department that set time standards for responding to requests for assistance in locating noncustodial parents, establishing paternity, establishing child support awards, and collecting child support payments.

(m) As used in this article, medical support activities that the local child support agency is authorized to perform are limited to the following:

(1) The obtaining and enforcing of court orders for health insurance coverage.

(2) Any other medical support activity mandated by federal law or regulation.

(n) (1) Notwithstanding any other law, venue for an action or proceeding under this division shall be determined as follows:

(A) Venue shall be in the superior court in the county that is currently expending public assistance.

(B) If public assistance is not currently being expended, venue shall be in the superior court in the county where the child who is entitled to current support resides or is domiciled.

(C) If current support is no longer payable through, or enforceable by, the local child support agency, venue shall be in the superior court in the county that last provided public assistance for actions to enforce arrearages assigned pursuant to Section 11477 of the Welfare and Institutions Code.

(D) If subparagraphs (A), (B), and (C) do not apply, venue shall be in the superior court in the county of residence of the support obligee.

(E) If the support obligee does not reside in California, and subparagraphs (A), (B), (C), and (D) do not apply, venue shall be in the superior court of the county of residence of the obligor.

(2) Notwithstanding paragraph (1), if the child becomes a resident of another county after an action under this part has been filed, venue may remain in the county where the action was filed until the action is completed.

(o) The local child support agency of one county may appear on behalf of the local child support agency of any other county in an action or proceeding under this part.

Government Code

6276.48. Wards and dependent children, release of description information about minor escapees, Section 828, Welfare and Institutions Code.

Wards, petition for sealing records, Section 781, Welfare and Institutions Code.

Welfare, statewide automated system work plan, confidentiality of data on individuals, Section 10818, Welfare and Institutions Code.

Wills, confidentiality of, Section 6389, Probate Code.

Winegrowers of California commission, confidentiality of producers' or vintners' proprietary information, Sections 74655 and 74955, Food and Agricultural Code.

~~Workers' Compensation~~ Employment & Benefits Appeals Board, injury or illness report, confidentiality of, Section 6412, Labor Code.

Workers' compensation insurance, dividend payment to policyholder, confidentiality of information, Section 11739, Insurance Code.

Workers' compensation insurance fraud reporting, confidentiality of information, Sections 1877.3 and 1877.4, Insurance Code.

Workers' compensation insurer or rating organization, confidentiality of notice of noncompliance, Section 11754, Insurance Code.

Workers' compensation insurer, rating information, confidentiality of, Section 11752.7, Insurance Code.

Workers' compensation, notice to correct noncompliance, Section

11754, Insurance Code.

Workers' compensation, release of information to other governmental agencies, Section 11752.5, Insurance Code.

Workers' compensation, self-insured employers, confidentiality of financial information, Section 3742, Labor Code.

Workplace inspection photographs, confidentiality of, Section 6314, Labor Code.

Youth Authority, parole revocation proceedings, confidentiality of, Section 1767.6, Welfare and Institutions Code.

Youth Authority, release of information in possession of Youth Authority for offenses under Sections 676, 1764.1, and 1764.2, Welfare and Institutions Code.

Youth Authority, records, policies, and procedures, Section 1905, Welfare and Institutions Code.

Youth Authority, records, disclosure, Section 1764, Welfare and Institutions Code.

Youth Authority parolee, disclosure of personal information in revocation proceedings, Section 1767.6, Welfare and Institutions Code.

Youth service bureau, confidentiality of client records, Section 1905, Welfare and Institutions Code.

8920. (a) No Member of the Legislature, state elective or appointive officer, or judge or justice shall, while serving as such, have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed in the laws of this state.

(b) No Member of the Legislature shall do any of the following:

(1) Accept other employment which he has reason to believe will either impair his independence of judgment as to his official duties or require him, or induce him, to disclose confidential information acquired by him in the course of and by reason of his official duties.

(2) Willfully and knowingly disclose, for pecuniary gain, to any other person, confidential information acquired by him in the course of and by reason of his official duties or use any such information for the purpose of pecuniary gain.

(3) Accept or agree to accept, or be in partnership with any person who accepts or agrees to accept, any employment, fee, or other thing of monetary value, or portion thereof, in consideration of his appearing, agreeing to appear, or taking any other action on behalf of another person before any state board or agency.

This subdivision shall not be construed to prohibit a member who is an attorney at law from practicing in that capacity before any court or before the ~~Workers' Compensation~~Employment & Benefits Appeals Board and receiving

compensation therefor. This subdivision shall not act to prohibit a member from acting as an advocate without compensation or making inquiry for information on behalf of a constituent before a state board or agency, or from engaging in activities on behalf of another which require purely ministerial acts by the board or agency and which in no way require the board or agency to exercise any discretion, or from engaging in activities involving a board or agency which are strictly on his or her own behalf. The prohibition contained in this subdivision shall not apply to a partnership or firm of which the Member of the Legislature is a member if the Member of the Legislature does not share directly or indirectly in the fee, less any expenses attributable to that fee, resulting from the transaction. The prohibition contained in this subdivision as it read immediately prior to January 1, 1983, shall not apply in connection with any matter pending before any state board or agency on or before January 2, 1967, if the affected Member of the Legislature was an attorney of record or representative in the matter prior to January 2, 1967. The prohibition contained in this subdivision, as amended and operative on January 1, 1983, shall not apply to any activity of any Member in connection with a matter pending before any state board or agency on January 1, 1983, which was not prohibited by this section prior to that date, if the affected Member of the Legislature was an attorney of record or representative in the matter prior to January 1, 1983.

(4) Receive or agree to receive, directly or indirectly, any compensation, reward, or gift from any source except the State of California for any service, advice, assistance or other matter related to the legislative process, except fees for speeches or published works on legislative subjects and except, in connection therewith, reimbursement of expenses for actual expenditures for travel and reasonable subsistence for which no payment or reimbursement is made by the State of California.

(5) Participate, by voting or any other action, on the floor of either house, in committee, or elsewhere, in the passage or defeat of legislation in which he has a personal interest, except as follows:

(i) If, on the vote for final passage by the house of which he is a member, of the legislation in which he has a personal interest, he first files a statement (which shall be entered verbatim on the journal) stating in substance that he has a personal interest in the legislation to be voted on and, notwithstanding that interest, he is able to cast a fair and objective vote on that legislation, he may cast his vote without violating any provision of this article.

(ii) If the member believes that, because of his personal interest, he should abstain from participating in the vote on the legislation, he shall so advise the presiding officer prior to the commencement of the vote and shall be excused from voting on the

legislation without any entry on the journal of the fact of his personal interest. In the event a rule of the house requiring that each member who is present vote aye or nay is invoked, the presiding officer shall order the member excused from compliance and shall order entered on the journal a simple statement that the member was excused from voting on the legislation pursuant to law.

The provisions of this section do not apply to persons who are members of the state civil service as defined in Article VII of the California Constitution.

Commission on Asian and Pacific Islander American Affairs

~~8255. The Legislature finds and declares all of the following:~~

~~(a) The Asian and Pacific Islander American (APIA) community is the fastest growing community in the State of California. According to the last census, the state's APIA population is over 12 percent of the total state population. California also has the largest population of Pacific Islanders in the contiguous United States.~~

~~(b) In the 1990 census, the four largest APIA groups, Chinese, Filipino, Korean, and Japanese, made up 70 percent of the state's APIA population. In the 2000 census, these four groups now make up 66 percent of the new state's APIA population. New emerging APIA communities now make up the other half of the state's APIA population. They bring with them many challenges and assets relative to the changing face of California. Many of these groups are not immigrants, but refugees. Many are here because of failed foreign policy strategies. All are here and will for the most part not go back to their countries of origin.~~

~~(c) The APIA community comprises, and will continue to comprise, a significant population in the State of California, and have unique interests and concerns that must be addressed on a continuing basis in order for APIA communities to flourish in California. It is, therefore, appropriate and beneficial to create a state advisory commission.~~

~~8255.5. The following definitions govern this chapter:~~

~~(a) "Commission" means the Commission on Asian and Pacific Islander American Affairs.~~

~~(b) "APIA" means Asian and Pacific Islander American.~~

~~8256. (a) There is established in state government the Commission on Asian and Pacific Islander American Affairs, which shall be comprised of 13 members appointed in accordance with subdivision (b) and shall conduct its business in accordance with this chapter.~~

~~(b) (1) The members of the commission shall be individuals with knowledge or expertise of the APIA community, whether by experience or training, and who are representative of that community in the state, both geographically and demographically.~~

~~(2) Commission members shall be appointed as follows:~~

~~(A) Four members, appointed by the Senate Committee on Rules.~~

~~(B) Four members, appointed by the Speaker of the Assembly.~~

~~(C) Five members, appointed by the Governor. The Governor's appointees shall not be subject to confirmation by the Senate.~~

~~(3) The Senate Committee on Rules and the Speaker of the Assembly shall make one appointment each from a pool of three nominees selected for each of the respective positions by the Asian and Pacific Islander Legislative Caucus.~~

~~(4) Appointments shall be made during the 2003 calendar year. The terms of commission members shall commence on January 1, 2004.~~

~~(5) (A) Subject to subparagraph (B), commission members shall serve for terms of four years.~~

~~(B) Of the initial appointments by the Governor, four members shall serve four-year terms, and one member shall serve a two-year term. Of the initial appointments by the Senate Committee on Rules and the Speaker of the Assembly, two members appointed by each appointing power shall serve four-year terms, and two members appointed by each appointing power shall serve two-year terms.~~

~~(6) Any vacancy in the membership of the commission shall not affect the powers of the commission and shall be filled in the same manner as the original appointment.~~

~~(c) The chair of the commission shall be elected by a majority of the appointed members of the commission at the first official meeting of the commission, and shall serve a term of one year or until a successor is elected, whichever occurs later.~~

~~8256.5. (a) A majority of the appointed members of the commission shall constitute a quorum to conduct business, but the commission may establish a lesser quorum for conducting meetings scheduled by the commission. The commission may establish by majority vote any other rules for the conduct of the commission's business, if the rules are not inconsistent with this chapter or other provisions of law.~~

~~(b) After its first year, the commission shall establish both of the following:~~

~~(1) A schedule of meetings to be held four times a year.~~

~~(2) Designated meeting places at locations throughout the State of California.~~

~~(c) Members of the commission shall serve without compensation, but may be reimbursed for actual and necessary travel expenses.~~

~~8257. The commission shall do all of the following:~~

~~(a) Advise the Governor, the Legislature, and state agencies, departments, and commissions on issues relating to the social and economic development, and the rights and interests of APIA communities and on how to respond most effectively to the views, needs, and concerns of the state's APIA communities.~~

~~(b) Assist the state in maintaining effective liaison and outreach with APIA communities in California by, among other means, disseminating information about Asian American resources to the public and engaging in effective outreach with APIA communities in the state by communicating information to them concerning public and private programs that are beneficial to their interest.~~

~~(c) Examine issues of access and cultural and language sensitivity by state agencies, departments, and commissions and compile research about APIA communities relative to the use of state services, including the development and maintenance of data relative to this use.~~

~~(d) Provide assistance to policymakers and state agencies on identifying the needs or problems affecting APIA communities and in developing appropriate responses and programs.~~

~~(e) Educate the public about hate crimes against APIA communities and other key issue areas identified by the commission.~~

~~8258. By December 1 of each year, the commission shall submit an annual report to the Governor and the Legislature detailing activities undertaken by the commission in the preceding 12-month period. The report shall set forth the commission's proposed action plan for the following year and its recommendations on how to improve the delivery of state services to APIA communities.~~

~~8259. With respect to its duties under Section 8257, the commission shall be an advisory commission only, and there shall be no right or obligation on the part of the state, or the parties meeting and conferring, to implement the findings of the commission without further legislation that specifically authorizes that the evaluations, determinations, and findings of the commission be implemented.~~

~~8259.5. (a) The commission may apply for and accept grants and receive gifts, donations, and other financial support from public or private sources for purposes of this chapter, subject to the requirements of Sections 11005 and 11005.1 of the Government Code.~~
~~(b) The commission may also accept any other funds appropriated by the Legislature expressly for the purposes of this chapter.~~

Seismic Safety Commission

8870. The Legislature finds and declares as follows:
The work of the Legislature's Joint Committee on Seismic Safety as well as that of the Governor's Earthquake Council provides impressive and wide-ranging evidence for the following:
First, many different agencies at various levels of government have substantial responsibilities in the fields of earthquake preparedness and seismic safety.
Second, there is a pressing need to provide a consistent policy framework and a means for coordinating on a continuing basis the earthquake-related programs of agencies at all governmental levels and their relationships with elements of the private sector involved in practices important to seismic safety. This need is not being addressed by any continuing state government organization.
Third, through concerted efforts of broad scope, coordinated by a ~~Seismic Safety Commission~~ the Department of General Services, long-term progress should be made toward higher levels of seismic safety.
Fourth, it is not the purpose of this chapter to transfer to the commission the authorities and responsibilities now vested by law in state and local agencies.

8870.1. ~~There is created in the state government a Seismic Safety Commission which~~ The Department of General Services shall report annually to the Governor and to the

Legislature on its findings, progress, and recommendations relating to earthquake hazard reduction. Any reference to the Seismic Safety Commission or "commission" shall refer to the Department of General Services.

8870.2. ~~(a) The commission shall consist of 15 members appointed by the Governor and confirmed by the Senate, one member appointed by the Senate Rules Committee, and one member appointed by the Speaker of the Assembly. The Seismic Safety Commission shall elect annually from its membership its own chairperson and vice-chairperson and may replace them with other commissioners by majority vote. Commission members shall be residents of California.~~

~~(b) A quorum shall consist of nine members if there are no vacancies, or else a majority of the members of the commission at the time.~~

~~(c) The Legislature declares that the individuals appointed to the commission are intended to represent the professions of architecture, planning, fire protection, public utilities, electrical engineering, mechanical engineering, structural engineering, soils engineering, geology, seismology, local government, insurance, social services, emergency services, and the Legislature and that such representation serves the public interest. Accordingly, the Legislature finds that for purposes of persons who hold this office the specified professions are tantamount to and constitute the public generally within the meaning of Section 87103.~~

8870.25. ~~The initial Seismic Safety Commission membership shall consist of seven members appointed by the Governor from a list of not more than 16 nominees submitted to the Governor by the Chairman of the Joint Committee on Seismic Safety, seven members appointed by the Governor from a list of nominees submitted to the Governor by the Governor's Earthquake Council, an initial chairperson appointed by the Governor from a nominee mutually agreed upon by the Chairman of the Joint Committee on Seismic Safety and the Chairman of the Governor's Earthquake Council, and one Member of the Senate appointed by the Senate Rules Committee and one Member of the Assembly appointed by the Speaker of the Assembly.~~

8870.3. ~~(a) After the initial appointments, the membership of the Seismic Safety Commission shall be appointed by the Governor and confirmed by the Senate from lists of nominees submitted by organizations as listed below:~~

~~(1) Four members appointed from established organizations in the fields of architecture and planning, fire protection, public utilities, and electrical engineering and mechanical engineering.~~

~~(2) Four members appointed from established organizations in the fields of structural engineering, soils engineering, geology, and seismology.~~

~~(3) Four members appointed from nominees submitted by the League of California Cities and the California State Association of Counties. One of these members shall be a building official.~~

~~(4) Three members appointed from established organizations in the fields of insurance, social service, and emergency services.~~

~~(b) One member shall be appointed from the Senate by the Senate Rules Committee, and one member shall be appointed from the Assembly by the Speaker of the Assembly. Each of the members appointed pursuant to this subdivision may designate an alternate who shall be counted toward a quorum, who may vote, and who may receive the expenses specified in Section 8870.4.~~

8870.35. ~~The term of office for each member of the Seismic Safety Commission shall be four years and each shall hold office until the appointment and qualification of his or her successor, except that of the initial commissioners, the Governor shall appoint seven members whose terms will expire two years after appointment and seven members plus the chairperson whose terms shall expire four years after appointment. All initial appointments shall be made by July 1, 1975. Any vacancies shall be immediately filled by the appointing power for the unexpired portion of the term in which they occur.~~

8870.4. ~~The members of the Seismic Safety Commission shall serve without compensation but shall be paid per diem expenses of fifty dollars ($50) for each day's attendance at a meeting of the commission, plus actual necessary travel expenses as determined by Department of Personnel Administration rules.~~

8870.5. The Department of General Services, as the successor entity to the Seismic Safety Commission, ~~commission,~~ in the discharge of its responsibilities under this chapter, may do any of the following:

(a) Accept grants, contributions, and appropriations from public agencies, private foundations, or individuals.

(b) Appoint committees ~~from its membership~~, and appoint advisory

committees from interested public and private groups, ~~and appoint ex officio members who shall not be entitled to vote~~, to advise the ~~commission~~ department.

(c) Contract for or employ, with the approval of the Director of Finance, any professional services and research required by the ~~commission~~ department or required for the performance of necessary work and services under this chapter which, in the ~~commission's~~ department's opinion, cannot satisfactorily be performed by its officers and employees or by other federal, state, or local governmental agencies.

(d) Enter into agreements to act cooperatively with private nonprofit scientific, educational, or professional associations or foundations engaged in promoting seismic safety in California, including activities under the California Earthquake Education Act of 1984 (Chapter 11 (commencing with Section 2805) of Division 2 of the Public Resources Code). These associations or foundations may furnish materials for sale, and the ~~commission~~ department may provide personnel services and office space therefor. Subject to rules and regulations adopted by the ~~commission~~ department, all moneys received from the sale of publications or other materials provided by an association or foundation shall be returned to the association or foundation for use in furthering seismic safety programs.

(e) Do any and all other things necessary to carry out the purposes of this chapter.

8870.55. The ~~commission~~ Department of General Services shall initiate, with the assistance and participation of other state, federal, and local government agencies, a comprehensive program to prepare the state for responding to a major earthquake prediction. The program should be implemented in order to result in specific tools or products to be used by governments in responding to an earthquake prediction, such as educational materials for citizens. This program may be implemented on a prototypical basis in one area of the state affected by earthquake predictions, provided that it is useful for application in other areas of the state upon its completion.

8870.6. The ~~commission~~ Director of the Department of General Services shall appoint ~~an executive director~~ subordinate officer who shall be responsible for managing the affairs of the ~~commission~~ department under this chapter, subject to the direction and policies of the ~~commission~~ Director of the Department of General Services.

The ~~executive director~~ Director of the Department of General Services shall appoint such employees as may be necessary to carry out the functions of the ~~commission~~ Department of General Services under this chapter.

8870.7. The ~~commission~~ Department of General Services is responsible for all of the following in connection with earthquake hazard mitigation:

(a) Setting goals and priorities in the public and private sectors.

(b) Requesting appropriate state agencies to devise criteria to promote earthquake and disaster safety.

~~(c) Scheduling a report on disaster mitigation issues from the Office of Emergency Services, on the commission agenda as required. For the purposes of this subdivision, the term disaster refers to all natural hazards which could have impact on public safety.~~

(c) ~~(d)~~ Recommending program changes to state agencies, local agencies, and the private sector where such changes would improve earthquake hazards and reduction.

(d) ~~(e)~~ Reviewing the recovery and reconstruction efforts after damaging earthquakes.

(e) ~~(f)~~ Gathering, analyzing, and disseminating information.

(f) ~~(g)~~ Encouraging research.

(g) ~~(h)~~ Sponsoring training to help improve the competence of specialized enforcement and other technical personnel.

(h) ~~(i)~~ Helping to coordinate the earthquake safety activities of government at all levels.

(i) ~~(j)~~ Establishing and maintaining necessary working relationships with any boards, commissions, departments, and agencies, or other public or private organizations.

8870.71. To implement the foregoing responsibilities, the ~~commission~~ Department of General Services may do any of the following:

(a) Review state budgets and review grant proposals, other than those grant proposals submitted by institutions of postsecondary education to the federal government, for earthquake related activities and to advise the Governor and Legislature thereon.

(b) Review legislative proposals, related to earthquake safety to advise the Governor and Legislature concerning the proposals, and to propose needed legislation.

(c) Recommend the addition, deletion, or changing of state agency standards when, in the ~~commission's~~ department’s view, the existing situation creates undue hazards or when new developments would promote earthquake hazard mitigation, and conduct public hearings as deemed necessary on the subjects.

(d) In the conduct of any hearing, investigation, inquiry, or study which is ordered or undertaken in any part of the state,

administer oaths and issue subpoenas for the attendance of witnesses and the production of papers, records, reports, books, maps, accounts, documents, and testimony.

(e) (1) Conduct a specific comprehensive investigation of the May 2, 1983, earthquake which devastated the City of Coalinga, focusing on commercial redevelopment, housing, land use planning, financing, codes and standards, and to provide funding and expert technical assistance to the people of Coalinga for planning and reconstruction.

(2) Prepare and publish, with the assistance and participation of other state, federal, and local government agencies and other knowledgeable investigators from the private sector, a comprehensive report on the Coalinga earthquake to include, but not be limited to, lessons learned for earthquake preparation and mitigation in California, an assessment of the earthquake's impact upon state and local seismic safety policies and programs, and to make recommendations to the Governor and the Legislature concerning the areas mentioned in this subdivision.

(f) In addition, the ~~commission~~ Department of General Services may perform any of the functions contained in subdivisions (a) to (e), inclusive, in relation to other disasters, as defined in subdivision (c) of Section 8870.7, in connection with issues or items reported or discussed with the Office of Emergency Services ~~at any commission meeting~~.

8870.75. ~~In addition to the responsibilities listed in Section 8870.7, the Seismic Safety Commission shall undertake a study to determine the feasibility of (i) establishing a comprehensive program of earthquake hazard reduction having as its purposes the saving of lives and mitigating damage to property and (ii) developing and implementing a system for predicting damaging earthquakes in California.~~

~~The study shall accomplish the following tasks:~~

~~(a) Earthquake hazard reduction.~~

~~The study shall develop a comprehensive program for the reduction of earthquake hazards in California. It shall include, but not necessarily be limited to, the following:~~

~~(1) A review of and recommendations for improving the development and implementation of technically and economically feasible codes, standards, and procedures for the design and construction of new structures and the strengthening of existing structures so as to increase the earthquake resistance of structures located in areas of significant seismic hazard.~~

~~(2) A review of current methods and recommendations for new methods to improve the development, publication, and promotion, in~~

~~conjunction with local officials, research organizations, and professional organizations, of model codes and other means to provide better information about seismic hazards to guide land use policy decisions and building activity.~~

~~(3) A review of and recommendations for methods, practices, and procedures to educate the public, including local officials, about the nature and consequences of earthquakes, about procedures for identifying those locations and structures especially susceptible to earthquake damage, and about ways to reduce and mitigate the adverse effects of an earthquake.~~

~~(4) A review of and recommendations for programs and techniques to improve preparedness for and response to damaging earthquakes with special attention being given to hazard control measures, preearthquake emergency planning, readiness of emergency services, and planning for postearthquake reconstruction and redevelopment.~~

~~(b) Earthquake prediction.~~

~~The study shall analyze the current methodologies, systems, and processes for predicting earthquakes and assess them for their effectiveness, reliability, and accuracy as they relate to California.~~

~~The study also shall examine the feasibility of implementing earthquake prediction systems in all areas of significantly high or moderate seismic risk and for identifying, evaluating, and accurately characterizing the associated hazards. In analyzing potential prediction systems, the study shall include requirements for necessary technical, scientific, and volunteer personnel; and technology, procedures, and other resources necessary to operate such a system. Special attention should be given to a critical review of existing and possible future technology, data collection and management systems, the availability of expert trained personnel, the dissemination of warnings, the scope and methods for organizing and maintaining a volunteer program for the purpose of making prediction observations, and the social and economic consequences of earthquake predictions. Wherever appropriate and reasonable, the study shall also recommend how a state earthquake prediction system can be best integrated with those of federal agencies and other institutions and organizations.~~

~~(c) Implementation processes.~~

~~With respect to implementation of earthquake hazard reduction and earthquake prediction, the study shall include the following:~~

~~(1) Recommendations for new roles, responsibilities, and programs for state and local agencies, universities, private organizations, and volunteer organizations, including goals, priorities, and expenditures of future state funds specifically identified for the recommended earthquake prediction and hazards reduction program.~~

~~(2) Recommendations for methods and procedures to disseminate and~~

~~implement basic and applied earthquake research in order to achieve higher levels of seismic safety.~~

~~(d) Coordination with other agencies.~~

~~To the extent it is practical to do so, the study required by this section shall be coordinated with the relevant local, regional, and federal government agencies, key elements of the private sector, and at least the following state agencies: Office of Emergency Services, Division of Mines and Geology, Office of the State Architect, Department of Housing and Community Development, Department of Water Resources, State Energy Resources Conservation and Development Commission, Department of Real Estate, Department of Industrial Relations, Public Utilities Commission, State Department of Health Services, Office of the State Fire Marshal, Department of Transportation, Department of Finance, Military Department, Department of Insurance, Franchise Tax Board, Department of Savings and Loan, Department of Education, Banking Department, and Office of Planning and Research.~~

~~(e) The study shall include recommendations for statutory changes and specific executive actions to be taken by state and local agencies necessary to establish and implement an earthquake hazards reduction program and an earthquake prediction system for the State of California.~~

~~The commission shall submit the study to the Legislature by June 30, 1980, or earlier at its discretion.~~

8870.95. The Building Safety Board established in Section 129925 of the Health and Safety Code shall report annually to the ~~Seismic Safety Commission~~ Department of General Services.

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

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

(b) ~~"Commission" means the Seismic Safety Commission.~~ Any reference to the Seismic Safety Commission or “commission” shall refer to the Department of General Services.

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

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

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

(f) "Project" means a program of work to retrofit, reconstruct, repair, replace, or relocate, for local government-owned facilities

only, a building, facility, or both, which is owned by any city, county, city and county, or special district and which is included in an application for a grant of funds.

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

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

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

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

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

11041. (a) Sections 11042 and 11043 do not apply to the Regents of the University of California, the Trustees of the California State University, Legal Division of the Department of Transportation, Division of Labor Standards Enforcement of the Department of Industrial Relations, ~~Workers' Compensation~~Employment & Benefits Appeals Board, Public Utilities Commission, State Compensation Insurance Fund, Legislative Counsel Bureau, Inheritance Tax Department, Secretary of State, State Lands Commission, Alcoholic Beverage Control Appeals Board (except when the board affirms the decision of the Department of Alcoholic Beverage Control), State Department of Education, and Treasurer with respect to bonds, nor to any other state agency which, by law enacted after Chapter 213 of the Statutes of 1933, is authorized to employ legal counsel.

(b) The Trustees of the California State University shall pay the cost of employing legal counsel from their existing resources.

11041. (a) Sections 11042 and 11043 do not apply to the Regents of the University of California, the Trustees of the California State University, Legal Division of the Department of Transportation, Division of Labor Standards Enforcement of the Department of

Industrial Relations, ~~Workers' Compensation~~Employment & Benefits Appeals Board, Public Utilities Commission, State Compensation Insurance Fund, Legislative Counsel Bureau, Inheritance Tax Department, Secretary of State, State Lands Commission, Alcoholic Beverage Control Appeals Board (except when the board affirms the decision of the Department of Alcoholic Beverage Control), State Department of Education, and Treasurer with respect to bonds, nor to any other state agency which, by law enacted after Chapter 213 of the Statutes of 1933, is authorized to employ legal counsel.

(b) The Trustees of the California State University shall pay the cost of employing legal counsel from their existing resources.

11012. Whenever any state agency, including, but not limited to, state agencies acting in a fiduciary capacity, is authorized to invest funds, or to sell or exchange securities, prior approval of the Department of Finance to the investment, sale, or exchange shall be secured.

Every state agency shall furnish the Department of Finance with the reports and in the form, relating to the funds or securities, their acquisition, sale, or exchange, as may be requested by the Department of Finance from time to time.

This section does not apply to the following state agencies:

(a) Any state agency if issuing or dealing in securities authorized to be issued by it.

(b) The State Treasurer.

(c) The Regents of the University of California.

(d) Employment Development Department.

(e) Department of Veterans Affairs.

(f) Hastings College of Law.

(g) Board of Administration of the Public Employees' Retirement System.

(h) State Compensation Insurance Fund.

(i) California Transportation Commission and Department of Transportation if acting in accordance with bond resolutions adopted under the California Toll Bridge Authority Act (Chapter 1 (commencing with Section 30000) of Division 17 of the Streets and Highways Code) prior to September 15, 1945.

(j) Teachers' Retirement Board of the State Teachers' Retirement System.

(k) ~~State Athletic Commission~~ State and Consumer Services Agency if acting pursuant to Section 18882 of the Business and Professions Code with respect to the Boxers' Pension Fund.

Integrated Waste Management Board

11126 (a)(1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.
(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.
(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.
(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.
(b) For the purposes of this section, "employee" does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.
(c) Nothing in this article shall be construed to do any of the following:
(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.
(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.
(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.
(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.
(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.
(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7)(A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.
(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.
(C) For purposes of this paragraph, the negotiator may be a member of the state body.
(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.
(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).
(8) Prevent the ~~California Postsecondary Education Commission~~Office of Higher Education and Financial Aid from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the ~~California Postsecondary Education Commission~~Office of Higher Education and Financial Aid.
(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.
(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.
(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of the Revenue and Taxation Code.
(12) Prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.
(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.
(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of, or pursuant to Chapter 8 (commencing with Section 60850) of, Part 33 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.
(15) Reserved. ~~Prevent the California Integrated Waste Management Board or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.~~
(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a

closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.
(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing of Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.
(18)(A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.
(B) Notwithstanding any other provision of law, a state body, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.
(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.
(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.
(d)(1) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.
(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.
(e)(1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.
(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:
(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B)(i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.
(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).
(C)(i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.
(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.
(iii) For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.
(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.
(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:
(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.
(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.
(3) Prevent an administrative committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.
(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.
(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.
(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:
(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.
(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.
(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.
(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.
(g) This article does not prevent either of the following:
(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.
(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.
(h) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2006, deletes or extends that date.

*** Section 11126 needs to appear twice in the Reorg Plan because once chapters out on January 1, 2006. This is 2 of 2. ***
11126 (a)(1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.
(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.
(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.
(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.
(b) For the purposes of this section, "employee" does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State

University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.
(c) Nothing in this article shall be construed to do any of the following:
(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.
(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.
(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.
(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.
(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.
(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.
(7)(A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.
(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.
(C) For purposes of this paragraph, the negotiator may be a member of the state body.
(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.
(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).
(8) Prevent the ~~California Postsecondary Education Commission~~Office of Higher Education and Financial Aid from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the Office of Higher Education and Financial Aid.
(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.
(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of the Revenue and Taxation Code.
(12) Prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.
(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.
(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of, or pursuant to Chapter 8 (commencing with Section 60850) of, Part 33 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.
(15) Reserved. ~~Prevent the California Integrated Waste Management Board or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.~~
(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.
(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing of Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.
(d)(1) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.
(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.
(e)(1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal

counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.
(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:
(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.
(B)(i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.
(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).
(C)(i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.
(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.
(iii) For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.
(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.
(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:
(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.
(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.
(3) Prevent an administrative committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a

closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.
(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.
(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.
(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.
(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:
(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.
(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.
(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.
(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.
(g) This article does not prevent either of the following:
(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.
(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.
(h) This section shall become operative on January 1, 2006.

11351. (a) Except as provided in subdivision (b), Article 5 (commencing with Section 11346), Article 6 (commencing with Section 11349), Article 7 (commencing with Section 11349.7), and Article 8 (commencing with Section 11350) shall not apply to the Public Utilities Commission or the ~~Workers' Compensation~~Employment & Benefits Appeals Board, and Article 3 (commencing with Section 11343) and Article 4 (commencing with Section 11344) shall apply only to the rules of procedure of these state agencies.
(b) The Public Utilities Commission and the ~~Workers' Compensation~~Employment & Benefits Appeals Board shall comply with paragraph (5) of subdivision (a) of

Section 11346.4 with respect to regulations that are required to be filed with the Secretary of State pursuant to Section 11343.

(c) Article 8 (commencing with Section 11350) shall not apply to the Division of Workers' Compensation.

11435.15. (a) The following state agencies shall provide language assistance in adjudicative proceedings to the extent provided in this article:

Agricultural Labor Relations Board
Department of Alcohol and Drug Abuse
State Athletic Commission
~~California Unemployment Insurance~~Employment & Benefits Appeals Board
Board of Prison Terms
State Board of Barbering and Cosmetology
State Department of Developmental Services
Public Employment Relations Board
Franchise Tax Board
State Department of Health Services
Department of Housing and Community Development
Department of Industrial Relations
State Department of Mental Health
Department of Motor Vehicles
Notary Public Section, Office of the Secretary of State
Public Utilities Commission
Office of Statewide Health Planning and Development
State Department of Social Services
~~Workers' Compensation~~Employment & Benefits Appeals Board
Department of the Youth Authority
Youthful Offender Parole Board
Department of Insurance
State Personnel Board
California Board of Podiatric Medicine
Board of Psychology

(b) Nothing in this section prevents an agency other than an agency listed in subdivision (a) from electing to adopt any of the procedures in this article, provided that any selection of an interpreter is subject to Section 11435.30.

(c) Nothing in this section prohibits an agency from providing an interpreter during a proceeding to which this chapter does not apply, including an informal factfinding or informal investigatory hearing.

(d) This article applies to an agency listed in subdivision (a) notwithstanding a general provision that this chapter does not apply to some or all of an agency's adjudicative proceedings.

11435.25. (a) The cost of providing an interpreter under this

article shall be paid by the agency having jurisdiction over the matter if the presiding officer so directs, otherwise by the party at whose request the interpreter is provided.

(b) The presiding officer's decision to direct payment shall be based upon an equitable consideration of all the circumstances in each case, such as the ability of the party in need of the interpreter to pay.

(c) Notwithstanding any other provision of this section, in a hearing before the ~~Workers' Compensation~~Employment & Benefits Appeals Board or the Division of Workers' Compensation relating to workers' compensation claims, the payment of the costs of providing an interpreter shall be governed by the rules and regulations promulgated by the ~~Workers' Compensation~~Employment & Benefits Appeals Boardor the Administrative Director of the Division of Workers' Compensation, as appropriate.

11553. Effective January 1, 1988, an annual salary of eighty-one thousand six hundred thirty-five dollars ($81,635) shall be paid to each of the following:

(a) Chairperson of the ~~Unemployment Insurance~~Employment & Benefits Appeals Board.

(b) Chairperson of the Agricultural Labor Relations Board.

(c) President of the Public Utilities Commission.

(d) Chairperson of the Fair Political Practices Commission.

(e) Chairperson of the Energy Resources Conservation and Development Commission.

(f) Chairperson of the Public Employment Relations Board.

(g) Chairperson of the ~~Workers' Compensation~~Employment & Benefits Appeals Board.

(h) Administrative Director of the Division of Industrial Accidents.

(i) Chairperson of the State Water Resources Control Board.

(j) Chairperson and each member of the California Integrated Waste Management Board.

The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

11553.5. Effective January 1, 1988, an annual salary of seventy-nine thousand one hundred twenty-two dollars ($79,122) shall be paid to the following:

(a) Member of the Agricultural Labor Relations Board.

(b) Member of the State Energy Resources Conservation and Development Commission.

(c) Member of the Public Utilities Commission.

(d) Member of the Public Employment Relations Board.

(e) Member of the ~~Unemployment Insurance~~Employment & Benefits Appeals Board.
(f) Member of the ~~Workers' Compensation~~Employment & Benefits Appeals Board.
(g) Member of the State Water Resources Control Board.

The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

11555. Effective January 1, 1988, an annual salary of seventy-one thousand five hundred eighty-seven dollars ($71,587) shall be paid to the following:

(a) Chairperson of the Board of Prison Terms.
(b) Chairperson of the Youthful Offender Parole Board.
~~(c) Chairperson of the Occupational Safety and Health Appeals Board.~~

The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

11556. Effective January 1, 1988, an annual salary of sixty-nine thousand seventy-six dollars ($69,076) shall be paid to each of the following:

(a) Member of the Board of Prison Terms.
(b) Member of the Youthful Offender Parole Board.
~~(c) Member of the Occupational Safety and Health Appeals Board.~~
(~~d~~c) Director of Boating and Waterways.

The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

12805.10. The Governor shall appoint, upon the nomination of the Secretary of the Resources Agency, such officers as are deemed necessary to manage and direct the functions of the Resources Agency.

12812. The California Environmental Protection Agency consists of the State Air Resources Board, the Office of Environmental Health Hazard Assessment, ~~the California Integrated Waste Management Board,~~ the State Water Resources Control Board, and each California regional

water quality control board, and the following departments: Pesticide Regulation and Toxic Substances Control.

12813. The Labor and Workforce Development Agency consists of the following:
(a) Office of the Secretary of Labor and Workforce Development.
(b) Agricultural Labor Relations Board.
(c) California Workforce Investment Board.
(d) Department of Industrial Relations, including the California Apprenticeship Council, ~~California Occupational Safety and Health Appeals Board,~~ California Occupational Safety and Health Standards Board, ~~Commission on Health and Safety and Workers' Compensation, Industrial Welfare Commission,~~ State Compensation Insurance Fund, and ~~Workers' Compensation Appeals Board~~.
(e) Employment Development Department, including the ~~California Unemployment Insurance Appeals Board, and the~~ Employment Training Panel.
(f) Employment and Benefits Appeals Board.

14502. The commission consists of 11 members appointed as follows:

(a) Nine members shall be appointed by the Governor with the advice and consent of the Senate. A member appointed pursuant to this subdivision shall not simultaneously hold an elected public office, or serve on any local or regional public board or commission with business before the commission.
(b) One Member of the Senate appointed by the Senate Committee on Rules and one Member of the Assembly appointed by the Speaker of the Assembly shall be ex officio members without vote and shall participate in the activities of the commission to the extent that such participation is not incompatible with their positions as Members of the Legislature.
~~(c) Notwithstanding any other provision of law, a voting member of the commission may serve on the High-Speed Rail Authority as established in Division 19.5 (commencing with Section 165000) of the Public Utilities Code.~~

Building Standards Commission

18920. ~~There is continued in existence in the State and Consumer Services Agency a California Building Standards Commission consisting~~

~~of the Secretary of State and Consumer Services Agency, and 10 members appointed by the Governor subject to confirmation by the Senate.~~ Any reference to the California Building Standards Commission shall refer to the Department of General Services.

18921. ~~(a) The appointed members of the commission shall be selected from, and represent the public, design professions, the building and construction industry, local government building officials, fire and safety officials, and labor in accordance with the following:~~

~~(b) Four members shall be appointed from among the professions and industries concerned with building construction as follows:~~

~~(1) An architect.~~

~~(2) A mechanical or electrical engineer or fire protection engineer.~~

~~(3) A structural engineer.~~

~~(4) A licensed contractor.~~

~~(c) Three members shall be appointed from among the general public at least one of whom shall be a physically handicapped person.~~

~~(d) One member shall be appointed from organized labor in the building trades.~~

~~(e) One member shall be appointed who is a local building official.~~

~~(f) One member shall be appointed who is a local fire official.~~

~~(g) At least one member of the commission shall be experienced and knowledgeable in barrier free architecture and aware of, and sensitive to, the requirements necessary to ensure public buildings are accessible to, and usable by, the physically handicapped.~~

~~(h) At least one member of the commission shall be experienced and knowledgeable in building energy efficiency standards.~~

~~As used in this section, "physically handicapped" means persons who have permanent mobility impairments which affect ambulation due to cerebral palsy, poliomyelitis, spinal cord injury, amputation, and other conditions or diseases which reduce mobility or require the use of crutches, canes, or wheelchairs.~~

18922. ~~The Secretary of the State and Consumer Services Agency or the secretary's representative shall serve as the chair of the commission. The commission shall elect a vice chair annually from among its members.~~

18923. ~~(a) The term of office of members of the commission shall be four years and they shall hold office until the appointment and qualification of their successors, not to exceed 180 days after the term is expired.~~

~~(b) The terms of members of the commission shall be staggered based on the following cycle:~~

~~(1) The terms of two members shall expire on January 1, 1981.~~

~~(2) The terms of three members shall expire on January 1, 1982.~~

~~(3) The terms of two members shall expire on January 1, 1983.~~

~~(4) The terms of three members shall expire on January 1, 1984.~~

~~(c) Prior members of the commission may be reappointed.~~

~~(d) In the event of a vacancy prior to the expiration of a term, an appointment shall be made to fill the balance of the unexpired term.~~

18924. ~~The members of the commission shall serve without compensation. Members of the commission who are not state officers shall be paid their actual necessary travel expenses.~~

18925. The ~~commission~~ Director of the Department of General Services shall appoint ~~an Executive Director~~ a subordinate officer ~~of the California Building Standards Commission~~, who shall hold office at the pleasure of the ~~commission~~ director. The ~~executive director~~ subordinate officer shall make public the processes of the ~~commission~~ department under this part. The ~~executive director~~ subordinate officer shall appoint, in accordance with civil service and other provisions of law, officers and employees necessary to carry out the intent and purposes of this part.

19878. As used in this article:

(a) "Employee" means any of the following:

(1) A permanent or probationary full-time state officer or employee, regardless of period of service, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on and after October 1, 1976. Commencing January 1, 1979, it also means a full-time state officer or employee, whether or not a member of such systems, who is an employee of the Legislature and is not a member of the civil service.

(2) A permanent or probationary part-time or intermittent state officer or employee, with at least the equivalent of six monthly compensated pay periods of service in the 18 months of pay periods immediately preceding the pay period in which the disability begins, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System, in compensated employment on or after January 1, 1979, or a part-time or intermittent employee of the Legislature, whether or not a member of the Public Employees'

Retirement System, in compensated employment on or after January 1, 1984.

(b) "Full pay" means the gross base salary earnable by the employee, and subject to retirement contribution on the date of the commencement of his or her disability.

(c) "Disability" or "disabled" includes mental or physical illness and mental or physical injury, including any illness or injury resulting from pregnancy, childbirth, or related medical condition. An employee is deemed disabled on any day in which, because of his or her physical, mental, or medical condition, he or she is unable to perform his or her regular or customary work.

(d) "Disability benefit period", with respect to any individual, means the continuous period of disability beginning with the first day with respect to which the individual files a valid claim for nonindustrial disability benefits. For the purposes of this article, two consecutive periods of disability due to the same or related cause or condition and separated by a period of not more than 14 days shall be considered as one disability benefit period.

(e) "Appeals board" means the California ~~Unemployment Insurance~~Employment & Benefits Appeals Board.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

20130. The board may enter into an agreement with the State Compensation Insurance Fund under which the latter shall represent this system, as its agent, or the Attorney General under which the latter shall represent this system, in proceedings instituted or to be instituted before the ~~Workers' Compensation~~Employment & Benefits Appeals Board as may be referred to it by the board to determine whether the death or disability of a member is industrial. The agreed cost of this service and the expenses incidental thereto shall be paid from the retirement fund, except that there shall be no charge to this system by the Attorney General in cases involving members of this system who are employees of the General Fund state agencies.

21164. Notwithstanding any other provision of this article, the retirement for disability of a local safety member, other than a school safety member, shall not be effective without the member's consent earlier than the date upon which leave of absence without loss of salary under Section 4850 of the Labor Code because of the disability terminates, or the earlier date during the leave as of

which the disability is permanent and stationary as found by the ~~Workers' Compensation~~Employment & Benefits Appeals Board.

21166. If a member is entitled to a different disability retirement allowance according to whether the disability is industrial or nonindustrial and the member claims that the disability as found by the board, or in the case of a local safety member by the governing body of his or her employer, is industrial and the claim is disputed by the board, or in case of a local safety member by the governing body, the ~~Workers' Compensation~~Employment & Benefits Appeals Board, using the same procedure as in workers' compensation hearings, shall determine whether the disability is industrial.

The jurisdiction of the ~~Workers' Compensation~~Employment & Benefits Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the ~~Workers' Compensation~~Employment & Benefits Appeals Board to award costs against this system pursuant to Section 4600, 5811, or any other provision of the Labor Code.

21167. At any time within 20 days after the service of any findings of fact by the ~~Workers' Compensation~~Employment & Benefits Appeals Board under this part, any party aggrieved thereby, or the board, may petition for a rehearing upon one or more of the following grounds, and no other:

(a) That the ~~Workers' Compensation~~Employment & Benefits Appeals Board acted without or in excess of its powers.

(b) That the findings of fact were procured by fraud.

(c) That the evidence does not justify the findings of fact.

(d) That the petitioner has discovered new evidence material to him or her, that he or she could not, with reasonable diligence, have discovered and produced at the hearing.

21168. Within 30 days after the petition for rehearing is denied, or, if the petition is granted, within 30 days after the rendition of amended findings of fact on rehearing, any person affected thereby, including this system, may apply to the Supreme Court or to the court of appeal of the appellate district in which he or she resides, for a writ of review, for the purpose of inquiring into and determining the lawfulness of the findings of the ~~Workers' Compensation~~Employment & Benefits Appeals Board.

21169. The writ of review shall be made returnable not later than 30 days after the date of issuance thereof, and shall direct the ~~Workers' Compensation~~Employment & Benefits Appeals Board to certify its record in the case to the court. On the return day the cause shall be heard in the court unless continued for good cause. No new or additional evidence

shall be introduced in the court, but the cause shall be heard on the record of the appeals board, as certified to by it.

21170. The review by the court shall not be extended further than to determine whether the ~~Workers' Compensation~~Employment & Benefits Appeals Board acted without or in excess of its powers, or unreasonably, or whether its act was procured by fraud.

21171. The ~~Workers' Compensation~~Employment & Benefits Appeals Board shall have continuing jurisdiction over its determinations made under Section 21166 and may at any time within five years of the date of injury, upon notice and after an opportunity to be heard is given to the parties in interest, rescind, alter, or amend the determination, good cause appearing therefor.

21174. If it is not claimed that the disability is industrial or if the claim is made and the member so requests, the board shall proceed with retirement and with the payment of the benefits as are payable when disability is not industrial. If the ~~Workers' Compensation~~Employment & Benefits Appeals Board subsequently determines that disability is industrial, an amount equal to the benefits paid shall be deducted from the benefits payable under this system because of the determination. No additional benefits shall be payable, however, because disability is determined to be industrial unless the application for that determination is filed with the ~~Workers' Compensation~~Employment & Benefits Appeals Board or in the office of this system in Sacramento, for transmission to the ~~Workers' Compensation~~Employment & Benefits Appeals Board within two years after the effective date of the member's retirement.

21430. Upon retirement of a local safety member for industrial disability, the member shall receive in lieu of the allowance otherwise provided by this article a disability retirement allowance in the amount of the percentage of final compensation equal to the percentage of permanent disability determined by the ~~Workers' Compensation~~Employment & Benefits Appeals Board for the purposes of permanent disability payments pursuant to Article 3 (commencing with Section 4650) of Chapter 2 of Part 2 of the Labor Code with respect solely to the injury resulting in the disability retirement and giving effect to Section 4750 of the Labor Code, but not less than 50 percent nor in excess of 90 percent of the member's final compensation.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to the provisions of this section by amendment to its contract made in the manner prescribed for approval of contracts, or in the case of contracts made after June 14, 1975, by

express provision in such contract making the contracting agency subject to the provisions of this section.

This section shall only apply to members who retire for disability on and after the date the agency elects to be subject to this section.

21537. (a) The special death benefit is payable if the deceased was a patrol, state peace officer/firefighter, state safety, state industrial, or local safety member, if his or her death was industrial and if there is a survivor who qualifies under subdivision (b) of Section 21541. The ~~Workers' Compensation~~Employment & Benefits Appeals Board, using the same procedures as in workers' compensation hearings, shall in disputed cases determine whether the death of a member was industrial.

(b) The jurisdiction of the ~~Workers' Compensation~~Employment & Benefits Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the ~~Workers' Compensation~~Employment & Benefits Appeals Board to award costs against this system pursuant to Section 4600, 5811, or any other provision of the Labor Code.

(c) This section does not apply to state safety members described in Section 20401.5 or local safety members described in Section 20423.6.

21537.5. (a) The special death benefit is payable if the deceased was a state miscellaneous member in State Bargaining Unit 12 employed by the Department of Transportation, if his or her death occurred as a result of injury arising out of and in the course of his or her official duties with the department, and if there is a survivor who qualifies under subdivision (b) of Section 21541. The ~~Workers' Compensation~~Employment & Benefits Appeals Board, using the same procedures as in workers' compensation hearings, shall in disputed cases determine whether the death of the member occurred as a result of that injury.

(b) The jurisdiction of the ~~Workers' Compensation~~Employment & Benefits Appeals Board shall be limited solely to the issue of industrial causation, and this section may not be construed to authorize the ~~Workers' Compensation~~Employment & Benefits Appeals Board to award costs against this system pursuant to Section 4600, 5811, or any other provision of the Labor Code.

(c) This section shall not become operative unless and until a memorandum of understanding has been agreed to by the state employer and the recognized employee organization making this section applicable to those members described in subdivision (a).

21538. The special death benefit is also payable if the deceased was a state member appointed by the Governor, the Director of

Corrections, or the Board of Prison Terms, if his or her death occurred as a result of injury or disease arising out of and in the course of his or her official duties within a state prison or facility of the Department of Corrections, and if there is a survivor who qualifies under subdivision (b) of Section 21541. The ~~Workers' Compensation~~Employment & Benefits Appeals Board, using the same procedure as in workers' compensation hearings, shall in disputed cases determine whether the death of the member occurred as a result of the injury or disease.

The jurisdiction of the ~~Workers' Compensation~~Employment & Benefits Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the ~~Workers' Compensation~~Employment & Benefits Appeals Board to award costs against this system pursuant to Section 4600 or 5811 or any other provision of the Labor Code.

21540. The special death benefit is also payable if the deceased was the Secretary of the Youth and Adult Corrections Agency, or was a state member appointed by the Secretary of the Youth and Adult Corrections Agency, the Department of the Youth Authority, the Superintendent of the California Institution for Women, or the Women's Board of Terms and Paroles, the Board of Corrections, or was a member of the Board of Corrections or the Department of the Youth Authority not already classified as a prison member, provided that his or her death occurred as a result of misconduct of an inmate of a state prison, correctional school, or facility of the Department of Corrections or the Department of the Youth Authority, or a parolee therefrom.

The special death benefit provided by this section is not payable unless the death of the member arose out of and was in the course of his or her official duties and unless there is a survivor who qualifies under subdivision (b) of Section 21541. The ~~Workers' Compensation~~Employment & Benefits Appeals Board, using the same procedure as in workers' compensation hearings, shall, in disputed cases, determine whether the member's death arose out of and in the course of his or her official duties.

A natural parent of surviving children eligible to receive an allowance payable under this section shall not be required to become the guardian of surviving unmarried children under 18 years of age in order to be paid the benefits prescribed for those children.

The jurisdiction of the ~~Workers' Compensation~~Employment & Benefits Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the ~~Workers' Compensation~~Employment & Benefits Appeals Board to award costs against this system pursuant to Section 4600 or 5811 or any other provision of the Labor Code.

21540.5. (a) The special death benefit is also payable if the deceased was a state, school, or local miscellaneous member or a

local safety member described in Section 20423.6 if the death of the member was a direct consequence of a violent act perpetrated on his or her person that arose out of and was in the course of his or her official duties and there is a survivor who qualifies under subdivision (b) of Section 21541. The ~~Workers' Compensation~~Employment & Benefits Appeals Board, using the same procedure as in workers' compensation hearings, shall, in disputed cases determine whether the member's death was a direct consequence of a violent act perpetrated on his or her person that arose out of and in the course of his or her official duties.

(b) A natural parent of surviving children eligible to receive an allowance payable under this section is not required to become the guardian of surviving unmarried children under 18 years of age in order to be paid the benefits prescribed for those children.

(c) The jurisdiction of the ~~Workers' Compensation~~Employment & Benefits Appeals Board shall be limited solely to the issue of industrial causation, and this section may not be construed to authorize the ~~Workers' Compensation~~Employment & Benefits Appeals Board to award costs against this system pursuant to Section 4600 or 5811 or any other provision of the Labor Code.

(d) This section does not apply to a contracting agency nor its employees unless and until the agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts, or in the case of a new contract, by express provision of the contract.

21544. Upon notice of a death as a result of which the special death benefit may be payable, and when there is a survivor who would qualify under subdivision (b) of Section 21541, the board, or in disputed cases, the ~~Workers' Compensation~~Employment & Benefits Appeals Board, shall determine whether the death was industrial, and pending final determination of the issue, the board shall temporarily pay special death benefits. The temporary payments shall be deducted from any other death benefits otherwise payable if the death is determined not to be industrial.

22820. (a) Upon the death, on or after January 1, 2002, of a firefighter employed by a county, city, city and county, district, or other political subdivision of the state, a firefighter employed by the Department of Forestry and Fire Protection, or a peace officer as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.38, 830.39, 830.4, 830.5, 830.55, or 830.6 of the Penal Code, if the death occurred as a result of injury or disease arising out of and in the course of his or her official duties, the surviving spouse or other eligible family member of the deceased firefighter or peace officer, if uninsured, is deemed to be an annuitant under Section 22760 for purposes of

enrollment. All eligible family members of the deceased firefighter or peace officer who are uninsured may enroll in a health benefit plan of the surviving spouse's choice. However, an unmarried child of the surviving spouse is not eligible to enroll in a health benefit plan under this section if the child was not a family member under Section 22775 and regulations pertinent thereto prior to the firefighter's or peace officer's date of death. The employer of the deceased firefighter or peace officer shall notify the board within 10 days of the death of the employee if a spouse or family member may be eligible for enrollment in a health benefit plan under this section.

(b) Upon notification, the board shall promptly determine eligibility and shall forward to the eligible spouse or family member the materials necessary for enrollment. In the event of a dispute regarding whether a firefighter's or peace officer's death occurred as a result of injury or disease arising out of and in the course of his or her official duties as required under subdivision (a), that dispute shall be determined by the ~~Workers' Compensation~~Employment & Benefits Appeals Board, subject to the same procedures and standards applicable to hearings relating to claims for workers' compensation benefits. The jurisdiction of the ~~Workers' Compensation~~Employment & Benefits Appeals Board under this section is limited to the sole issue of industrial causation and this section does not authorize the ~~Workers' Compensation~~Employment & Benefits Appeals Board to award costs against the system.

(c) (1) Notwithstanding any other provision of law, but except as otherwise provided in subdivision (d), the state shall pay the employer contribution required for enrollment under this part for the uninsured surviving spouse of a deceased firefighter or peace officer for life, and the other uninsured eligible family members of a deceased firefighter or peace officer, provided the family member meets the eligibility requirements of Section 22775 and regulations pertinent thereto.

(2) The contribution payable by the state for each uninsured surviving spouse and other uninsured eligible family members shall be adjusted annually and be equal to the amount specified in Section 22871.

(3) The state's contribution under this section shall commence on the effective date of enrollment of the uninsured surviving spouse or other uninsured eligible family members. The contribution of each surviving spouse and eligible family member shall be the total cost per month of the benefit coverage afforded him or her under the plan less the portion contributed by the state pursuant to this section.

(d) The cancellation of coverage by an annuitant, as defined in this section, shall be final without option to reenroll, unless coverage is canceled because of enrollment in an insurance plan from another source.

(e) For purposes of this section, "surviving spouse" means a husband or wife who was married to the deceased firefighter or peace officer on the deceased's date of death and either for a continuous period of at least one year prior to the date of death or prior to the date the deceased firefighter or peace officer sustained the injury or disease resulting in death.

(f) For purposes of this section, "uninsured" means that the surviving spouse is not enrolled in an employer-sponsored health plan under which the employer contribution covers 100 percent of the cost of health care premiums.

(g) The board has no duty to identify, locate, or notify any surviving spouse or eligible family member who may be or may become eligible for benefits under this section.

87406. (a) This section shall be known, and may be cited, as the Milton Marks Postgovernment Employment Restrictions Act of 1990.

(b) No Member of the Legislature, for a period of one year after leaving office, shall, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the Legislature, any committee or subcommittee thereof, any present Member of the Legislature, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action.

(c) No elected state officer, other than a Member of the Legislature, for a period of one year after leaving office, shall, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or any officer or employee thereof, if the appearance or communication is for the purpose of influencing administrative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this subdivision, an appearance before a "state administrative agency" does not include an appearance in a court of law, before an administrative law judge, or before the ~~Workers' Compensation~~Employment & Benefits Appeals Board.

(d) (1) No designated employee of a state administrative agency, any officer, employee, or consultant of a state administrative agency who holds a position which entails the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest, and no member of a state administrative agency, for a period of one year after leaving office or employment, shall, for compensation, act as agent or attorney for, or otherwise represent, any other person, by making any formal or informal

appearance, or by making any oral or written communication, before any state administrative agency, or officer or employee thereof, for which he or she worked or represented during the 12 months before leaving office or employment, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this paragraph, an appearance before a state administrative agency does not include an appearance in a court of law, before an administrative law judge, or before the ~~Workers' Compensation~~Employment & Benefits Appeals Board. The prohibition of this paragraph shall only apply to designated employees employed by a state administrative agency on or after January 7, 1991.

(2) For purposes of paragraph (1), a state administrative agency of a designated employee of the Governor's office includes any state administrative agency subject to the direction and control of the Governor.

(e) The prohibitions contained in subdivisions (b), (c), and (d) shall not apply to any individual subject to this section who is or becomes any of the following:

(1) An officer or employee of another state agency, board, or commission if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the state agency, board, or commission.

(2) An official holding an elective office of a local government agency if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the local government agency.

(f) This section shall become operative on January 1, 1991, but only if Senate Constitutional Amendment No. 32 of the 1989-90 Regular Session is approved by the voters. With respect to Members of the Legislature whose current term of office on January 1, 1991, began in December 1988, this section shall not apply until January 1, 1993.

911 Advisory Panel

53115.1. ~~(a) There is in state government the State 911 Advisory Board.~~ Any reference to the State 911 Advisory Board shall refer to the Department of General Services.

~~(b) The advisory board shall be comprised of the following members appointed by the Governor who shall serve at the pleasure of the Governor.~~

~~(1) The Chief of the California 911 Emergency Communications Office shall serve as the nonvoting chair of the board.~~

~~(2) One representative from the Department of the California~~

~~Highway Patrol.~~

~~(3) Two representatives on the recommendation of the California Police Chiefs Association.~~

~~(4) Two representatives on the recommendation of the California State Sheriffs' Association.~~

~~(5) Two representatives on the recommendation of the California Fire Chiefs Association.~~

~~(6) Two representatives on the recommendation of the CalNENA Executive Board.~~

~~(7) One representative on the joint recommendation of the executive boards of the state chapters of the Association of Public-Safety Communications Officials-International, Inc.~~

~~(c) Recommending authorities shall give great weight and consideration to the knowledge, training, and expertise of the appointee with respect to their experience within the California 911 system. Board members should have at least two years of experience as a Public Safety Answering Point (PSAP) manager or county coordinator, except where a specific person is designated as a member.~~

~~(d) Members of the advisory board shall serve at the pleasure of the Governor, but may not serve more than two consecutive two-year terms, except as follows:~~

~~(1) The presiding Chief of the California 911 Emergency Communications Office shall serve for the duration of his or her tenure.~~

~~(2) Four of the members shall serve an initial term of three years.~~

~~(e) Advisory board members shall not receive compensation for their service on the board, but may be reimbursed for travel and per diem for time spent in attending meetings of the board.~~

~~(f) The advisory board shall meet quarterly in public sessions in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 2 of Part 1 of Division 3 of Title 2). The Telecommunications Division shall provide administrative support to the State 911 Advisory Board. The State 911 Advisory Board, at its first meeting, shall adopt bylaws and operating procedures consistent with this article and establish committees as necessary.~~

53115.2. (a) The ~~State 911 Advisory Board shall advise the Telecommunications Division of the~~ Director of the Department of General Services may consult with any or all prior members of the State 911 Advisory Board on ~~all of~~ the following subjects:

(1) Policies, practices, and procedures for the California 911 Emergency Communications Office.

(2) Technical and operational standards for the California 911 system consistent with the National Emergency Number Association

(NENA) standards.

(3) Training standards for county coordinators and Public Safety Answering Point (PSAP) managers.

(4) Budget, funding, and reimbursement decisions related to the State Emergency Number Account.

(5) Proposed projects and studies conducted or funded by the State Emergency Number Account.

(6) Expediting the rollout of Enhanced 911 Phase II technology.

~~(b) Upon request of a local public agency, the board shall conduct a hearing on any conflict between a local public agency and the Telecommunications Division regarding a final plan that has not been approved by the Telecommunications Division pursuant to Section 53114. The board shall meet within 30 days following the request, and shall make a recommendation to resolve the conflict to the Telecommunications Division within 90 days following the initial hearing by the board pursuant to the request~~.

Governor's Small Business Reform Task Force

65054 **.** 5 .- ~~(a) There is hereby created a Governor's Small Business Reform Task Force. The task force shall be chaired by the Director of the Office of Small Business Advocate and shall include representatives appointed by the Governor from the California Small Business Association, other small business associations, and agency secretaries or their designees from state agencies heavily involved in small business regulation.~~

~~(b) The task force shall identify problems and ideas from the small business community concerning the regulation, communication, and assistance of state government with small business. The task force shall create a website to solicit public input, as well as, conduct at least four public hearings around the state to seek advice and recommendations.~~

~~(c) The task force shall conduct a study to consider the problems encountered by small businesses working with different levels of government , different offices in state and local government , and multiple jurisdictions, especially in the context of applying for and obtaining required permits and licenses. The study may include participation by the California League of Cities, county boards of supervisors, and small business representatives.~~

~~(d) The task force shall prepare and submit a report on or before May 1, 2002, to the Governor and the budget committee of each house of the Legislature with a discussion of its findings and recommendations.~~ <u>The Governor's Small Business Reform Task Force is abolished.</u>

Harbors and Navigation Code

80. (a) Any reference to the ~~The~~ Harbors and Watercraft Commission and its successors , the Navigation and Ocean Development Commission, and ~~are, continued in existence in the Department of Boating and Waterways as~~ the Boating and Waterways Commission shall refer to the Department of Boating and Waterways, which succeeds to and is vested with ~~but with only~~ the powers and duties imposed upon it by this chapter.
(b) As used in this chapter, "commission" means the Department of Boating and Waterways.

~~80.2. The commission shall be composed of seven members appointed by the Governor, with the advice and consent of the Senate. The members shall have experience and background consistent with the functions of the commission. In making appointments to the commission, the Governor shall give primary consideration to geographical location of the residence of members as related to boating activities and harbors. In addition to geographical considerations, the members of the commission shall be appointed with regard to their special interests in recreational boating. At least one of the members shall be a member of a recognized statewide organization representing recreational boaters. One member of the commission shall be a private small craft harbor owner and operator. One member of the commission shall be an officer or employee of a law enforcement agency responsible for enforcing boating laws. The first vacancy occurring on the commission on and after January 1, 1997, shall be filled by such an officer or employee. The Governor shall appoint the first seven members of the commission for the following terms to expire on January 15: one member for one year, two members for two years, two members for three years, and two members for four years. Thereafter, appointments shall be for a four-year term. Vacancies occurring prior to the expiration of the term shall be filled by appointment for the unexpired term.~~

~~80.6. Members of the commission may receive a salary for their services in an amount of one hundred dollars ($100) for each day, up to a maximum of 14 days per year. A member of the commission may also be reimbursed for the actual and necessary expenses which are incurred in the performance of the member's duties.~~

~~80.8. The members of the commission may be removed from office by the Governor for inefficiency, neglect of duty, misuse of office, or misfeasance in office, in the manner provided by law for the removal of other public officers for like causes.~~

~~81. The commission shall, immediately after the effective date of this section, organize and elect from its members a chairman and a vice chairman who shall serve for one year or until their successors are elected and qualified. Annually thereafter the commission shall elect a chairman and a vice chairman.~~

~~81.8. The director shall act as the secretary of the commission.~~

~~82.4. All meetings of the commission shall be open and public and all persons shall be permitted to attend any meetings of the commission.~~

Board of Pilot Commrs. for the Bays of San Fran., San Pablo, & Suisun

BOARD OF PILOT COMMISSIONERS

1111.5. "Director" means the Director of the Department of Consumer Affairs.

~~1150. (a) There is in the state government a Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, consisting of seven members appointed by the Governor, with the consent of the Senate, as follows:~~

~~(1) Two members shall be pilots licensed pursuant to this division.~~

~~(2) Two members shall represent the industry and shall be persons currently engaged as owners, officers, directors, employees, or representatives of a firm or association of firms that is a substantial user of pilotage service in Monterey Bay and the Bay of San Francisco, San Pablo, or Suisun, one of whom shall be engaged in the field of tanker company operations, and one of whom shall be engaged in dry cargo operations. The board of directors of a regional maritime trade association controlled by West Coast vessel operators that specifically represents the owners and operators of vessels or barges engaged in transportation by water of cargo or passengers from or to the Pacific area of the United States shall nominate, rank, and submit to the Governor the names of three persons for each category of industry member to be appointed.~~

~~(3) Three members shall be public members. Any person may serve as a public member unless otherwise prohibited by law, except that during his or her term of office or within the two years preceding his or her appointment, no public member appointed on or after January 1, 1991, may have (A) any financial or proprietary interest in the ownership, operation, or management of tugs, cargo, or passenger vessels, (B) sailed under the authority of a federal or state pilot license in waters under the jurisdiction of the board, (C) been employed by a company that is a substantial user of pilot services, or (D) been a consultant or other person providing professional services who had received more than 20 percent in the aggregate of his or her income from a company that is a substantial user of pilot services or an association of companies that are substantial users of pilot services. Ownership of less than one-tenth of 1 percent of the stock of a publicly traded corporation is not a financial or proprietary interest in the ownership of tugs,~~

cargo, or passenger vessels.

(4) Notwithstanding any other provision of law, nothing in this chapter prohibits the Governor from notifying the nominating authority identified in paragraph (2) that persons nominated are unacceptable for appointment. Following that notification, the nominating authority shall submit a new list of nominees to the Governor, naming three persons, none of whom were previously nominated, from which the Governor may make the appointment. This process shall be continued until a person nominated by the nominating authority and satisfactory to the Governor has been appointed.

(b) Each of the members appointed pursuant to paragraphs (1) and (2) of subdivision (a) shall be appointed for a four-year term, and may not be appointed for more than two terms. Members appointed pursuant to paragraph (3) of subdivision (a) shall be appointed with staggered four-year terms with the initial four-year terms expiring on December 31 of the years 1988, 1990, and 1991, respectively, and no person may be appointed for more than two terms. Vacancies on the board for both expired and unexpired terms shall be filled by the appointing power in the manner prescribed by subdivision (a).

(c) A quorum of the board members consists of four members. All actions of the board shall require the vote of four members, a quorum being present.

1151. Each member of the board shall be a citizen of the United States and a resident of California. Each member appointed pursuant to paragraphs (1) and (3) of subdivision (a) of Section 1150 shall be a resident of one of the following counties: San Francisco, Alameda, Contra Costa, Marin, Mendocino, Monterey, Sacramento, San Mateo, Santa Clara, Santa Cruz, Solano, San Joaquin, Napa, Sonoma, or Yolo. The member shall hold office during the pleasure of the power appointing the member, not to exceed four years from the date of the member's commission.

1152. The public members of the board shall receive, as compensation for their services, the amount which the board may, from time to time, determine, which shall not exceed six hundred dollars ($600) each per month. The members, officers, and employees of the board shall also be allowed their necessary and verified expenses resulting from the performance of their duties.

1153. The board shall organize itself by electing a president, and shall provide offices in the City of San Francisco, in which it shall meet once a month and it may adjourn its regular meetings from time to time.

Meetings of the board are subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part

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

~~1154. The board shall make and enforce rules and regulations for the regulation of pilots pursuant to this division.~~

~~1155. The president of the board may administer oaths in regard to any matter properly before it and he may issue subpoenas for witnesses in like cases. A witness disobeying such subpoena served on him shall incur a penalty of one hundred dollars ($100), for which judgment may be recovered by the president in a civil action. The provisions of this section shall not apply to proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.~~

~~1156. The board may appoint, fix the compensation of, and from time to time adjust the compensation of, an executive director who is exempt from the civil service laws, an administrative assistant/secretary, and other employees as may be necessary.~~

~~1156.5. The executive director shall serve at the pleasure of the board and shall be under the direct supervision of the board. The term of office to which the executive director is appointed is five years. The first person appointed to the position of executive director shall be initially appointed by a vote of at least four members of the board. Following the initial appointment, the executive director and subsequent executive directors may be appointed, reappointed, or removed from office only by a vote of at least four members of the board, including at least one industry member, one pilot member, and one public member. The board may delegate to the executive director any of the following functions:~~
~~(a) The administration of personnel employed by the board, in accordance with the civil service laws.~~
~~(b) To serve as treasurer of the board and keep, maintain, and provide the board with all statements of accounts, records of receipts, and disbursements of the board in accordance with law.~~
~~(c) The issuance and countersigning of licenses, which shall also be signed by the president of the board.~~
~~(d) The administration of matters and the maintenance of files pertaining to actions taken against licenses issued by the board.~~
~~(e) The investigation of and reporting on a navigational incident or other matter for which a license issued by the board may be revoked or suspended.~~
~~(f) To work with the pilot evaluation committee to recommend to the board improvements in the pilot training program.~~
~~(g) Under the direction of the board, to coordinate with other state and federal agencies charged with protecting the environment~~

~~and with the oil and hazardous chemical shipping industry.~~
~~(h) Any other function, task, or duty as may reasonably be assigned by the president of the board, including, but not limited to, performing research and obtaining documents and other evidence for board activities, including rate hearings.~~

1150 The Department of Consumer Affairs hereby succeeds to, and is vested with, all the duties, responsibilities, and functions of the Board of Pilot Commissioners which shall no longer exist. For purposes of this article, the Board of Pilot Commissioners shall be known as predecessor entity.

1151. Any reference to the Board of Pilot Commissioners shall refer to the Department of Consumer Affairs.

1152. All regulations of the predecessor entity in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed. Any action by or against the predecessor entity shall not abate but shall continue in the name of the Department of Consumer Affairs.

1153. No contract, lease, license, bond, or any other agreement to which the predecessor entity is a party shall be void or voidable by reason of this act, but shall continue in full force and effect.

1154. The unexpended balance of all funds available for use by the predecessor entity in carrying out any functions transferred to the Department of Consumer Affairs shall be made available for the use by the Department of Consumer Affairs. All books, documents, records, and property of the predecessor entity shall be transferred to the Department of Consumer Affairs.

1155. Any officer or employee of the predecessor entity who is performing a function transferred to the Department of Consumer Affairs and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Department of Consumer Affairs pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the predecessor entity shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Department of Consumer Affairs, as the case may be, pursuant to the State Civil Service Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

1156.6. (a) Whenever suspected safety standard violations concerning pilot hoists, pilot ladders, or the proper rigging of pilot hoists or pilot ladders are reported to the board, the ~~executive director~~ Director shall assign ~~a commission~~ an investigator to personally inspect the equipment for its compliance with the relevant safety standards promulgated by the United States Coast Guard and the International Maritime Organization. The ~~commission~~ investigator shall report preliminary conclusions, including an assessment of the equipment's compliance with the

relevant safety standards, to the executive director as soon as possible. If the equipment is found to be in violation of the relevant safety standards, the ~~executive director~~ Director shall immediately alert the Coast Guard Marine Safety Office. The ~~commission~~ investigator shall submit a written report to the incident review committee as established by subdivision (a) of Section 1180.3. The incident review committee, in turn, shall report its findings to the ~~executive director~~ Director. The ~~executive director~~ Director shall receive the incident review committee's findings which may include other reports, information, or statements from interested parties. The ~~board~~ Director shall specify, by regulation, the information which shall be contained in the report.

(b) This section applies to the pilotage grounds, as defined in Section 1114.5. Whenever a vessel passes outside of the pilotage grounds, the ~~commission~~ investigator's report shall include that fact along with a description of the incident.

(c) The record of the investigation and the ~~board's~~ Director's findings and recommendations, if any, shall be a public record maintained by the board for 10 years.

~~1157. The administrative assistant/secretary shall work under the direct supervision of the executive director and shall keep a written record of all the board's proceedings and acts, and shall keep a register of all pilots appointed, their residence and the date of each license. In addition, he or she shall perform such additional clerical, administrative, and other duties as may reasonably be required by the executive director.~~

~~1158. The public members, the executive director, and the administrative assistant/secretary of the board shall not have any interest in any pilot vessel or tug, or in the earnings thereof, except for the compensation provided in this chapter.~~

~~1158.1. The executive director shall not, during the term of his or her office, serve as a member of the board, nor as a pilot or inland pilot, nor be otherwise concurrently employed in the maritime industry.~~

1159. (a) All moneys received by the ~~board~~ Department of Consumer Affairs pursuant to the provisions of any law shall be accounted for at the close of each month to the Controller in the form which the Controller may prescribe and, at the same time on the order of the Controller, all these moneys shall be paid into the State Treasury to the credit of the ~~Board of~~ Pilot Commissioners' Special Fund.

(b) Notwithstanding Section 13340 of the Government Code, the moneys deposited in the State Treasury to the credit of the ~~Board of~~ Pilot Commissioners' Special Fund are appropriated without regard to fiscal years for the payment of the compensation and expenses of the board, its officers and employees, and the training programs.

1159.1. The ~~board~~ Director shall impose a board operations surcharge, the purpose of which is to fully compensate the ~~board~~ Department of Consumer Affairs for its official services, for the services of its staff, and for all its incidental expenses. The amount of the surcharge shall not exceed 71/2 percent of all pilotage fees charged by pilots and inland pilots, unless the ~~board~~ Director establishes, with the approval of the Department of Finance, a lesser percentage. The ~~board~~ Director shall quarterly review its ongoing and anticipated expenses and adjust the surcharge to reflect any changes which have occurred since the last adjustment.

1159.1. The vessel shall pay a board operations surcharge, the purpose of which is to fully compensate the ~~board~~ Department of Consumer Affairs for its official services, for the services of its staff, and for all its incidental expenses. The amount of the surcharge shall be 7.5 percent of all pilotage fees charged by pilots and inland pilots, pursuant to Sections 1190 and 1191 unless the board establishes, with the approval of the Department of Finance, a lesser percentage. The surcharge shall be billed and collected by the pilots and inland pilots. The pilots and inland pilots shall pay all surcharges collected by them to the board monthly or at such later time as the board may direct. The ~~board~~ Director shall quarterly review ~~it's~~ ongoing and anticipated expenses and adjust the surcharge to reflect any changes which have occurred since the last adjustment.

6276. (a) In lieu of the benefits afforded pursuant to Division 4 (commencing with Section 3200) and Division 4.7 (commencing with Section 6200) of the Labor Code, the district may agree to provide workers' compensation benefits to its stevedore employees in amounts, and under such conditions, as would be payable to stevedore employees of private employers pursuant to the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901, et seq.).

(b) Such an agreement shall be binding upon the parties only if it is in writing and signed by the employee and by a representative of the district. It shall acknowledge, in writing, that the benefits agreed upon are authorized by this section and are expressly in lieu of any benefits available under Division 4 (commencing with Section 3200) and Division 4.7 (commencing with Section 6200) of the Labor Code.

(c) All claims for benefits against the district which are authorized by this section shall be determined pursuant to law and the rules and regulations of the ~~Workers' Compensation~~Employment & Benefits Appeals Board. To the fullest extent possible, the ~~Workers' Compensation~~Employment & Benefits Appeals Board shall attempt to apply the Longshoremen's and Harbor Workers' Compensation Act to employees covered by this section in the same manner as applicable to private employees.

(d) Notwithstanding the provisions of Sections 11779 and 11870 of the Insurance Code or any other provision of law, the State Compensation Insurance Fund or any private insurer may provide insurance coverage for the benefits authorized by this section.

6869. (a) In lieu of the benefits afforded pursuant to Division 4 (commencing with Section 3200) and Division 4.7 (commencing with Section 6200) of the Labor Code, the district may agree to provide workers' compensation benefits to its stevedore employees in amounts, and under such conditions, as would be payable to stevedore employees of private employers pursuant to the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901, et seq.).

(b) Such an agreement shall be binding upon the parties only if it is in writing and signed by the employee and by a representative of the district. It shall acknowledge, in writing, that the benefits agreed upon are authorized by this section and are expressly in lieu of any benefits available under Division 4 (commencing with Section 3200) and Division 4.7 (commencing with Section 6200) of the Labor Code.

(c) All claims for benefits against the district which are authorized by this section shall be determined pursuant to law and the rules and regulations of the ~~Workers' Compensation~~Employment & Benefits Appeals Board. To the fullest extent possible, the ~~Workers' Compensation~~Employment & Benefits Appeals Board shall attempt to apply the Longshoremen's and Harbor Workers' Compensation Act to employees covered by this section in the same manner as applicable to private employees.

(d) Notwithstanding the provisions of Section 11779 of the Insurance Code or any other provision of law, the State Compensation Insurance Fund may provide insurance coverage for the benefits authorized by this section.

Health and Safety Code

1179.3. (a) (1) The ~~Rural Health Policy Council~~ department shall develop and administer a competitive grants program for projects located in rural areas of California.

(2) The ~~Rural Health Policy Council~~ department shall define "rural area" for the purposes of this section after receiving public input and upon recommendation of the Interdepartmental Rural Health Coordinating Committee and the Rural Health Programs Liaison.

(3) The purpose of the grants program shall be to fund innovative, collaborative, cost-effective, and efficient projects that pertain to the delivery of health and medical services in rural areas of the state.

(4) The Rural Health Policy Council shall develop and establish uses for the funds to fund special projects that alleviate problems of access to quality health care in rural areas and to compensate public and private health care providers associated with direct delivery of patient care. The funds shall be used for medical and hospital care and treatment of patients who cannot

afford to pay for services and for whom payment will not be made through private or public programs.

(5) The Office of Statewide Health Planning and Development shall administer the funds appropriated by the Legislature for purposes of this section. Entities eligible for these funds shall include rural health providers served by the programs operated by ~~the departments represented on the Rural Health Policy Council, which include~~ the State Department of Alcohol and Drug Programs, the Emergency Medical Services Authority, the State Department of Health Services, the State Department of Mental Health, the Office of Statewide Health Planning and Development, and the Managed Risk Medical Insurance Board. The grant funds shall be used to expand existing services or establish new services and shall not be used to supplant existing levels of service. Funds appropriated by the Legislature for this purpose may be expended in the fiscal year of the appropriation or the subsequent fiscal year.

(b) The ~~Rural Health Policy Council~~ department shall establish the criteria and standards for eligibility to be used in requests for proposals or requests for application, the application review process, determining the maximum amount and number of grants to be awarded, preference and priority of projects, compliance monitoring, and the measurement of outcomes achieved after receiving comment from the public at a meeting held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(c) The Office of Statewide Health Planning and Development shall periodically report to the ~~Rural Health Policy Council~~ department on the status of the funded projects. This information shall also be available at the public meetings.

1179.5. (a) The Rural Health Policy Office within the Office of Statewide Health Planning and Development ~~serving as staff to the Rural Health Policy Council~~ shall develop an annual workplan which is adopted by the ~~council~~ department. The workplan shall describe how the ~~council~~ office shall meet specific, measurable performance objectives. The workplan shall be designed ~~to further the goals of the Rural Health Policy Council~~ to improve access to, and the quality of, health care in rural areas.

(b) The workplan required under subdivision (a) shall include information on how the council intends to address, at a minimum, all of the following topics:

(1) Increased standardization and consolidation of financial and statistical reporting, billing, audits, contracts, and budgets.

(2) Network delivery and integrated delivery systems.

(3) Streamlining the regulatory process.

(4) Assessing the impact of managed care in rural communities.

(5) Reviewing and proposing changes necessary to improve current funding issues.

(6) Increasing the use of technology.

(7) Supporting innovative efforts to improve patient transportation.

(8) Providing strategic planning for local communities.

(9) Improving communication between the state and rural providers.

(10) Increasing workforce availability in rural areas.

(c) The Rural Health Policy ~~Council~~ Office shall provide an annual report to the chairs of the fiscal and policy committees of the Legislature on the outcomes achieved by the office during the preceding 12 months and what changes it will incorporate into the workplan for the following year. The first report pursuant to this section shall be provided to the Legislature by February 1, 1999.

1347. ~~(a) (1) There is established in the Department of Managed Health Care the Advisory Committee on Managed Health Care consisting of 22 members, as follows:~~

~~(A) The director.~~

~~(B) Eleven members appointed by the Governor, to be appointed as follows:~~

~~(i) A physician and surgeon with five years' experience in providing services to enrollees of a full service health care service plan.~~

~~(ii) An executive officer or medical director of a full service health care service plan.~~

~~(iii) A person with expertise and five years' experience in an administrative capacity of a health care service plan.~~

~~(iv) An executive officer with five years' experience with a contracting medical group.~~

~~(v) A medical director with a contracting medical group.~~

~~(vi) A member of the department's Financial Solvency Standards Board.~~

~~(vii) A physician-executive from an academic medical center.~~

~~(viii) A member of the department's clinical advisory panel.~~

~~(ix) A medical director or senior officer with a dental service plan.~~

~~(x) A medical director or senior officer with a vision service plan.~~

~~(xi) A medical director or senior officer with a mental health service plan.~~

~~(C) (i) Ten public members, four of whom shall be appointed by the Governor and three each by the Speaker of the Assembly and the Senate Committee on Rules who have a broad understanding of health and managed care issues and who have no financial interest in the delivery of health care services or in plans except that public members may be enrollees in a health care service plan or specialized health care service plan.~~

~~(ii) Of the public members appointed by the Governor, at least two of these members shall have significant academic backgrounds in the area.~~

~~(iii) Of the members appointed by the Speaker of the Assembly and the Senate Committee on Rules at least one public member appointed by each appointing power shall represent a health care consumer advocacy organization, with the Speaker's appointee representing an organization that devotes at least 50 percent of its time to resolving consumer complaints. The Speaker of the Assembly and the Senate Committee on Rules shall also each appoint one public member with significant background experience in the area of health care.~~

~~(D) With respect to members appointed by the Governor, if members with the qualifications specified in this subdivision are not available for service, other factors such as relevant health care experience and education shall be substituted at the discretion of the Governor.~~

~~(2) Except as otherwise specified in this paragraph, all appointments to the committee shall be for a period of three years. The initial appointments shall commence January 1, 2000. Of the initial appointments made by the Governor, four shall serve for a term of one year and five shall serve for a term of two years, as designated by the Governor. Of the initial appointments made by the Speaker of the Assembly and the Senate Committee on Rules, one member appointed by each appointing power shall serve for a term of one year, and one shall serve for a term of two~~

~~years, as designated by the appointing power.~~

~~(b) The committee shall meet at least quarterly and at the call of the chairperson. The director or the director's designee shall be chairperson of the committee. The committee may establish its own rules and procedures. All members shall serve without compensation, but the consumer representatives and public members shall be reimbursed from department funds for expenses actually and necessarily incurred by them in the performance of their duties.~~

~~(c) The purpose of the committee is to assist and advise the director in the implementation of the director's duties under this chapter and to make recommendations that it deems beneficial and appropriate as to how the department may best serve the people of the state. The committee shall produce an Internet-accessible annual public report that will, at a minimum, contain recommendations made to the director. At a minimum, the report shall include the following:~~

~~(1) Recommendations to the director on producing a report card to the public on the comparative performance of the managed care organizations overseen by the department, including health care service plans and subcontracting providers, building on the work of the private sector and other government entities and including complaint information received by the state.~~

~~(2) (A) The committee's top five recommendations for improving the health care delivery system and quality of care taking into consideration information received from the public.~~

~~(B) To assist the committee in formulating its recommendations, the views and suggestions of the public should be solicited. The committee shall accompany the director at least twice each year for public hearings (with at least one in northern California and at least one in southern California).~~

~~(C) This report shall be delivered to the director, the Governor, and to the appropriate policy committees of the Legislature.~~

~~(d) The director shall consult with the advisory committee on regulations and the recommendations of the committee shall be made a part of the record with regard to such regulations. The committee shall be given at least 40 days to review and comment on regulations prior to setting a notice of hearing for proposed regulations. Nothing in this subdivision prohibits the director from promulgating emergency regulations pursuant to the provisions of the Administrative Procedure Act. The director shall discuss budget changes relating to the administration of this chapter with the committee, and the committee may make recommendations to the director regarding the proposed budget changes.~~ The Advisory Committee on Managed Health Care is abolished.

1347.1. ~~There is established in the department~~ The department shall ~~a Clinical Advisory Panel consisting of five members appointed by the director. These members shall be professors of medicine from California's public and private medical schools and, additionally, two of the members shall be practicing physicians. The purpose of the advisory panel shall be to~~ provide expert assistance to ~~the director in ensuring~~ ensure that the external independent review system is meeting the quality standards necessary to protect the public's interest. ~~The panel~~ The department shall also ~~assist the director with other clinical issues as needed, such as recommending~~ recommend approaches to globally reducing clinical errors, ~~improving~~ improve patient safety, ~~increasing~~ increase the practice of evidence-based medicine, and ~~catalyzing~~ catalyze clinical studies when a clear need for

additional clinical evidence becomes evident. The ~~panel~~ department shall review the decisions made in external review to ensure that the decisions are consistent with best practices and make recommendations for improvements where necessary. ~~The panel shall meet quarterly and shall have staff provided as necessary~~.

1797.64. "Commission" means the Commission on Emergency Medical Services created pursuant to the provisions of Section 1799. Any reference to the “Commission on Emergency Medical Services” or “commission” shall mean the Emergency Medical Services Authority.

~~1799. The Commission on Emergency Medical Services is hereby created in the Health and Welfare Agency.~~

~~1799.2. The commission shall consist of 16 members appointed as follows:~~

~~(a) One full-time physician and surgeon, whose primary practice is emergency medicine, appointed by the Senate Rules Committee from a list of three names submitted by the California Chapter of the American College of Emergency Physicians.~~

~~(b) One physician and surgeon, who is a trauma surgeon, appointed by the Speaker of the Assembly from a list of three names submitted by the California Chapter of the American College of Surgeons.~~

~~(c) One physician and surgeon appointed by the Senate Rules Committee from a list of three names submitted by the California Medical Association.~~

~~(d) One county health officer appointed by the Governor from a list of three names submitted by the California Conference of Local Health Officers.~~

~~(e) One registered nurse, who is currently, or has been previously, authorized as a mobile intensive care nurse and who is knowledgeable in state emergency medical services programs and issues, appointed by the Governor from a list of three names submitted by the Emergency Nurses Association.~~

~~(f) One full-time paramedic or EMT-II, who is not employed as a full-time peace officer, appointed by the Senate Rules Committee from a list of three names submitted by the California Rescue and Paramedic Association.~~

~~(g) One prehospital emergency medical service provider from the private sector, appointed by the Speaker of the Assembly from a list of three names submitted by the California Ambulance Association.~~

~~(h) One management member of an entity providing fire protection and prevention services appointed by the Governor from a list of three names submitted by the California Fire Chiefs Association.~~

~~(i) One physician and surgeon who is board prepared or board certified in the specialty of emergency medicine by the American Board of Emergency Medicine and who is knowledgeable in state emergency medical services programs and issues appointed by the Speaker of the Assembly.~~

~~(j) One hospital administrator of a base hospital who is appointed by the Governor from a list of three names submitted by the California Association of Hospitals and Health Systems.~~

~~(k) One full-time peace officer, who is either an EMT-II or a paramedic, who is appointed by the Governor from a list of three names submitted by the California Peace Officers Association.~~

~~(l) Two public members who have experience in local EMS policy issues, at least one of whom resides in a rural area as defined by the authority, and who are appointed by the Governor.~~

~~(m) One administrator from a local EMS agency appointed by the Governor from a list of four names submitted by the Emergency Medical Services Administrator's Association of California.~~

~~(n) One medical director of a local EMS agency who is an active member of the Emergency Medical Directors Association of California and who is appointed by the Governor.~~

~~(o) One person appointed by the Governor, who is an active member of the California State Firemen's Association or the California Professional Firefighters.~~

~~1799.3. At the discretion of the appointing power or body, a member of the commission may be reappointed or may continue to serve if he or she no longer continues to function in the capacity which originally qualified him or her for appointment. However, where Section 1799.2 requires that an appropriate organization submit names to the appointing power or body, a person shall not be reappointed pursuant to this section unless his or her name is submitted by that appropriate organization.~~

~~1799.4. (a) Except as otherwise provided in this section, the terms of the members of the commission shall be three calendar years, commencing January 1 of the year of appointment. No member shall serve more than two consecutive full terms; provided, however, that a term or part of a term served pursuant to paragraph (1) or (2) of subdivision (b) shall not be included in this limitation.~~

~~(b) (1) The first members appointed on or after January 1, 1985, pursuant to subdivisions (a), (b), (c), and (d) of Section 1799.2 shall serve from the date of appointment to the end of that calendar~~

~~year, plus one additional year.~~
~~(2) The first members appointed on or after January 1, 1985, pursuant to subdivisions (e), (f), (g), (h), and (i) of Section 1799.2 shall serve from the date of appointment to the end of that calendar year, plus two additional years.~~
~~(3) The first members appointed on or after January 1, 1985, pursuant to subdivisions (j), (k), and (m) of Section 1799.2 shall be from the date of appointment to the end of that calendar year, plus three additional years.~~
~~(4) The first member appointed on or after January 1, 1985, pursuant to subdivision (l) of Section 1799.2 shall serve from the date of appointment to the end of that calendar year, plus one additional year, and the second member shall serve from the date of appointment to the end of that calendar year, plus two additional years.~~
~~(5) The first member appointed pursuant to subdivision (n) of Section 1799.2 shall serve from the date of appointment to the end of the 1991 calendar year.~~
~~(6) It is the purpose of this subdivision to provide for staggered terms for the members of the commission.~~

~~1799.6. The members of the commission shall receive no compensation for their services, but shall be reimbursed for their actual, necessary, traveling and other expenses incurred in the discharge of their duties.~~

~~1799.8. The commission shall select a chairperson from its members and shall meet at least quarterly on the call of the director, the chairperson, or three members of the commission.~~

13140. ~~There is hereby created in the Office of the State Fire Marshal a State Board of Fire Services which shall consist of 18 members. The State Board of Fire Services succeeds to all of the powers, duties, and responsibilities of the State Fire Advisory Board, which is hereby abolished. Whenever the term "State Fire Advisory Board" appears in any other law, it means the State Board of Fire Services.~~(a) Any reference to the “State Board of Fire Services” or the “State Fire Advisory Board” shall refer to the Department of Forestry and Fire Protection.
(b) As used in this article, “board” means the Department of Forestry and Fire Protection.

~~13140.5. The board shall be composed of the following voting members: the State Fire Marshal, the Chief Deputy Director of the Department of Forestry and Fire Protection who is not the State Fire Marshal, the Director of the Office of Emergency Services, the Chairperson of the California Fire Fighter Joint Apprenticeship Program, one representative of the insurance~~

~~industry, one volunteer firefighter, three fire chiefs, five fire service labor representatives, one representative from city government, one representative from a fire district, and one representative from county government.~~

~~The following members shall be appointed by the Governor: one representative of the insurance industry, one volunteer firefighter, three fire chiefs, five fire service labor representatives, one representative from city government, one representative from a fire district, and one representative from county government. Each member appointed shall be a resident of this state. The volunteer firefighter shall be selected from a list of names submitted by the California State Firefighters Association. One fire chief shall be selected from a list of names submitted by the California Fire Chiefs' Association; one fire chief shall be selected from a list of names submitted by the Fire Districts Association of California; and one fire chief shall be selected from a list of names submitted by the California Metropolitan Fire Chiefs. One fire service labor representative shall be selected from a list of names submitted by the California Labor Federation; one fire service labor representative shall be selected from a list of names submitted by the California Professional Firefighters; one fire service labor representative shall be selected from a list of names submitted by the International Association of Fire Fighters; one fire service labor representative shall be selected from a list of names submitted by the California Department of Forestry Firefighters; and one fire service labor representative shall be selected from a list of names submitted by the California State Firefighters Association. The city government representative shall be selected from elected or appointed city chief administrative officers or elected city mayors or council members. The fire district representative shall be selected from elected or appointed directors of fire districts. The county government representative shall be selected from elected or appointed county chief administrative officers or elected county supervisors. The appointed members shall be appointed for a term of four years. Any member chosen by the Governor to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member he or she is to succeed.~~

~~13140.6. A quorum of the board shall consist of not less than nine members of the board. Proxy representation shall not be permitted.~~

~~13140.7. The State Fire Marshal shall act as chairman of the board and provide necessary staff services. A vice chairman shall be selected by majority vote of the members.~~

~~13141. The board shall meet at the call of the State Fire Marshal, or at the request of any two members, but not less than annually, and shall receive no salary. Board members shall be paid actual and necessary expenses related to activities of the board. Meetings of the board shall be announced in writing to all members at least 15 days in advance of the meeting date.~~

13142.6. (a) The board~~, under the direction of the vice chairperson,~~ shall sit as a board of appeals on the application of the State Fire Marshal's regulations excepting application of building standards published in the California Building Standards Code, by the State Fire Marshal or his or her salaried assistants. When any affected person believes that the State Fire Marshal's regulations, excepting building standards, are being applied incorrectly, the person may appeal the decision of the State Fire Marshal to the board. The board shall not consider the appeal unless the matter has come to the attention of the State Fire Marshal and he or she has rendered a decision in writing. Any appeal to the board shall be made by the affected person or

his or her agent in writing in the form and manner prescribed by the board. The decision of the board shall be binding upon the State Fire Marshal. Any decision made by the board shall be for the instant case only and shall not be construed as setting precedent for general application.

(b) When an affected person believes that building standards are being applied incorrectly by the State Fire Marshal or his or her salaried assistants, that person may appeal to the California Building Standards Commission pursuant to Chapter 5 (commencing with Section 18945) of Part 2.5 of Division 13 of this code.

~~13142.8. When the board sits as a board of appeals:~~

~~(a) The State Fire Marshal shall not sit as a member of the board.~~

~~(b) A member of the board shall not sit as a member or participant in the decision of any particular appeal if that member has a financial or other interest which would influence his or her decision on the particular appeal.~~

18947. Where the appeal issue results from the enforcement of a standard for occupational safety and health by an inspector of the Division of Occupational Safety and Health of the Department of Industrial Relations, the employer shall appeal directly to the ~~Occupational Safety and Health~~Employment & Benefits Appeals Board, and the appeal shall be conducted pursuant to the provisions of Chapter 7 (commencing with Section 6600) of Part 1 of Division 5 of the Labor Code. Such an appeal, if sent to the commission in error, shall be forwarded immediately to the ~~Occupational Safety and Health~~Employment & Benefits Appeals Board. The date of receipt of any such appeal by the commission shall be considered the date of filing for purposes of meeting the filing time requirements of Section 6600 of the Labor Code.

104141. (a) ~~The Heart Disease and Stroke Prevention and Treatment Task Force is hereby created in the department.~~

~~(b) The task force shall be comprised of 12 members, as follows, who have demonstrated interest in heart disease or stroke:~~

~~(1) Three members appointed by the Speaker of the Assembly, as follows:~~

~~(A) One member representing a volunteer health organization dedicated to research and prevention of heart disease and stroke.~~

~~(B) One practicing physician with expertise in research, prevention, or treatment of stroke victims.~~

~~(C) One hospital administrator.~~

~~(2) Three members appointed by the Senate Committee on Rules, as follows:~~

~~(A) One representative of a population disproportionately affected by heart disease and stroke.~~

~~(B) One practicing physician with expertise in research, prevention, or treatment of cardiovascular disease.~~

~~(C) One representative of a health care organization.~~

~~(3) Six members appointed by the Governor, as follows:~~

~~(A) One heart disease survivor.~~

~~(B) One stroke survivor.~~

~~(C) One registered nurse.~~

~~(D) One representative of a local health department.~~

~~(E) One member of a university facility with expertise in programs intended to reduce the rate of heart disease and stroke.~~

~~(F) One registered dietitian with experience in population based programs.~~

~~(c) (1) Members of the task force shall be appointed on or before March 1, 2004.~~

~~(2) Members shall serve without compensation, but shall be reimbursed for necessary travel expenses incurred in the performance of task force duties.~~

~~(3) On or before June 1, 2004, the task force shall meet and establish operating procedures.~~

~~(4) A majority of the task force shall constitute a quorum for the transaction of business.~~

~~(5) The task force shall be headed by a chairperson, selected by the task force from among its members.~~

~~(d)~~ The duties of the ~~task force~~ department shall include, but not be limited to, all of the following:

(1) Creating a comprehensive Heart Disease and Stroke Prevention and Treatment State Master Plan that contains recommendations to the Legislature, the Governor, and the department. The master plan shall address changes to existing law, regulations, programs, services, and policies for the purpose of improving heart disease and stroke prevention and treatment in the state.

(2) Synthesizing existing information on the incidence and causes of heart disease and stroke deaths and risk factors to establish a profile of these deaths and risk factors in the state for the purpose of developing the master plan.

(3) Publicizing the profile of heart disease and stroke deaths and persons at risk in the state, and methods of prevention of heart disease and strokes.

(4) Identifying priority strategies that are effective in preventing and controlling, and treating persons at risk of, heart disease and stroke.

(5) Receiving and considering reports, data, and testimony from individuals, local health departments, community-based organizations, voluntary health organizations, and other public and private organizations statewide in order to assess opportunities for collaboration, as well as to identify gaps in heart disease and stroke prevention and treatment in the state.

(e) On or before November 1, 2005, the ~~task force~~ department shall submit its plan to the Legislature~~,~~ and the Governor~~, and the department~~. Prior to issuing the plan, the ~~task force~~ department may issue recommendations, as it deems necessary. Once the plan is submitted, the ~~task force~~ department may revise and update the plan as necessary due to medical advances or other relevant information.

(f) The department ~~shall provide staff support to the task force, and~~ may apply for, accept, and spend any grants and gifts from any source, public or private, to support the requirements of this section.

(g) Implementation of this section shall be contingent upon the receipt of private funding in an amount sufficient to fund the ~~entire cost of the operation of the task force and~~ costs associated with completing the requirements imposed by this section, as determined by the department.

(h) This section shall become inoperative on March 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

105200. Any physician and surgeon who knows, or has reasonable cause to believe, that a patient is suffering from pesticide poisoning or any disease or condition caused by a pesticide shall

promptly report that fact to the local health officer by telephone within 24 hours and by a copy of the report required pursuant to subdivision (a) of Section 6409 of the Labor Code within seven days, except that the information which is available to the physician and surgeon is all that is required to be reported as long as reasonable efforts are made to obtain the information.

Each local health officer shall immediately notify the county agricultural commissioner and, at his or her discretion, shall immediately notify the Director of Environmental Health Hazard Assessment of each report received and shall report to the Director of Pesticide Regulation, the Director of Environmental Health Hazard Assessment, and the Director of Industrial Relations, on a form prescribed by the Director of Environmental Health Hazard Assessment, each case reported to him or her pursuant to this section within seven days after receipt of the report.

The Office of Environmental Health Hazard Assessment shall designate a phone number or numbers for use by local health officers in the immediate notification of the office of a pesticide poisoning report. The office shall from time to time establish criteria for use by the local health officers in determining whether the circumstances of a pesticide poisoning warrants the immediate notification of the office.

In no case shall the treatment administered for pesticide poisoning or a condition suspected as pesticide poisoning be deemed to be first aid treatment.

Any physician and surgeon who fails to comply with the reporting requirements of this section or any regulations adopted pursuant to this section shall be liable for a civil penalty of two hundred fifty dollars ($250). For the purposes of this section, failure to report a case of pesticide poisoning involving one or more employees in the same incident shall constitute a single violation. The Division of Occupational Safety and Health of the Department of Industrial Relations shall enforce these provisions by issuance of a citation and notice of civil penalty in a manner consistent with Section 6317 of the Labor Code. Any physician and surgeon who receives a citation and notice of civil penalty may appeal to the ~~Occupational Safety and Health~~ Employment & Benefits Appeals Board in a manner consistent with Section 6319 of the Labor Code.

Each local health officer shall maintain the ability to receive and investigate reports of pesticide poisoning at all times pursuant to Section 12982 of the Food and Agricultural Code.

128695. There is hereby created the California ~~Health Policy~~ and ~~Data Advisory Commission~~ to be composed of 13 members.

The Governor shall appoint nine members, one of whom shall be a hospital chief executive officer, one of whom shall be a chief executive officer of a hospital serving a disproportionate share of low-income patients, one of whom shall be a long-term care facility chief executive officer, one of whom shall be a freestanding ambulatory surgery clinic chief executive officer, one of whom shall be a representative of the ~~health~~ insurance industry involved in establishing premiums or underwriting, one of whom shall be a representative of a group prepayment ~~health~~ care service plan, one of whom shall be a representative of a business coalition concerned with ~~health~~, and two of whom shall be general members. The Speaker of the Assembly shall appoint two members, one of whom shall be a physician and surgeon and one of whom shall be a general member. The Senate Rules Committee shall appoint two members, one of whom shall be a representative of a labor coalition concerned with ~~health~~, and one of whom shall be a general member.

The Governor shall designate a member to serve as chairperson for a two-year term. No member may serve more than two, two-year terms as chairperson. All appointments shall be for four-year terms. No individual shall serve more than two, four-year terms.

128705. On and after January 1, 1986 July 1, 2005, any reference in this code to the Advisory Health Council shall be deemed a reference to the or the California Health Policy and Data Advisory Commission shall be deemed a reference to the Office of Statewide Health Planning and Development.

128710. The California ~~Health Policy~~ and ~~Data Advisory Commission~~ shall meet at least once every two months, or more often if necessary to fulfill its duties.

128715. The members of the ~~commission~~ shall receive per diem of one hundred dollars ($100) for each day actually spent in the discharge of official duties and shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the ~~commission~~.

128720. The ~~commission~~ may appoint an executive secretary subject to approval by the Secretary of ~~Health~~ and Welfare. The office shall provide other staff to the ~~commission~~ as the office and the ~~commission~~ deem necessary.

128760. (a) On and after January 1, 1986 July 1, 2005, those systems of health facility accounting and auditing formerly approved by the California Health Facilities Commission shall remain in full force and effect for use by health facilities but shall be maintained by the office with the advice of the ~~Health Policy~~ and ~~Data Advisory Commission~~.

(b) The office, with the advice of the ~~commission~~, shall allow and provide, in accordance with appropriate regulations, for modifications in the accounting and reporting systems for use by health facilities in meeting the requirements of this chapter if the modifications are necessary to do any of the following:

(1) To correctly reflect differences in size of, provision of, or payment for, services rendered by health facilities.

(2) To correctly reflect differences in scope, type, or method of provision of, or payment for, services rendered by health facilities.

(3) To avoid unduly burdensome costs for those health facilities in meeting the requirements of differences pursuant to paragraphs (1) and (2).

(c) Modifications to discharge data reporting requirements. The office, with the advice of the ~~commission~~, shall allow and provide, in accordance with appropriate regulations, for modifications to discharge data reporting format and frequency requirements if these modifications will not impair the office's ability to process the data or interfere with the purposes of this chapter. This modification authority shall not be construed to permit the office to administratively require the reporting of discharge data items not specified pursuant to Section 128735.

(d) Modifications to emergency care data reporting requirements.

The office, with the advice of the commission, shall allow and provide, in accordance with appropriate regulations, for modifications to emergency care data reporting format and frequency requirements if these modifications will not impair the office's ability to process the data or interfere with the purposes of this chapter. This modification authority shall not be construed to permit the office to require administratively the reporting of emergency care data items not specified in subdivision (a) of Section 128736.

(e) Modifications to ambulatory surgery data reporting requirements. The office, with the advice of the ~~commission~~, shall allow and provide, in accordance with appropriate regulations, for modifications to ambulatory surgery data reporting format and frequency requirements if these modifications will not impair the office's ability to process the data or interfere with the purposes of this chapter. The modification authority shall not be construed to permit the office to require administratively the reporting of ambulatory surgery data items not specified in subdivision (a) of Section 128737.

(f) Reporting provisions for health facilities. The office, with the advice of the ~~commission~~, shall establish specific reporting provisions for health facilities that receive a preponderance of their revenue from associated comprehensive group-practice prepayment health care service plans. These health facilities shall be authorized to utilize established accounting systems, and to report costs and revenues in a manner that is consistent with the operating principles of these plans and with generally accepted accounting principles. When these health facilities are operated as units of a coordinated group of health facilities under common management, they shall be authorized to report as a group rather than as individual institutions. As a group, they shall submit a consolidated income and expense statement.

(g) Hospitals authorized to report as a group under this subdivision may elect to file cost data reports required under the regulations of the Social Security Administration in its administration of Title XVIII of the federal Social Security Act in lieu of any comparable cost reports required under Section 128735.

However, to the extent that cost data is required from other hospitals, the cost data shall be reported for each individual institution.

(h) The office, with the advice of the ~~commission~~, shall adopt comparable modifications to the financial reporting requirements of this chapter for county hospital systems consistent with the purposes of this chapter.

128765. (a) The office, with the advice of the ~~commission~~, shall maintain a file of all the reports filed under this chapter at its Sacramento office. The office shall also post all reports on its Web site. Subject to any rules the office, with the advice of the commission, may prescribe, these reports shall be produced and made available for inspection upon the demand of any person, with the exception of hospital discharge abstract data that shall be available for public inspection unless the office determines that an individual patient's rights of confidentiality would be violated.

(b) The reports filed under this chapter shall include an executive summary, written in plain English to the maximum extent practicable, that shall include, but not be limited to, a discussion of findings, conclusions, and trends concerning the overall quality of medical outcomes, including a comparison to reports from prior years, for the procedure or condition studied by the report. The office shall disseminate the reports as widely as practical to interested parties, including, but not limited to, hospitals, providers, the media, purchasers of health care, consumer or patient advocacy groups, and individual consumers.

(c) Copies certified by the office as being true and correct, copies of reports properly filed with the office pursuant to this chapter, together with summaries, compilations, or supplementary reports prepared by the office, shall be introduced as evidence, where relevant, at any hearing, investigation, or other proceeding held, made, or taken by any state, county, or local governmental agency, board, or commission that participates as a purchaser of health facility services pursuant to the provisions of a publicly financed state or federal health care program. Each of these state, county, or local governmental agencies, boards, and commissions shall weigh and consider the reports made available to it pursuant to the provisions of this subdivision in its formulation and implementation of policies, regulations, or procedures regarding reimbursement methods and rates in the administration of these publicly financed programs.

(d) The office, with the advice of the ~~commission~~, shall compile and publish summaries of the data for the purpose of public disclosure. The commission shall approve the policies and procedures relative to the manner of data disclosure to the public. The office, with the advice of the ~~commission~~, may initiate and conduct studies as it determines will advance the purposes of this chapter.

(e) In order to assure that accurate and timely data are available to the public in useful formats, the office shall establish a public liaison function. The public liaison shall provide technical assistance to the general public on the uses and applications of individual and aggregate health facility data and shall provide the director and the ~~commission~~ with an annual report on changes that can be made to improve the public's access to data.

(f) In addition to its public liaison function, the office shall continue the publication of aggregate industry and individual health facility cost and operational data published by the California Health Facilities Commission as described in subdivision (b) of Section 441.95, as that section existed on December 31, 1985. This publication shall be submitted to the Legislature not later than March 1 of each year commencing with calendar year 1986 and in addition shall be offered for sale as a public document.

128770. (a) Any health facility that does not file any report as required by this chapter with the office is liable for a civil penalty of one hundred dollars ($100) a day for each day the filing of any report is delayed. No penalty shall be imposed if an extension is granted in accordance with the guidelines and procedures established by the office, with the advice of the ~~commission~~.

(b) Any health facility that does not use an approved system of accounting pursuant to the provisions of this chapter for purposes of submitting financial and statistical reports as required by this chapter shall be liable for a civil penalty of not more than five thousand dollars ($5,000).

(c) Civil penalties are to be assessed and recovered in a civil action brought in the name of the people of the State of California by the office. Assessment of a civil penalty may, at the request of any health facility, be reviewed on appeal, and the penalty may be reduced or waived for good cause.

(d) Any money that is received by the office pursuant to this section shall be paid into the General Fund.

128810. The office shall administer this chapter and shall make all regulations necessary to implement the provisions and achieve the purposes stated herein. The ~~commission~~ shall advise and consult with the office in carrying out the administration of this chapter.

Insurance Code

1063.1. As used in this article:

(a) "Member insurer" means an insurer required to be a member of the association in accordance with subdivision (a) of Section 1063, except and to the extent that the insurer is participating in an insolvency program adopted by the United States government.

(b) "Insolvent insurer" means a member insurer against which an order of liquidation or receivership with a finding of insolvency has been entered by a court of competent jurisdiction.

(c) (1) "Covered claims" means the obligations of an insolvent insurer, including the obligation for unearned premiums, (i) imposed by law and within the coverage of an insurance policy of the insolvent insurer; (ii) which were unpaid by the insolvent insurer; (iii) which are presented as a claim to the liquidator in this state or to the association on or before the last date fixed for the filing of claims in the domiciliary liquidating proceedings; (iv) which were incurred prior to the date coverage under the policy terminated and prior to, on, or within 30 days after the date the liquidator was appointed; (v) for which the assets of the insolvent insurer are insufficient to discharge in full; (vi) in the case of a policy of workers' compensation insurance, to provide workers' compensation benefits under the workers' compensation law of this state; and (vii) in the case of other classes of insurance if the claimant or insured is a resident of this state at the time of the insured occurrence, or the property from which the claim arises is permanently located in this state.

(2) "Covered claims" also include the obligations assumed by an

assuming insurer from a ceding insurer where the assuming insurer subsequently becomes an insolvent insurer if, at the time of the insolvency of the assuming insurer, the ceding insurer is no longer admitted to transact business in this state. Both the assuming insurer and the ceding insurer shall have been member insurers at the time the assumption was made. "Covered claims" under this paragraph shall be required to satisfy the requirements of subparagraphs (i) to (vii), inclusive, of paragraph (1), except for the requirement that the claims be against policies of the insolvent insurer. The association shall have a right to recover any deposit, bond, or other assets that may have been required to be posted by the ceding company to the extent of covered claim payments and shall be subrogated to any rights the policyholders may have against the ceding insurer.

(3) "Covered claims" does not include obligations arising from the following:

(i) Life, annuity, health, or disability insurance.

(ii) Mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks.

(iii) Fidelity or surety insurance including fidelity or surety bonds, or any other bonding obligations.

(iv) Credit insurance.

(v) Title insurance.

(vi) Ocean marine insurance or ocean marine coverage under any insurance policy including claims arising from the following: the Jones Act (46 U.S.C.A. Sec. 688), the Longshore and Harbor Workers' Compensation Act (33 U.S.C.A. Sec. 901 et seq.), or any other similar federal statutory enactment, or any endorsement or policy affording protection and indemnity coverage.

(vii) Any claims servicing agreement or insurance policy providing retroactive insurance of a known loss or losses, except a special excess workers' compensation policy issued pursuant to subdivision (c) of Section 3702.8 of the Labor Code that covers all or any part of workers' compensation liabilities of an employer that is issued, or was previously issued, a certificate of consent to self-insure pursuant to subdivision (b) of Section 3700 of the Labor Code.

(4) "Covered claims" does not include any obligations of the insolvent insurer arising out of any reinsurance contracts, nor any obligations incurred after the expiration date of the insurance policy or after the insurance policy has been replaced by the insured or canceled at the insured's request, or after the insurance policy has been canceled by the association as provided in this chapter, or after the insurance policy has been canceled by the liquidator, nor any obligations to any state or to the federal government.

(5) "Covered claims" does not include any obligations to insurers, insurance pools, or underwriting associations, nor their claims for

contribution, indemnity, or subrogation, equitable or otherwise, except as otherwise provided in this chapter.

An insurer, insurance pool, or underwriting association may not maintain, in its own name or in the name of its insured, any claim or legal action against the insured of the insolvent insurer for contribution, indemnity or by way of subrogation, except insofar as, and to the extent only, that the claim exceeds the policy limits of the insolvent insurer's policy. In those claims or legal actions, the insured of the insolvent insurer is entitled to a credit or setoff in the amount of the policy limits of the insolvent insurer's policy, or in the amount of the limits remaining, where those limits have been diminished by the payment of other claims.

(6) "Covered claims," except in cases involving a claim for workers' compensation benefits or for unearned premiums, does not include any claim in an amount of one hundred dollars ($100) or less, nor that portion of any claim that is in excess of any applicable limits provided in the insurance policy issued by the insolvent insurer.

(7) "Covered claims" does not include that portion of any claim, other than a claim for workers' compensation benefits, that is in excess of five hundred thousand dollars ($500,000).

(8) "Covered claims" does not include any amount awarded as punitive or exemplary damages, nor any amount awarded by the ~~Workers' Compensation~~Employment & Benefits Appeals Board pursuant to Section 5814 or 5814.5 because payment of compensation was unreasonably delayed or refused by the insolvent insurer.

(9) "Covered claims" does not include (i) any claim to the extent it is covered by any other insurance of a class covered by this article available to the claimant or insured nor (ii) any claim by any person other than the original claimant under the insurance policy in his or her own name, his or her assignee as the person entitled thereto under a premium finance agreement as defined in Section 673 and entered into prior to insolvency, his or her executor, administrator, guardian or other personal representative or trustee in bankruptcy and does not include any claim asserted by an assignee or one claiming by right of subrogation, except as otherwise provided in this chapter.

(10) "Covered claims" does not include any obligations arising out of the issuance of an insurance policy written by the separate division of the State Compensation Insurance Fund pursuant to Sections 11802 and 11803.

(11) "Covered claims" does not include any obligations of the insolvent insurer arising from any policy or contract of insurance issued or renewed prior to the insolvent insurer's admission to transact insurance in the State of California.

(12) "Covered claims" does not include surplus deposits of

subscribers as defined in Section 1374.1.

(d) "Admitted to transact insurance in this state" means an insurer possessing a valid certificate of authority issued by the department.

(e) "Affiliate" means a person who directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with an insolvent insurer on December 31 of the year next preceding the date the insurer becomes an insolvent insurer.

(f) "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10 percent or more of the voting securities of any other person. This presumption may be rebutted by showing that control does not in fact exist.

(g) "Claimant" means any insured making a first party claim or any person instituting a liability claim; provided that no person who is an affiliate of the insolvent insurer may be a claimant.

(h) "Ocean marine insurance" includes marine insurance as defined in Section 103, except for inland marine insurance, as well as any other form of insurance, regardless of the name, label, or marketing designation of the insurance policy, that insures against maritime perils or risks and other related perils or risks, which are usually insured against by traditional marine insurance such as hull and machinery, marine builders' risks, and marine protection and indemnity. Those perils and risks insured against include, without limitation, loss, damage, or expense or legal liability of the insured arising out of or incident to ownership, operation, chartering, maintenance, use, repair, or construction of any vessel, craft or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, or death for loss or damage to the property of the insured or another person.

(i) "Unearned premium" means that portion of a premium that had not been earned because of the cancellation of the insolvent insurer' s policy and is that premium remaining for the unexpired term of the insolvent insurer's policy. "Unearned premium" does not include any amount sought as return of a premium under any policy providing retroactive insurance of a known loss or return of a premium under any retrospectively rated policy or a policy subject to a contingent surcharge or any policy in which the final determination of the premium cost is computed after expiration of the policy and is

calculated on the basis of actual loss experience during the policy period.

11698.1. From time to time and in any event at or prior to the time of the filing of his or her petition for discharge as receiver, the commissioner shall do the following:

(a) File with the ~~Workers' Compensation~~Employment & Benefits Appeals Board an accounting of all trust funds received and used from the proceeds of the deposit required pursuant to Section 11691.

(b) File with the court an accounting of all funds received and used as expenses from the general funds of the insurer.

11698.2. If the commissioner enters into a reinsurance and assumption agreement as provided in subdivision (a) of Section 11698.01, that agreement shall provide for all of the following:

(a) The reinsurance and assumption of all those obligations by the reinsuring and assuming insurers.

(b) If there is more than one reinsurer the proportion of all those obligations assumed by each reinsurer and a method for the actual processing and payment of those obligations by the reinsurers or their representatives.

(c) The reimbursement of the reinsuring and assuming insurers from the deposit of the insurer in the delinquency proceeding. The provision shall conform with Section 11698.21 and shall not be effective unless approved by the ~~Workers' Compensation~~Employment & Benefits Appeals Board.

(d) The amounts, if any, to be paid the reinsurers from the general funds of the insurer. If the agreement provides that amounts from the general funds of the insurer are to be paid to the reinsurers, those payments shall be approved by the court where the delinquency proceedings are pending.

(e) Any other matters as are necessary and proper to achieve the purposes of the reinsurance and assumption agreement.

11659. Such approved form of policy, limited pursuant to Section 11657, shall not be otherwise limited except by indorsement thereon in accordance with a form prescribed by the commissioner or in accordance with rules adopted by the commissioner. Such indorsement form shall not be subject to Section 11658. Before prescribing such indorsement form or adopting such rule, the commissioner shall consult concerning it with the ~~Workers' Compensation~~ Employment & Benefits Appeals Board.

12693.91. (a) The State Department of Health Services, in conjunction with the Managed Risk Medical Insurance Board, the County Medical Services Program board, ~~and the Rural Health Policy Council,~~ may develop and administer up to five demonstration projects in rural areas that are likely to contain a significant level of uninsured children, including seasonal and migratory

worker dependents. In addition to any other funds provided pursuant to this section the grants for demonstration projects may include funds pursuant to subdivision (d).

(b) The purpose of the demonstration projects shall be to fund rural collaborative health care networks to alleviate unique problems
of access to health care in rural areas.

(c) The State Department of Health Services, in conjunction with the Managed Risk Medical Insurance Board ~~and Rural Health Policy Council~~, shall establish the criteria and standards for eligibility to be used in requests for proposals or requests for application, the application review process, determining the maximum amount and number of grants to be awarded, preference and priority of projects, and compliance monitoring after receiving comment from the public.

(d) The grants may include funds for purchasing equipment, making capital expenditures, and providing infrastructure, including, but not limited to, salaries and payment of leaseholds. The funds under this subdivision may only be awarded to qualified eligible health care entities as determined by the State Department of Health Services. Title to any equipment or capital improvement purchased or acquired with grant funds shall vest in the grantee for the public good and not the state. Capital expenditures shall not include the acquisition of land. Notwithstanding subdivision (e), this subdivision shall be implemented only when funds are appropriated in the annual Budget Act or another statute to fund the cost of implementing this subdivision.

(e) This section shall only become operative upon federal approval of the state plan or subsequent amendments for the program and approval of federal financial participation.

Labor Code

53. Whenever in Section 1001 or in Part 1 (commencing with Section 11000) of Division 3 of Title 2 of the Government Code "head of the department" or similar designation occurs, the same shall, for the purposes of this code, mean the director, except that in respect to matters which by the express provisions of this code are committed to or retained under the jurisdiction of the Division of Workers' Compensation, the State Compensation Insurance Fund, the Occupational Safety and Health Standards Board, or the Occupational Safety and Health Appeals Board, ~~or the Industrial Welfare Commission~~ the designation shall mean the Division of Workers' Compensation, the Administrative Director of the Division of Workers' Compensation, the Workers' Compensation Appeals Board, the State Compensation Insurance Fund, the Occupational Safety and Health Standards Board, the Occupational Safety and Health Appeals Board, ~~or the Industrial Welfare Commission,~~ as the case may be.

~~70. There is in the Department of Industrial Relations the Industrial Welfare Commission which consists of five members. The members of the commission shall be appointed by the Governor, with the consent of the Senate.~~

~~70.1. The Industrial Welfare Commission shall be composed of two representatives of organized labor who are members of recognized labor organizations, two representatives of employers, and one representative of the general public. The membership shall include members of both sexes.~~

~~71. The term of office of the members of the Industrial Welfare Commission shall be four years and they shall hold office until the appointment and qualification of their successors. The terms of the members of the commission in office at the time this code takes effect shall expire on January 15th of that year which for the particular member has heretofore been determined. Vacancies shall be filled by appointment for the unexpired terms.~~

~~72. The members of the commission shall receive one hundred dollars ($100) for each day's actual attendance at meetings and other official business of the commission and shall receive their actual and necessary expenses incurred in the performance of their duties.~~

~~73. The Industrial Welfare Commission may employ necessary assistants, officers, experts, and such other employees as it deems necessary. All such personnel of the commission shall be under the supervision of the chairman or an executive officer to whom the chairman delegates such responsibility. All such personnel shall be appointed pursuant to the State Civil Service Act (Part 1 (commencing with Section 18000) of Division 5 of Title 2 of the Government Code), except for the one exempt deputy or employee allowed by subdivision (e) of Section 4 of Article VII of the California Constitution.~~

74. The Chief of the Division of Labor Standards Enforcement, for the purpose of enforcing ~~Industrial Welfare Commission~~Labor and Workforce Development Agency orders and provisions of this code, may issue subpoenas to compel the attendance of witnesses and production of books, papers, and records. Obedience to subpoenas issued by the chief of the division shall be enforced by the courts.

The Chief and enforcement deputies of the Division of Labor Standards Enforcement may administer oaths and examine witnesses under oath for the purpose of enforcing ~~Industrial Welfare Commission~~Labor and Workforce Development Agency orders and provisions of this code.

~~75. (a) There is in the department the Commission on Health and Safety and Workers' Compensation. The commission shall be composed of eight voting members. Four voting members shall represent~~

~~organized labor, and four voting members shall represent employers. Not more than one employer member shall represent public agencies. Two of the employer and two of the labor members shall be appointed by the Governor. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint one employer and one labor representative. The public employer representative shall be appointed by the Governor. No action of the commission shall be valid unless agreed to by a majority of the membership and by not less than two members representing organized labor and two members representing employers.~~

~~(b) The commission shall select one of the members representing organized labor to chair the commission during the 1994 calendar year, and thereafter the commission shall alternatively select an employer and organized labor representative to chair the commission for one-year terms.~~

~~(c) The initial terms of the members of the commission shall be four years, and they shall hold office until the appointment of a successor. However, the initial terms of one employer and one labor member appointed by the Governor shall expire on December 31, 1995; the initial terms of the members appointed by the Senate Committee on Rules shall expire December 31, 1996; the initial terms of the members appointed by the Speaker of the Assembly shall expire on December 31, 1997; and the initial term of one employer and one labor member appointed by the Governor shall expire on December 31, 1998. Any vacancy shall be filled by appointment to the unexpired term.~~

~~(d) The commission shall meet every other month and upon the call of the chair. Meetings shall be open to the public. Members of the commission shall receive one hundred dollars ($100) for each day of their actual attendance at meetings of the commission and other official business of the commission and shall also receive their actual and necessary traveling expenses incurred in the performance of their duty as a member. Payment of per diem and traveling expenses shall be made from the Workers' Compensation Administration Revolving Fund, when appropriated by the Legislature.~~

~~76. The commission may employ officers, assistants, experts, and other employees it deems necessary. All personnel of the commission shall be under the supervision of the chair or an executive officer to whom he or she delegates this responsibility. All personnel shall be appointed pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except for the one exemption allowed by subdivision (e) of Section 4 of Article VII of the California Constitution.~~

~~77. (a) The commission shall conduct a continuing examination of the workers' compensation system, as defined in Section 4 of Article~~

~~XIV of the California Constitution, and of the state's activities to prevent industrial injuries and occupational diseases. The commission may conduct or contract for studies it deems necessary to carry out its responsibilities. In carrying out its duties, the commission shall examine other states' workers' compensation programs and activities to prevent industrial injuries and occupational diseases. All state departments and agencies, and any rating organization licensed by the Insurance Commissioner pursuant to Article 3 (commencing with Section 11750) of Chapter 3 of Part 3 of Division 2 of the Insurance Code, shall cooperate with the commission and upon reasonable request provide information and data in their possession that the commission deems necessary for the purpose of carrying out its responsibilities. The commission shall issue an annual report on the state of the workers' compensation system, including recommendations for administrative or legislative modifications which would improve the operation of the system. The report shall be made available to the Governor, the Legislature, and the public on request.~~

~~(b) On or before July 1, 2003, and periodically thereafter as it deems necessary, the commission shall issue a report and recommendations on the improvement and simplification of the notices required to be provided by insurers and self-insured employers.~~

~~(c) The commission succeeds to, and is vested with, all of the powers, duties, purposes, responsibilities, and jurisdiction of the Health and Safety Commission which is hereby abolished, including the administration of grants to assist in establishing effective occupational injury and illness prevention programs.~~

~~77.5. (a) On or before July 1, 2004, the commission shall conduct a survey and evaluation of evidence-based, peer-reviewed, nationally recognized standards of care, including existing medical treatment utilization standards, including independent medical review, as used in other states, at the national level, and in other medical benefit systems. The survey shall be updated periodically.~~

~~(b) On or before October 1, 2004, the commission shall issue a report of its findings and recommendations to the administrative director for purposes of the adoption of a medical treatment utilization schedule.~~

~~78. (a) The commission shall review and approve applications from employers and employee organizations, as well as applications submitted jointly by an employer organization and an employee organization, for grants to assist in establishing effective occupational injury and illness prevention programs. The commission shall establish policies for the evaluation of these applications and shall give priority to applications proposing to target high-risk~~

~~industries and occupations, including those with high injury or illness rates, and those in which employees are exposed to one or more hazardous substances or conditions or where there is a demonstrated need for research to determine effective strategies for the prevention of occupational illnesses or injuries.~~

~~(b) Civil and administrative penalties assessed and collected pursuant to Sections 129.5 and 4628 shall be deposited in the Workers' Compensation Administration Revolving Fund. Moneys in the fund, when appropriated by the Legislature to fund the grants under subdivision (a) and other activities and expenses of the commission set forth in this code, shall be expended by the department, upon approval by the commission.~~

98. (a) The Labor Commissioner shall have the authority to investigate employee complaints. The Labor Commissioner may provide for a hearing in any action to recover wages, penalties, and other demands for compensation properly before the division or the Labor Commissioner including orders of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency, and shall determine all matters arising under his or her jurisdiction. It shall be within the jurisdiction of the Labor Commissioner to accept and determine claims from holders of payroll checks or payroll drafts returned unpaid because of insufficient funds, if, after a diligent search, the holder is unable to return the dishonored check or draft to the payee and recover the sums paid out. Within 30 days of filing of the complaint, the Labor Commissioner shall notify the parties as to whether a hearing will be held, or whether action will be taken in accordance with Section 98.3, or whether no further action will be taken on the complaint. If the determination is made by the Labor Commissioner to hold a hearing, the hearing shall be held within 90 days of the date of that determination. However, the Labor Commissioner may postpone or grant additional time before setting a hearing if the Labor Commissioner finds that it would lead to an equitable and just resolution of the dispute.

It is the intent of the Legislature that hearings held pursuant to this section be conducted in an informal setting preserving the right of the parties.

(b) When a hearing is set, a copy of the complaint, which shall include the amount of compensation requested, together with a notice of time and place of the hearing, shall be served on all parties, personally or by certified mail.

(c) Within 10 days after service of the notice and the complaint, a defendant may file an answer with the Labor Commissioner in any form as the Labor Commissioner may prescribe, setting forth the particulars in which the complaint is inaccurate or incomplete and

the facts upon which the defendant intends to rely.

(d) No pleading other than the complaint and answer of the defendant or defendants shall be required. Both shall be in writing and shall conform to the form and the rules of practice and procedure adopted by the Labor Commissioner.

(e) Evidence on matters not pleaded in the answer shall be allowed only on terms and conditions the Labor Commissioner shall impose. In all these cases, the claimant shall be entitled to a continuance for purposes of review of the new evidence.

(f) If the defendant fails to appear or answer within the time allowed under this chapter, no default shall be taken against him or her, but the Labor Commissioner shall hear the evidence offered and shall issue an order, decision, or award in accordance with the evidence. A defendant failing to appear or answer, or subsequently contending to be aggrieved in any manner by want of notice of the pendency of the proceedings, may apply to the Labor Commissioner for relief in accordance with Section 473 of the Code of Civil Procedure.

The Labor Commissioner may afford this relief. No right to relief, including the claim that the findings or award of the Labor Commissioner or judgment entered thereon are void upon their face, shall accrue to the defendant in any court unless prior application is made to the Labor Commissioner in accordance with this chapter.

(g) All hearings conducted pursuant to this chapter are governed by the division and by the rules of practice and procedure adopted by the Labor Commissioner.

(h) Whenever a claim is filed under this chapter against a person operating or doing business under a fictitious business name, as defined in Section 17900 of the Business and Professions Code, which relates to the person's business, the division shall inquire at the time of the hearing whether the name of the person is the legal name under which the business or person has been licensed, registered, incorporated, or otherwise authorized to do business.

The division may amend an order, decision, or award to conform to the legal name of the business or the person who is the defendant to a wage claim, provided it can be shown that proper service was made on the defendant or his or her agent, unless a judgment had been entered on the order, decision, or award pursuant to subdivision (d) of Section 98.2. The Labor Commissioner may apply to the clerk of the superior court to amend a judgment that has been issued pursuant to a final order, decision, or award to conform to the legal name of the defendant, provided it can be shown that proper service was made on the defendant or his or her agent.

98.3. (a) The Labor Commissioner may prosecute all actions for the collection of wages, penalties, and demands of persons who in the judgment of the Labor Commissioner are financially unable to employ

counsel and the Labor Commissioner believes have claims which are valid and enforceable.

The Labor Commissioner may also prosecute actions for the return of worker's tools which are in the illegal possession of another person.

(b) The Labor Commissioner may prosecute action for the collection of wages and other moneys payable to employees or to the state arising out of an employment relationship or order of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency.

(c) The Labor Commissioner may also prosecute actions for wages or other monetary benefits that are due the Industrial Relations Unpaid Wage Fund.

127.6. (a) The administrative director shall, in consultation with the ~~Commission on Health and Safety and Workers' Compensation~~Labor and Workforce Development Agency, other state agencies, and researchers and research institutions with expertise in health care delivery and occupational health care service, conduct a study of medical treatment provided to workers who have sustained industrial injuries and illnesses. The study shall focus on, but not be limited to, all of the following:

(1) Factors contributing to the rising costs and utilization of medical treatment and case management in the workers' compensation system.

(2) An evaluation of case management procedures that contribute to or achieve early and sustained return to work within the employee's temporary and permanent work restrictions.

(3) Performance measures for medical services that reflect patient outcomes.

(4) Physician utilization, quality of care, and outcome measurement data.

(5) Patient satisfaction.

(b) The administrative director shall begin the study on or before July 1, 2003, and shall report and make recommendations to the Legislature based on the results of the study on or before July 1, 2004.

(c) In implementing this section, the administrative director shall ensure the confidentiality and protection of patient-specific data.

138.7. (a) Except as expressly permitted in subdivision (b), a person or public or private entity not a party to a claim for workers' compensation benefits may not obtain individually identifiable information obtained or maintained by the division on that claim. For purposes of this section, "individually identifiable information" means any data concerning an injury or claim that is linked to a

uniquely identifiable employee, employer, claims administrator, or any other person or entity.

(b) (1) The administrative director, or a statistical agent designated by the administrative director, may use individually identifiable information for purposes of creating and maintaining the workers' compensation information system as specified in Section 138.6.

(2) The State Department of Health Services may use individually identifiable information for purposes of establishing and maintaining a program on occupational health and occupational disease prevention as specified in Section 105175 of the Health and Safety Code.

(3) (A) Individually identifiable information may be used by the Division of Workers' Compensation, the Division of Occupational Safety and Health, and the Division of Labor Statistics and Research as necessary to carry out their duties. The administrative director shall adopt regulations governing the access to the information described in this subdivision by these divisions. Any regulations adopted pursuant to this subdivision shall set forth the specific uses for which this information may be obtained.

(B) Individually identifiable information maintained in the workers' compensation information system and the Division of Workers' Compensation may be used by researchers employed by or under contract to the ~~Commission on Health and Safety and Workers' Compensation~~Labor and Workforce Development Agency as necessary to carry out the ~~commission's~~agency's research.

The administrative director shall adopt regulations governing the access to the information described in this subdivision by ~~commission~~agency researchers. These regulations shall set forth the specific uses for which this information may be obtained and include provisions guaranteeing the confidentiality of individually identifiable information. Individually identifiable information obtained under this subdivision shall not be disclosed to ~~commission~~agency members. No individually identifiable information obtained by researchers under contract to the ~~commission~~agency pursuant to this subparagraph may be disclosed to any other person or entity, public or private, for a use other than that research project for which the information was obtained. Within a reasonable period of time after the research for which the information was obtained has been completed, the data collected shall be modified in a manner so that the subjects cannot be identified, directly or through identifiers linked to the subjects.

(4) The administrative director shall adopt regulations allowing reasonable access to individually identifiable information by other persons or public or private entities for the purpose of bona fide statistical research. This research shall not divulge individually identifiable information concerning a particular employee, employer,

claims administrator, or any other person or entity. The regulations adopted pursuant to this paragraph shall include provisions guaranteeing the confidentiality of individually identifiable information. Within a reasonable period of time after the research for which the information was obtained has been completed, the data collected shall be modified in a manner so that the subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) This section shall not operate to exempt from disclosure any information that is considered to be a public record pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) contained in an individual's file once an application for adjudication has been filed pursuant to Section 5501.5.

However, individually identifiable information shall not be provided to any person or public or private entity who is not a party to the claim unless that person identifies himself or herself or that public or private entity identifies itself and states the reason for making the request. The administrative director may require the person or public or private entity making the request to produce information to verify that the name and address of the requester is valid and correct. If the purpose of the request is related to preemployment screening, the administrative director shall notify the person about whom the information is requested that the information was provided and shall include the following in 12-point type:

"IT MAY BE A VIOLATION OF FEDERAL AND STATE LAW TO DISCRIMINATE AGAINST A JOB APPLICANT BECAUSE THE APPLICANT HAS FILED A CLAIM FOR WORKERS' COMPENSATION BENEFITS."

Any residence address is confidential and shall not be disclosed to any person or public or private entity except to a party to the claim, a law enforcement agency, an office of a district attorney, any person for a journalistic purpose, or other governmental agency.

Nothing in this paragraph shall be construed to prohibit the use of individually identifiable information for purposes of identifying bona fide lien claimants.

(c) Except as provided in subdivision (b), individually identifiable information obtained by the division is privileged and is not subject to subpoena in a civil proceeding unless, after reasonable notice to the division and a hearing, a court determines that the public interest and the intent of this section will not be jeopardized by disclosure of the information. This section shall not operate to restrict access to information by any law enforcement agency or district attorney's office or to limit admissibility of that information in a criminal proceeding.

(d) It shall be unlawful for any person who has received individually identifiable information from the division pursuant to

this section to provide that information to any person who is not entitled to it under this section.

139.2. (a) The administrative director shall appoint qualified medical evaluators in each of the respective specialties as required for the evaluation of medical-legal issues. The appointments shall be for two-year terms.

(b) The administrative director shall appoint or reappoint as a qualified medical evaluator a physician, as defined in Section 3209.3, who is licensed to practice in this state and who demonstrates that he or she meets the requirements in paragraphs (1), (2), (6), and (7), and, if the physician is a medical doctor, doctor of osteopathy, doctor of chiropractic, or a psychologist, that he or she also meets the applicable requirements in paragraph (3), (4), or (5).

(1) Prior to his or her appointment as a qualified medical evaluator, passes an examination written and administered by the administrative director for the purpose of demonstrating competence in evaluating medical-legal issues in the workers' compensation system. Physicians shall not be required to pass an additional examination as a condition of reappointment. A physician seeking appointment as a qualified medical evaluator on or after January 1, 2001, shall also complete prior to appointment, a course on disability evaluation report writing approved by the administrative director. The administrative director shall specify the curriculum to be covered by disability evaluation report writing courses, which shall include, but is not limited to, 12 or more hours of instruction.

(2) Devotes at least one-third of total practice time to providing direct medical treatment, or has served as an agreed medical evaluator on eight or more occasions in the 12 months prior to applying to be appointed as a qualified medical evaluator.

(3) Is a medical doctor or doctor of osteopathy and meets one of the following requirements:

(A) Is board certified in a specialty by a board recognized by the administrative director and either the Medical Board of California or the Osteopathic Medical Board of California.

(B) Has successfully completed a residency training program accredited by the American College of Graduate Medical Education or the osteopathic equivalent.

(C) Was an active qualified medical evaluator on June 30, 2000.

(D) Has qualifications that the administrative director and either the Medical Board of California or the Osteopathic Medical Board of California, as appropriate, both deem to be equivalent to board certification in a specialty.

(4) Is a doctor of chiropractic and meets either of the following

requirements:

(A) Has completed a chiropractic postgraduate specialty program of a minimum of 300 hours taught by a school or college recognized by the administrative director, the Board of Chiropractic Examiners and the Council on Chiropractic Education.

(B) Has been certified in California workers' compensation evaluation by a provider recognized by the administrative director. The certification program shall include instruction on disability evaluation report writing that meets the standards set forth in paragraph (1).

(5) Is a psychologist and meets one of the following requirements:

(A) Is board certified in clinical psychology by a board recognized by the administrative director.

(B) Holds a doctoral degree in psychology, or a doctoral degree deemed equivalent for licensure by the Board of Psychology pursuant to Section 2914 of the Business and Professions Code, from a university or professional school recognized by the administrative director and has not less than five years' postdoctoral experience in the diagnosis and treatment of emotional and mental disorders.

(C) Has not less than five years' postdoctoral experience in the diagnosis and treatment of emotional and mental disorders, and has served as an agreed medical evaluator on eight or more occasions prior to January 1, 1990.

(6) Does not have a conflict of interest as determined under the regulations adopted by the administrative director pursuant to subdivision (o).

(7) Meets any additional medical or professional standards adopted pursuant to paragraph (6) of subdivision (j).

(c) The administrative director shall adopt standards for appointment of physicians who are retired or who hold teaching positions who are exceptionally well qualified to serve as a qualified medical evaluator even though they do not otherwise qualify under paragraph (2) of subdivision (b). In no event shall a physician whose full-time practice is limited to the forensic evaluation of disability be appointed as a qualified medical evaluator under this subdivision.

(d) The qualified medical evaluator, upon request, shall be reappointed if he or she meets the qualifications of subdivision (b) and meets all of the following criteria:

(1) Is in compliance with all applicable regulations and evaluation guidelines adopted by the administrative director.

(2) Has not had more than five of his or her evaluations that were considered by a workers' compensation administrative law judge at a contested hearing rejected by the workers' compensation administrative law judge or the appeals board pursuant to this section during the most recent two-year period during which the

physician served as a qualified medical evaluator. If the workers' compensation administrative law judge or the appeals board rejects the qualified medical evaluator's report on the basis that it fails to meet the minimum standards for those reports established by the administrative director or the appeals board, the workers' compensation administrative law judge or the appeals board, as the case may be, shall make a specific finding to that effect, and shall give notice to the medical evaluator and to the administrative director. Any rejection shall not be counted as one of the five qualifying rejections until the specific finding has become final and time for appeal has expired.

(3) Has completed within the previous 24 months at least 12 hours of continuing education in impairment evaluation or workers' compensation-related medical dispute evaluation approved by the administrative director.

(4) Has not been terminated, suspended, placed on probation, or otherwise disciplined by the administrative director during his or her most recent term as a qualified medical evaluator.

If the evaluator does not meet any one of these criteria, the administrative director may in his or her discretion reappoint or deny reappointment according to regulations adopted by the administrative director. In no event may a physician who does not currently meet the requirements for initial appointment or who has been terminated under subdivision (e) because his or her license has been revoked or terminated by the licensing authority be reappointed.

(e) The administrative director may, in his or her discretion, suspend or terminate a qualified medical evaluator during his or her term of appointment without a hearing as provided under subdivision (k) or (l) whenever either of the following conditions occurs:

(1) The evaluator's license to practice in California has been suspended by the relevant licensing authority so as to preclude practice, or has been revoked or terminated by the licensing authority.

(2) The evaluator has failed to timely pay the fee required by the administrative director pursuant to subdivision (n).

(f) The administrative director shall furnish a physician, upon request, with a written statement of its reasons for termination of, or for denying appointment or reappointment as, a qualified medical evaluator. Upon receipt of a specific response to the statement of reasons, the administrative director shall review his or her decision not to appoint or reappoint the physician or to terminate the physician and shall notify the physician of its final decision within 60 days after receipt of the physician's response.

(g) The administrative director shall establish agreements with qualified medical evaluators to assure the expeditious evaluation of cases assigned to them for comprehensive medical evaluations.

(h) (1) When requested by an employee or employer pursuant to Section 4062.1, the medical director appointed pursuant to Section 122 shall assign three-member panels of qualified medical evaluators within five working days after receiving a request for a panel. If a panel is not assigned within 15 working days, the employee shall have the right to obtain a medical evaluation from any qualified medical evaluator of his or her choice. The medical director shall use a random selection method for assigning panels of qualified medical evaluators. The medical director shall select evaluators who are specialists of the type requested by the employee. The medical director shall advise the employee that he or she should consult with his or her treating physician prior to deciding which type of specialist to request.

(2) The administrative director shall promulgate a form that shall notify the employee of the physicians selected for his or her panel after a request has been made pursuant to Section 4062.1 or 4062.2. The form shall include, for each physician on the panel, the physician's name, address, telephone number, specialty, number of years in practice, and a brief description of his or her education and training, and shall advise the employee that he or she is entitled to receive transportation expenses and temporary disability for each day necessary for the examination. The form shall also state in a clear and conspicuous location and type: "You have the right to consult with an information and assistance officer at no cost to you prior to selecting the doctor to prepare your evaluation, or you may consult with an attorney. If your claim eventually goes to court, the workers' compensation administrative law judge will consider the evaluation prepared by the doctor you select to decide your claim."

(3) When compiling the list of evaluators from which to select randomly, the medical director shall include all qualified medical evaluators who meet all of the following criteria:

(A) He or she does not have a conflict of interest in the case, as defined by regulations adopted pursuant to subdivision (o).

(B) He or she is certified by the administrative director to evaluate in an appropriate specialty and at locations within the general geographic area of the employee's residence.

(C) He or she has not been suspended or terminated as a qualified medical evaluator for failure to pay the fee required by the administrative director pursuant to subdivision (n) or for any other reason.

(4) When the medical director determines that an employee has requested an evaluation by a type of specialist that is appropriate for the employee's injury, but there are not enough qualified medical evaluators of that type within the general geographic area of the employee's residence to establish a three-member panel, the medical

director shall include sufficient qualified medical evaluators from other geographic areas and the employer shall pay all necessary travel costs incurred in the event the employee selects an evaluator from another geographic area.

(i) The medical director appointed pursuant to Section 122 shall continuously review the quality of comprehensive medical evaluations and reports prepared by agreed and qualified medical evaluators and the timeliness with which evaluation reports are prepared and submitted. The review shall include, but not be limited to, a review of a random sample of reports submitted to the division, and a review of all reports alleged to be inaccurate or incomplete by a party to a case for which the evaluation was prepared. The medical director shall submit to the administrative director an annual report summarizing the results of the continuous review of medical evaluations and reports prepared by agreed and qualified medical evaluators and make recommendations for the improvement of the system of medical evaluations and determinations.

(j) After public hearing pursuant to Section 5307.3, the administrative director shall adopt regulations concerning the following issues:

(1) (A) Standards governing the timeframes within which medical evaluations shall be prepared and submitted by agreed and qualified medical evaluators. Except as provided in this subdivision, the timeframe for initial medical evaluations to be prepared and submitted shall be no more than 30 days after the evaluator has seen the employee or otherwise commenced the medical evaluation procedure.

The administrative director shall develop regulations governing the provision of extensions of the 30-day period in both of the following cases:

(i) When the evaluator has not received test results or consulting physician's evaluations in time to meet the 30-day deadline.

(ii) To extend the 30-day period by not more than 15 days when the failure to meet the 30-day deadline was for good cause.

(B) For purposes of subparagraph (A), "good cause" means any of the following:

(i) Medical emergencies of the evaluator or evaluator's family.

(ii) Death in the evaluator's family.

(iii) Natural disasters or other community catastrophes that interrupt the operation of the evaluator's business.

(C) The administrative director shall develop timeframes governing availability of qualified medical evaluators for unrepresented employees under Sections 4061 and 4062. These timeframes shall give the employee the right to the addition of a new evaluator to his or her panel, selected at random, for each evaluator not available to see the employee within a specified period of time, but shall also

permit the employee to waive this right for a specified period of time thereafter.

(2) Procedures to be followed by all physicians in evaluating the existence and extent of permanent impairment and limitations resulting from an injury in a manner consistent with Section 4660.

(3) Procedures governing the determination of any disputed medical treatment issues in a manner consistent with Section 5307.27.

(4) Procedures to be used in determining the compensability of psychiatric injury. The procedures shall be in accordance with Section 3208.3 and shall require that the diagnosis of a mental disorder be expressed using the terminology and criteria of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Third Edition-Revised, or the terminology and diagnostic criteria of other psychiatric diagnostic manuals generally approved and accepted nationally by practitioners in the field of psychiatric medicine.

(5) Guidelines for the range of time normally required to perform the following:

(A) A medical-legal evaluation that has not been defined and valued pursuant to Section 5307.6. The guidelines shall establish minimum times for patient contact in the conduct of the evaluations, and shall be consistent with regulations adopted pursuant to Section 5307.6.

(B) Any treatment procedures that have not been defined and valued pursuant to Section 5307.1.

(C) Any other evaluation procedure requested by the Insurance Commissioner, or deemed appropriate by the administrative director.

(6) Any additional medical or professional standards that a medical evaluator shall meet as a condition of appointment, reappointment, or maintenance in the status of a medical evaluator.

(k) Except as provided in this subdivision, the administrative director may, in his or her discretion, suspend or terminate the privilege of a physician to serve as a qualified medical evaluator if the administrative director, after hearing pursuant to subdivision (l), determines, based on substantial evidence, that a qualified medical evaluator:

(1) Has violated any material statutory or administrative duty.

(2) Has failed to follow the medical procedures or qualifications established pursuant to paragraph (2), (3), (4), or (5) of subdivision (j).

(3) Has failed to comply with the timeframe standards established pursuant to subdivision (j).

(4) Has failed to meet the requirements of subdivision (b) or (c).

(5) Has prepared medical-legal evaluations that fail to meet the minimum standards for those reports established by the administrative director or the appeals board.

(6) Has made material misrepresentations or false statements in an application for appointment or reappointment as a qualified medical evaluator.

No hearing shall be required prior to the suspension or termination of a physician's privilege to serve as a qualified medical evaluator when the physician has done either of the following:

(A) Failed to timely pay the fee required pursuant to subdivision (n).

(B) Had his or her license to practice in California suspended by the relevant licensing authority so as to preclude practice, or had the license revoked or terminated by the licensing authority.

(l) The administrative director shall cite the qualified medical evaluator for a violation listed in subdivision (k) and shall set a hearing on the alleged violation within 30 days of service of the citation on the qualified medical evaluator. In addition to the authority to terminate or suspend the qualified medical evaluator upon finding a violation listed in subdivision (k), the administrative director may, in his or her discretion, place a qualified medical evaluator on probation subject to appropriate conditions, including ordering continuing education or training. The administrative director shall report to the appropriate licensing board the name of any qualified medical evaluator who is disciplined pursuant to this subdivision.

(m) The administrative director shall terminate from the list of medical evaluators any physician where licensure has been terminated by the relevant licensing board, or who has been convicted of a misdemeanor or felony related to the conduct of his or her medical practice, or of a crime of moral turpitude. The administrative director shall suspend or terminate as a medical evaluator any physician who has been suspended or placed on probation by the relevant licensing board. If a physician is suspended or terminated as a qualified medical evaluator under this subdivision, a report prepared by the physician that is not complete, signed, and furnished to one or more of the parties prior to the date of conviction or action of the licensing board, whichever is earlier, shall not be admissible in any proceeding before the appeals board nor shall there be any liability for payment for the report and any expense incurred by the physician in connection with the report.

(n) Each qualified medical evaluator shall pay a fee, as determined by the administrative director, for appointment or reappointment. These fees shall be based on a sliding scale as established by the administrative director. All revenues from fees paid under this subdivision shall be deposited into the Workers' Compensation Administration Revolving Fund and are available for expenditure upon appropriation by the Legislature, and shall not be

used by any other department or agency or for any purpose other than administration of the programs the Division of Workers' Compensation related to the provision of medical treatment to injured employees.

(o) An evaluator may not request or accept any compensation or other thing of value from any source that does or could create a conflict with his or her duties as an evaluator under this code. The administrative director, after consultation with the ~~Commission on Health and Safety and Workers' Compensation~~Labor and Workforce Development Agency, shall adopt regulations to implement this subdivision.

9 members, not 7, and will not be required to have any members be a member of the Bar. The appeals board members are pleasure, not term appointments of the governor and subject to confirmation.

148. (a) There is in the ~~Department of Industrial Relations~~ Labor and Workforce Development Agency the ~~Occupational Safety and Health~~ Employment and Benefits Appeals Board, consisting of ~~three~~ nine members appointed by the Governor, subject to the approval of the Senate. ~~One member shall be from the field of management, one shall be from the field of labor and one member shall be from the general public. The public member shall be chosen from other than the fields of management and labor~~. Each member of the appeals board shall devote his or her full time to the performance of his or her duties.

(b) The chairman and each member of the appeals board shall receive the annual salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The Governor shall designate the chairman of the appeals board from the membership of the appeals board. The person so designated shall hold the office of chairman at the pleasure of the Governor. The chairman shall designate a member of the appeals board to act as chairman in his absence.

(d) Any reference to the Occupational Safety and Health Appeals Board, the Unemployment Insurance Appeals Board, and the Workers' Compensation Appeals Board shall refer to the Employment & Benefits Appeals Board.

(e) The Employment & Benefits Appeals Board shall succeed to, and be vested with, all the powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the following entities, which shall no longer exist:

(1) Occupational Safety and Health Appeals Board;
(2) Unemployment Insurance Appeals Board;
(3) Workers' Compensation Appeals Board.

For purposes of this section, the above entities shall be known as predecessor entities.

(f) All regulations and orders adopted by the predecessor entities and any of its predecessors in effect immediately preceding the effective date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted with reference to the predecessor entities or any of their predecessors shall mean the Employment and Benefits Appeals Board. Any action by or against the predecessor entities or any of their predecessors shall not abate but shall continue in the name of the Employment and Benefits Appeals Board, and the Employment and Benefits Appeals Board shall be substituted for the predecessor entities and any of their predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(g) No contract, lease, license, bond, or any other agreement to which the predecessor entities or any of their predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the Employment and Benefits Appeals Board assuming all of the rights, obligations, liabilities, and duties of the predecessor entities and any of their predecessors. That assumption by the Employment and Benefits Appeals Board shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the predecessor entities or any of their predecessors, shall become the indebtedness of the Employment and Benefits Appeals Board. Any on-going obligations or responsibilities of the predecessor entities for managing and maintaining bond issuances shall be transferred to the Employment and Benefits Appeals Board without impairment to any security contained in the bond instrument.

(h) The unexpended balance of all funds available for use by the predecessor entities or any of their predecessors in carrying out any functions transferred to the Employment and Benefits Appeals Board shall be available for use by the Employment and Benefits Appeals Board. All books, documents, records, and property of the predecessor entities shall be transferred to the Employment and Benefits Appeals Board.

(i) Positions filled by appointment by the Governor in the predecessor entities shall be transferred to the Employment and Benefits Appeals Board. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Titles of positions transferred pursuant to this section shall be determined by the Employment and Benefits Appeals Board with the approval of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law.

(j) Any officer or employee of the predecessor entities who is performing a function transferred to the Employment and Benefits Appeals Board and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the Employment and Benefits Appeals Board pursuant to the provisions of Government Code Section 19050.9.

The status, position, and rights of any officer or employee of the predecessor entities shall not be affected by the transfer and shall be retained by the person as an officer or employee of the Employment and Benefits Appeals Board, as the case may be, pursuant to the State Civil Service

Act (Part 2 [commencing with Section 18500] of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

148.1. Each member of the appeals board shall serve ~~for a term of four years~~ at the pleasure of the Governor and until his or her successor is appointed and qualifies. ~~The terms of the first three members appointed to the appeals board shall expire on the second, third, and fourth January 15th following the date of the appointment of the first appointed member. A vacancy shall be filled by the Governor, subject to the approval of the Senate by appointment for the unexpired term.~~

148.6. A decision of the appeals board is binding on the director and the Division of Occupational Safety and Health and the Employment Development Department with respect to the parties involved in the particular appeal. The director shall have the right to seek judicial review of an appeals board decision irrespective of whether or not he or she appeared or participated in the appeal to the appeals board or its hearing officer.

204.3. (a) An employee may receive, in lieu of overtime compensation, compensating time off at a rate of not less than one and one-half hours for each hour of employment for which overtime compensation is required by law. If an hour of employment would otherwise be compensable at a rate of more than one and one-half times the employee's regular rate of compensation, then the employee may receive compensating time off commensurate with the higher rate.

(b) An employer may provide compensating time off under subdivision (a) if the following four conditions are met:

(1) The compensating time off is provided pursuant to applicable provisions of a collective bargaining agreement, memorandum of understanding, or other written agreement between the employer and the duly authorized representative of the employer's employees; or, in the case of employees not covered by the aforementioned agreement or memorandum of understanding, pursuant to a written agreement entered into between the employer and employee before the performance of the work.

(2) The employee has not accrued compensating time in excess of the limit prescribed by subdivision (c).

(3) The employee has requested, in writing, compensating time off in lieu of overtime compensation.

(4) The employee is regularly scheduled to work no less than 40 hours in a workweek.

(c) (1) An employee may not accrue more than 240 hours of compensating time off. Any employee who has accrued 240 hours of compensating time off shall, for any additional overtime hours of

work, be paid overtime compensation.

(2) If compensation is paid to an employee for accrued compensating time off, the compensation shall be paid at the regular rate earned by the employee at the time the employee receives payment.

(d) An employee who has accrued compensating time off authorized to be provided under subdivision (a) shall, upon termination of employment, be paid for the unused compensating time at a rate of compensation not less than the average regular rate received by the employee during the last three years of the employee's employment, or the final regular rate received by the employee, whichever is higher.

(e) (1) An employee who has accrued compensating time off authorized to be provided under subdivision (a), and who has requested the use of that compensating time, shall be permitted by the employee's employer to use the time within a reasonable period after making the request, if the use of the compensating time does not unduly disrupt the operations of the employer.

(2) Upon the request of an employee, the employer shall pay overtime compensation in cash in lieu of compensating time off for any compensating time off that has accrued for at least two pay periods.

(3) For purposes of determining whether a request to use compensating time has been granted within a reasonable period, the following factors shall be relevant:

(A) The normal schedule of work.

(B) Anticipated peak workloads based on past experience.

(C) Emergency requirements for staff and services.

(D) The availability of qualified substitute staff.

(f) Every employer shall keep records that accurately reflect compensating time earned and used.

(g) For purposes of this section, the terms "compensating time" and "compensating time off" mean hours during which an employee is not working, which are not counted as hours worked during the applicable workweek or other work period for purposes of overtime compensation, and for which the employee is compensated at the employee's regular rate.

(h) This section shall not apply to any employee exempt from the overtime provisions of the California wage orders.

(i) This section shall not apply to any employee who is subject to the following wage orders of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency:

Orders No. 8-80, 13-80, and 14-80 (affecting industries handling products after harvest, industries preparing agricultural products for market on the farm, and agricultural occupations), Order No. 3-80 (affecting the canning, freezing, and preserving industry), Orders

No. 5-89 and 10-89 (affecting the public housekeeping and amusement and recreation industries), and Order No. 1-89 (affecting the manufacturing industry).

226. (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

(b) An employer that is required by this code or any regulation adopted pursuant to this code to keep the information required by subdivision (a) shall afford current and former employees the right to inspect or copy the records pertaining to that current or former employee, upon reasonable request to the employer. The employer may take reasonable steps to assure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

(c) An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request. A violation of this subdivision is an infraction. Impossibility of performance, not caused by or a result of a violation of law, shall be an affirmative defense for an employer in any action alleging a violation of this subdivision. An employer may

designate the person to whom a request under this subdivision will be made.

(d) This section does not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(e) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars ($4,000), and is entitled to an award of costs and reasonable attorney's fees.

(f) A failure by an employer to permit a current or former employee to inspect or copy records within the time set forth in subdivision (c) entitles the current or former employee or the Labor Commissioner to recover a seven hundred fifty dollar ($750) penalty from the employer.

(g) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney's fees.

(h) This section does not apply to the state, or any city, county, city and county, district, or any other governmental entity.

226.7. (a) No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency.

(b) If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

350. As used in this article, unless the context indicates otherwise:

(a) "Employer" means every person engaged in any business or enterprise in this state that has one or more persons in service under any appointment, contract of hire, or apprenticeship, express or implied, oral or written, irrespective of whether the person is the owner of the business or is operating on a concessionaire or other basis.

(b) "Employee" means every person, including aliens and minors, rendering actual service in any business for an employer, whether

gratuitously or for wages or pay, whether the wages or pay are measured by the standard of time, piece, task, commission, or other method of calculation, and whether the service is rendered on a commission, concessionaire, or other basis.

(c) "Employing" includes hiring, or in any way contracting for, the services of an employee.

(d) "Agent" means every person other than the employer having the authority to hire or discharge any employee or supervise, direct, or control the acts of employees.

(e) "Gratuity" includes any tip, gratuity, money, or part thereof that has been paid or given to or left for an employee by a patron of a business over and above the actual amount due the business for services rendered or for goods, food, drink, or articles sold or served to the patron. Any amounts paid directly by a patron to a dancer employed by an employer subject to ~~Industrial Welfare Commission~~Labor and Workforce Development Agency Order No. 5 or 10 shall be deemed a gratuity.

(f) "Business" means any business establishment or enterprise, regardless of where conducted.

511. (a) Upon the proposal of an employer, the employees of an employer may adopt a regularly scheduled alternative workweek that authorizes work by the affected employees for no longer than 10 hours per day within a 40-hour workweek without the payment to the affected employees of an overtime rate of compensation pursuant to this section. A proposal to adopt an alternative workweek schedule shall be deemed adopted only if it receives approval in a secret ballot election by at least two-thirds of affected employees in a work unit. The regularly scheduled alternative workweek proposed by an employer for adoption by employees may be a single work schedule that would become the standard schedule for workers in the work unit, or a menu of work schedule options, from which each employee in the unit would be entitled to choose.

(b) An affected employee working longer than eight hours but not more than 12 hours in a day pursuant to an alternative workweek schedule adopted pursuant to this section shall be paid an overtime rate of compensation of no less than one and one-half times the regular rate of pay of the employee for any work in excess of the regularly scheduled hours established by the alternative workweek agreement and for any work in excess of 40 hours per week. An overtime rate of compensation of no less than double the regular rate of pay of the employee shall be paid for any work in excess of 12 hours per day and for any work in excess of eight hours on those days worked beyond the regularly scheduled workdays established by the alternative workweek agreement. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour

of overtime work.

(c) An employer shall not reduce an employee's regular rate of hourly pay as a result of the adoption, repeal or nullification of an alternative workweek schedule.

(d) An employer shall make a reasonable effort to find a work schedule not to exceed eight hours in a workday, in order to accommodate any affected employee who was eligible to vote in an election authorized by this section and who is unable to work the alternative schedule hours established as the result of that election. An employer shall be permitted to provide a work schedule not to exceed eight hours in a workday to accommodate any employee who was hired after the date of the election and who is unable to work the alternative schedule established as the result of that election. An employer shall explore any available reasonable alternative means of accommodating the religious belief or observance of an affected employee that conflicts with an adopted alternative workweek schedule, in the manner provided by subdivision (j) of Section 12940 of the Government Code.

(e) The results of any election conducted pursuant to this section shall be reported by an employer to the Division of Labor Statistics and Research within 30 days after the results are final.

(f) Any type of alternative workweek schedule that is authorized by this code and that was in effect on January 1, 2000, may be repealed by the affected employees pursuant to this section. Any alternative workweek schedule that was adopted pursuant to Wage Order Numbers 1, 4, 5, 7, or 9 of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency is null and void, except for an alternative workweek providing for a regular schedule of no more than 10 hours' work in a workday that was adopted by a two-thirds vote of affected employees in a secret ballot election pursuant to wage orders of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency in effect prior to 1998. This subdivision does not apply to exemptions authorized pursuant to Section 515.

(g) Notwithstanding subdivision (f), an alternative workweek schedule in the health care industry adopted by a two-thirds vote of affected employees in a secret ballot election pursuant to Wage Orders 4 and 5 in effect prior to 1998 that provided for workdays exceeding 10 hours but not exceeding 12 hours in a day without the payment of overtime compensation shall be valid until July 1, 2000. An employer in the health care industry shall make a reasonable effort to accommodate any employee in the health care industry who is unable to work the alternative schedule established as the result of a valid election held in accordance with provisions of Wage Orders 4 or 5 that were in effect prior to 1998.

(h) Notwithstanding subdivision (f), if an employee is voluntarily working an alternative workweek schedule providing for a regular

work schedule of not more than 10 hours work in a workday as of July 1, 1999, an employee may continue to work that alternative workweek schedule without the entitlement of the payment of daily overtime compensation for the hours provided in that schedule if the employer approves a written request of the employee to work that schedule.

512. (a) An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

(b) Notwithstanding subdivision (a), the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency may adopt a working condition order permitting a meal period to commence after six hours of work if the ~~commission~~secretary determines that the order is consistent with the health and welfare of the affected employees.

(c) Subdivision (a) does not apply to an employee in the wholesale baking industry who is subject to an ~~Industrial Welfare Commission~~Labor and Workforce Development Agency
Wage Order and who is covered by a valid collective bargaining agreement that provides for a 35-hour workweek consisting of five seven-hour days, payment of 1 and 1/2 the regular rate of pay for time worked in excess of seven hours per day, and a rest period of not less than 10 minutes every two hours.

512.5. (a) Notwithstanding any provision of this chapter, if the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency adopts or amends an order that applies
to an employee of a public agency who operates a commercial motor vehicle, it may exempt that employee from the application of the provisions of that order which relate to meal periods or rest periods, consistent with the health and welfare of that employee, if he or she is covered by a valid collective bargaining agreement.

(b) "Commercial motor vehicle" for the purposes of this section has the same meaning as provided in subdivision (b) of Section 15210 of the Vehicle Code.

(c) "Public agency" for the purposes of this section means the state and any political subdivision of the state, including any city, county, city and county, or special district.

515. (a) The ~~Industrial Welfare Commission~~Labor and Workforce Development Agency may establish exemptions
from the requirement that an overtime rate of compensation be paid pursuant to Sections 510 and 511 for executive, administrative, and professional employees, provided that the employee is primarily engaged in the duties that meet the test of the exemption, customarily and regularly exercises discretion and independent judgment in performing those duties, and earns a monthly salary equivalent to no less than two times the state minimum wage for full-time employment. The ~~commission~~secretary shall conduct a review of the duties that meet the test of the exemption. The ~~commission~~secretary may, based upon this review, convene a public hearing to adopt or modify regulations at that hearing pertaining to duties that meet the test of the exemption without convening wage boards. Any hearing conducted pursuant to this subdivision shall be concluded not later than July 1, 2000.

(b) (1) The ~~commission~~secretary may establish additional exemptions to hours of work requirements under this division where it finds that hours or conditions of labor may be prejudicial to the health or welfare of employees in any occupation, trade, or industry. This paragraph shall become inoperative on January 1, 2005.

(2) Except as otherwise provided in this section and in subdivision (g) of Section 511, nothing in this section requires the ~~commission~~secretary to alter any exemption from provisions regulating hours of work that was contained in any valid wage order in effect in 1997. Except as otherwise provided in this division, the ~~commission~~secretary may review, retain, or eliminate any exemption from provisions regulating hours of work that was contained in any valid wage order in effect in 1997.

(c) For the purposes of this section, "full-time employment" means employment in which an employee is employed for 40 hours per week.

(d) For the purpose of computing the overtime rate of compensation required to be paid to a nonexempt full-time salaried employee, the employee's regular hourly rate shall be 1/40th of the employee's weekly salary.

(e) For the purposes of this section, "primarily" means more than one-half of the employee's worktime.

(f) (1) In addition to the requirements of subdivision (a), registered nurses employed to engage in the practice of nursing shall not be exempted from coverage under any part of the orders of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency, unless they individually meet the
criteria for exemptions established for executive or administrative employees.

(2) This subdivision does not apply to any of the following:

(A) A certified nurse midwife who is primarily engaged in

performing duties for which certification is required pursuant to Article 2.5 (commencing with Section 2746) of Chapter 6 of Division 2 of the Business and Professions Code.

(B) A certified nurse anesthetist who is primarily engaged in performing duties for which certification is required pursuant to Article 7 (commencing with Section 2825) of Chapter 6 of Division 2 of the Business and Professions Code.

(C) A certified nurse practitioner who is primarily engaged in performing duties for which certification is required pursuant to Article 8 (commencing with Section 2834) of Chapter 6 of Division 2 of the Business and Professions Code.

(D) Nothing in this paragraph shall exempt the occupations set forth in subparagraphs (A), (B), and (C) from meeting the requirements of subdivision (a).

516. Except as provided in Section 512, the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency may adopt or amend working condition orders with respect to break periods, meal periods, and days of rest for any workers in California consistent with the health and welfare of those workers.

517. (a) The ~~Industrial Welfare Commission~~Labor and Workforce Development Agency shall, at a public hearing to be concluded by July 1, 2000, adopt wage, hours, and working conditions orders consistent with this chapter without convening wage boards, which orders shall be final and conclusive for all purposes. These orders shall include regulations necessary to provide assurances of fairness regarding the conduct of employee workweek elections, procedures for employees to petition for and obtain elections to repeal alternative workweek schedules, procedures for implementation of those schedules, conditions under which an adopted alternative workweek schedule can be repealed by the employer, employee disclosures, designations of work, and processing of workweek election petitions pursuant to Parts 2 and 4 of this division and in any wage order of the ~~commission~~secretary and such other regulations as may be needed to fulfill the duties of the ~~commission~~secretary pursuant to this part.

(b) Prior to July 1, 2000, the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency shall conduct a review of wages, hours, and working conditions in the ski industry, commercial fishing industry, and health care industry, and for stable employees in the horseracing industry. Notwithstanding subdivision (a) and Sections 510 and 511, and consistent with its duty to protect the health, safety, and welfare of workers pursuant to Section 1173, the ~~commission~~secretary may, based upon this review, convene a public hearing to adopt or modify regulations at that hearing pertaining to the industries herein, without convening wage boards.

Any hearing conducted pursuant to this subdivision shall be concluded not later than July 1, 2000.

(c) Notwithstanding subdivision (a) of Section 515, prior to July 1, 2000, the ~~commission~~secretary shall conduct a review of wages, hours, and working conditions of licensed pharmacists. The ~~commission~~secretary may, based upon this review, convene a public hearing to adopt or modify regulations at that hearing pertaining to licensed pharmacists without convening wage boards. Any hearing conducted pursuant to this subdivision shall be concluded not later than July 1, 2000.

(d) Notwithstanding sections 1171 and subdivision (a) of Section 515, the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency shall conduct a review of wages, hours, and working conditions of outside salespersons. The ~~commission~~secretary may, based upon this review, convene a public hearing to adopt or modify regulations at that hearing pertaining to outside salespersons without convening wage boards. Any hearing conducted pursuant to this subdivision shall be concluded not later than July 1, 2000.

(e) Nothing in this section is intended to restrict the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency in its continuing duties pursuant to Section 1173.

(f) No action taken by the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency pursuant to this section is subject to the requirements of Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(g) All wage orders and other regulations issued or adopted pursuant to this section shall be published in accordance with Section 1182.1.

554. (a) Sections 551 and 552 shall not apply to any cases of emergency nor to work performed in the protection of life or property from loss or destruction, nor to any common carrier engaged in or connected with the movement of trains. This chapter, with the exception of Section 558, shall not apply to any person employed in an agricultural occupation, as defined in Order No. 14-80 (operative January 1, 1998) of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency. Nothing in this chapter shall be construed to prevent an accumulation of days of rest when the nature of the employment reasonably requires that the employee work seven or more consecutive days, if in each calendar month the employee receives days of rest equivalent to one day's rest in seven. The requirement respecting the equivalent of one day's rest in seven shall apply, notwithstanding the other provisions of this chapter relating to collective bargaining agreements, where the employer and a labor organization representing employees of the

employer have entered into a valid collective bargaining agreement respecting the hours of work of the employees, unless the agreement expressly provides otherwise.

(b) In addition to the exceptions specified in subdivision (a), the Chief of the Division of Labor Standards Enforcement may, when in his or her judgment hardship will result, exempt any employer or employees from the provisions of Sections 551 and 552.

558. (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency shall be subject to a civil penalty as follows:

(1) For any initial violation, fifty dollars ($50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

(2) For each subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

(3) Wages recovered pursuant to this section shall be paid to the affected employee.

(b) If upon inspection or investigation the Labor Commissioner determines that a person had paid or caused to be paid a wage for overtime work in violation of any provision of this chapter, or any provision regulating hours and days of work in any order of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency, the Labor Commissioner may issue a citation. The procedures for issuing, contesting, and enforcing judgments for citations or civil penalties issued by the Labor Commissioner for a violation of this chapter shall be the same as those set out in Section 1197.1.

(c) The civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law.

1030. Every employer, including the state and any political subdivision, shall provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child. The break time shall, if possible, run concurrently with any break time already provided to the employee. Break time for an employee that does not run concurrently with the rest time authorized for the employee by the applicable wage order of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency shall be unpaid.

1173. It is the continuing duty of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency, hereinafter referred to in this chapter as the ~~commission~~secretary, to ascertain the wages paid to all employees in this state, to ascertain the hours and conditions of labor and employment in the various occupations, trades, and industries in which employees are employed in this state, and to investigate the health, safety, and welfare of those employees.

The ~~commission~~secretary shall conduct a full review of the adequacy of the minimum wage at least once every two years. The ~~commission~~secretary may, upon its own motion or upon petition, amend or rescind any order or portion of any order or adopt an order covering any occupation, trade, or industry not covered by an existing order pursuant to this chapter.

Before adopting any new rules, regulations, or policies, the ~~commission~~secretary shall consult with the Occupational Safety and Health Standards Board to determine those areas and subject matters where the respective jurisdictions of the ~~commission~~secretary and the Occupational Safety and Health Standards Board overlap. This consultation need not take the form of a joint meeting. In the case of such overlapping jurisdiction, the Occupational Safety and Health Standards Board shall have exclusive jurisdiction, and rules, regulations, or policies of the ~~commission~~secretary on the same subject have no force or effect.

1174. Every person employing labor in this state shall:

(a) Furnish to the ~~commission~~secretary, at ~~its~~his or her request, reports or information that the ~~commission~~secretary requires to carry out this chapter. The reports and information shall be verified if required by the ~~commission~~secretary ~~or any member thereof~~.

(b) Allow ~~any member of~~ the ~~commission~~secretary or the employees of the Division of Labor Standards Enforcement free access to the place of business or employment of the person to secure any information or make any investigation that they are authorized by this chapter to ascertain or make. The ~~commission~~secretary may inspect or make excerpts, relating to the employment of employees, from the books, reports, contracts, payrolls, documents, or papers of the person.

(c) Keep a record showing the names and addresses of all employees employed and the ages of all minors.

(d) Keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the ~~commission~~secretary, but in any case shall be kept on file for not less than two years.

1174.5. Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow ~~any member of~~ the ~~commission~~secretary or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars ($500).

1175. Any person, or officer or agent thereof, is guilty of a misdemeanor who:

(a) Neglects or refuses to furnish the information requested under the provisions of Section 1174.

(b) Refuses access to his place of business or employment to ~~any member of~~ the ~~commission~~secretary or employee of the Division of Labor Standards Enforcement when administering or enforcing this chapter.

(c) Hinders such member, or employee in securing information authorized by Section 1174.

(d) Fails to keep any of the records required by Section 1174.

1176. The ~~commission~~secretary ~~or any members thereof~~ may subpena witnesses and administer oaths. All witnesses subpenaed by the ~~commission~~secretary shall be paid the fees and mileage fixed by law in civil cases. In case of the failure of a person to comply with an order or subpena of the ~~commission~~secretary ~~or any member thereof~~, or in the case of the refusal of a witness to testify to any matter regarding which he may lawfully be interrogated before any wage board or the ~~commission~~secretary, it shall be the duty of the superior court or judge thereof, on the application of ~~a member of~~ the ~~commission~~secretary, to compel obedience in a manner by which such obedience could be compelled in a proceeding pending before the court.

1176.1. Any interested party may petition the ~~commission~~secretary requesting the adoption, amendment, or repeal of a regulation. The petition shall state clearly and concisely all of the following:

(a) The substance or nature of the regulation, amendment, or repeal that is requested.

(b) The reason for the request.

(c) Reference to the ~~commission~~secretary's authority to take the action that is requested.

1176.3. (a) Within 120 days of the receipt of a petition requesting the adoption, amendment, or repeal of a regulation, the ~~commission~~secretary shall notify the petitioner in writing of the receipt of the petition, set the matter for consideration at a public meeting, and issue a written decision taking one of the following actions:

(1) Setting the matter for public hearing pursuant to Section 1178

or 1178.5.

(2) Denying the petition. A decision denying a petition shall include a statement explaining the reasons for the denial.

(b) The petitioner may request reconsideration of any part or all of a decision denying a petition pursuant to paragraph (2) of subdivision (a) of Section 1176.3. The ~~commission~~secretary's reconsideration of any matter relating to a petition shall be subject to subdivision (a), except that a decision to deny reconsideration shall be final.

(c) In cases where a petition is referred to a wage board, the ~~commission~~secretary shall complete its final actions on the petition within 90 days after completion of the public hearing process pursuant to subdivision (c) of Section 1178.5.

1177. (a) The ~~commission~~secretary may make and enforce rules of practice and procedure and shall not be bound by the rules of evidence. Each order of the ~~commission~~secretary shall be concurred in by a majority of the commissioners.

(b) The ~~commission~~secretary shall prepare a statement as to the basis upon which an adopted or amended order is predicated. The statement shall be concurred in by a majority of the commissioners. The ~~commission~~secretary shall publish a copy of the statement with the order in the California Regulatory Notice Register. The ~~commission~~secretary also shall provide a copy of the statement to any interested party upon request.

1178. If after investigation the ~~commission~~secretary finds that in any occupation, trade, or industry, the wages paid to employees may be inadequate to supply the cost of proper living, or that the hours or conditions of labor may be prejudicial to the health, morals, or welfare of employees, the ~~commission~~secretary shall select a wage board to consider any of such matters and transmit to such wage board the information supporting its findings gathered in the investigation. Such investigation shall include at least one public hearing.

1178.5. (a) If the ~~commission~~secretary finds that wages paid to employees may be inadequate to supply the cost of proper living, it shall select one wage board composed of an equal number of representatives of employers and employees, and a ~~nonvoting~~ representative of the ~~commission~~secretary, designated by the ~~commission~~secretary, who shall act as chairperson. The wage board shall consider the findings of the ~~commission~~secretary and such other information it deems appropriate and report to the ~~commission~~secretary its recommendation of a minimum wage adequate to supply the necessary cost of proper living to, and maintain the health and welfare of employees in this state, and its recommendations on such other matters related to the minimum wage on which the ~~commission~~secretary has requested recommendations.

(b) If the ~~commission~~secretary finds that hours or conditions of labor may

be prejudicial to the health or welfare of employees in any occupation, trade, or industry, it shall select a wage board composed of an equal number of representatives of employers and employees in the occupation, trade, or industry in question, and a ~~nonvoting~~ representative of the ~~commission~~secretary, designated by the ~~commission~~secretary, who shall act as chairperson. The wage board shall consider the findings of the ~~commission~~secretary and such other information it deems appropriate and report to the ~~commission~~secretary its recommendation as to what action should be taken by the ~~commission~~secretary with respect to the matter under consideration.

(c) Prior to amending or rescinding any existing order or adopting any new order, and after receipt of the wage board report and recommendation, the ~~commission~~secretary shall prepare proposed regulations with respect to the matter under consideration. The proposed regulations shall include any recommendation of the wage board which received the support of at least two-thirds of the members of the wage board. A public hearing on the proposed regulations shall be held in each of at least three cities in this state, except when the proposed regulations would affect only an occupation, trade, or industry which is not statewide in scope, in which case a public hearing shall be held in the locality in which the occupation, trade, or industry prevails. The proceedings shall be recorded and transcribed and shall thereafter be a matter of public record.

1179. The members of the wage board shall be allowed fifty dollars ($50) per diem and necessary traveling expenses while engaged in such conferences. The ~~commission~~secretary shall make rules governing the number and selection of the members and the mode of procedure of the wage board, and shall exercise exclusive jurisdiction over all questions as to the validity of the procedure.

1180. The proceedings and deliberations of the wage board shall be made a matter of record for the use of the ~~commission~~secretary, and shall be admissible as evidence in any proceedings before the ~~commission~~secretary.

1181. Upon the fixing of the time and place for the holding of a hearing for the purpose of considering and acting upon the proposed regulations or any matters referred to in Sections 1176 to 1180, inclusive, the ~~commission~~secretary shall:

(a) Give public notice thereof by advertisement in at least one newspaper published in each of the cities of Los Angeles, Oakland, Sacramento, San Jose, Fresno, Eureka, San Diego, Long Beach, Alameda, Berkeley, Stockton, San Bernardino, and San Francisco.

(b) Mail a copy of the notice and the proposed regulations to the clerk of the superior court of each county in the state to be posted at the courthouse; to each association of employers or employees

which, in the opinion of the ~~commission~~secretary, would be affected by the hearing; and to any person or organization within this state filing with the ~~commission~~secretary a written request for notice of such hearing. Failure to mail such notice shall not invalidate any order of the ~~commission~~secretary issued after such hearing.

The notice shall also state the time and place fixed for the hearing, which shall not be less than 30 days from the date of publication and mailing of such notices.

1182. (a) After receipt of the wage board report and the public hearings on the proposed regulations, the ~~commission~~secretary may, upon its own motion, amend or rescind an existing order or promulgate a new order. However, with respect to proposed regulations based on recommendations supported by at least two-thirds of the members of the wage board, the ~~commission~~secretary shall adopt such proposed regulations, unless it finds there is no substantial evidence to support such recommendations.

(b) If at any time the federal minimum wage applicable to employees covered by the Fair Labor Standards Act of 1938, as amended, prior to February 1, 1967, is scheduled to exceed the minimum wage fixed by the ~~commission~~secretary, the provisions of Sections 1178 and 1178.5 pertaining to wage boards shall be waived and the ~~commission~~secretary shall, in a public meeting, adopt an order fixing a new minimum wage at the scheduled higher federal minimum wage. The effective date of such order shall be the same as the effective date of the federal minimum wage, and such order shall not become operative in the event the scheduled increase in the federal minimum wage does not become operative.

1182.1. Any action taken by the ~~commission~~secretary pursuant to Sections 517 and 1182 shall be published in at least one newspaper in each of the Cities of Los Angeles, Sacramento, Oakland, San Jose, Fresno, San Diego, and San Francisco. A summary of the action taken and notice of where the complete text of the new or amended order may be obtained may be published in lieu of the complete text when the ~~commission~~secretary determines such summary and notice will adequately inform the public. The statement as to the basis of the order need not be published.

1182.4. (a) No student employee, camp counselor, or program counselor of an organized camp shall be subject to a minimum wage or maximum hour order of the ~~commission~~secretary if the student employee, camp counselor, or program counselor receives a weekly salary of at least 85 percent of the minimum wage for a 40-hour week, regardless of the number of hours per week the student employee, camp counselor, or program counselor might work at the organized camp. If the student

employee, camp counselor, or program counselor works less than 40 hours per week, the student employee, camp counselor, or program counselor shall be paid at least 85 percent of the minimum hourly wage for each hour worked.

(b) An organized camp may deduct the value of meals and lodging from the salary of a student employee, camp counselor, or program counselor pursuant to appropriate orders of the ~~commission~~secretary.

(c) As used in this section, "organized camp" means an organized camp, as defined in Section 18897 of the Health and Safety Code, which meets the standards of the American Camping Association.

1182.5. (a) The Legislature finds that the time permitted the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency to consider daily overtime compensation petitions that are to be given priority attention by the ~~commission~~secretary pursuant to Section 20 of Chapter 1083 of the Statutes of 1980, has created unanticipated delays in the review and possible modification of applicable ~~commission~~secretary orders for preexisting workweek arrangements, as defined in subdivision (b). The Legislature finds further that legislation is necessary to provide redress of hardships resulting from these unanticipated delays by the enactment of special ~~commission~~Labor and Workforce Development Agency review procedures that augment, and do not limit in any way, the rights and privileges of parties before the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency under this chapter.

(b) For purposes of this section only, a "preexisting workweek arrangement" is defined as, and limited to, a workweek arrangement that existed before November 1980, and had to be modified or abandoned by an employer because the workweek arrangement did not qualify for any exemption provided by the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency from its daily overtime requirements for collectively bargained arrangements, and did not otherwise comply with the daily overtime requirements of an applicable ~~commission~~Labor and Workforce Development Agency order.

(c) An employer who has had in operation an established preexisting workweek arrangement may, prior to July 1, 1985, file a verified petition with the ~~commission~~secretary for review and modification of an applicable order and, upon filing this petition, shall simultaneously file a copy with the Labor Commissioner. Upon receipt of the petition by the Labor Commissioner a stay of enforcement of the applicable ~~commission~~Labor and Workforce Development Agency order as it would affect the workweek arrangement shall take effect. The Labor Commissioner may reject a petition that, on its face, cannot qualify as a preexisting workweek arrangement. Within three months of commencement of the stay the Labor Commissioner shall certify the preexisting workweek arrangement

to the ~~commission~~secretary if, upon examination, the Labor Commissioner finds that all of the following conditions are met by the workweek arrangement:

(1) It was established by the petitioning employer and was in operation prior to November 1980.

(2) It had to be abandoned or modified by the employer because of noncompliance with the applicable order of the ~~commission~~secretary.

(3) It was established on a nondiscriminatory basis with the support of affected employees and it continues to have the support of two-thirds of the employees in the covered work group.

(4) It complied with all applicable standards of the ~~commission~~Labor and Workforce Development Agency, other than daily overtime requirements.

(5) It is found, after consultation with the Director of Industrial Relations when appropriate, not to be adverse to the health and welfare of affected employees.

In the course of examining a preexisting workweek arrangement and following certification, the Labor Commissioner shall not divert any of the resources of the Division of Labor Standards Enforcement for the purpose of investigating, prosecuting, or otherwise acting upon any alleged violations of the daily overtime provisions of an applicable ~~commission~~Labor and Workforce Development Agency order during any period in 1980 in which a court-issued stay of enforcement was in effect for these provisions; provided, the workweek arrangement involved was in operation during that period in good faith reliance by the employer upon the court-issued stay of enforcement and with the approval of two-thirds of the employer's affected employees.

(d) In the course of examining a petition for certification to the ~~commission~~secretary, the Labor Commissioner shall have access to all pertinent records of the petitioning employer and shall have the authority to converse with affected employees of the employer without the presence of management. Until the ~~commission~~secretary takes action on a petition, the Labor Commissioner shall retain the authority to withdraw a certification to the ~~commission~~Labor and Workforce Development Agency for cause.

(e) Upon receipt by the ~~commission~~secretary of the Labor Commissioner's certification of a preexisting workweek arrangement, the stay of enforcement shall continue as hereinafter provided beyond the three-month period for certification until modified or rescinded by the ~~commission~~Labor and Workforce Development Agency. The modification or rescission shall not be made without an appropriate hearing and findings regarding the applicable order. If the ~~commission~~secretary undertakes review of the applicable order, the stay of enforcement shall continue through the review process and until any resulting modification of the applicable order, in which case, the modified order shall become applicable to the preexisting

workweek arrangement.

1182.6. (a) No employer who continuously operates a manufacturing facility 24 hours a day for seven days a week, and who has had in operation an established preexisting workweek arrangement, as defined in subdivision (b), shall be in violation of any provision of this code or any applicable wage order of the ~~commission~~Labor and Workforce Development Agency by instituting,
pursuant to an agreement voluntarily executed by the employer and at least two-thirds of the affected employees before the performance of the work, a regularly scheduled workweek which includes three working days of not more than 12 hours a day, or regularly scheduled workweeks which include three working days of not more than 12 hours a day one week, and four working days of not more than 12 hours a day in the following week, for an average workweek of 42 hours over a two-week period.

(b) For purposes of this section only, a "preexisting workweek arrangement" is defined as, and limited to, a workweek arrangement that existed before November 1980, and had to be modifed or abandoned by an employer because the workweek arrangement did not qualify for any exemption provided by the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency from its
daily overtime requirements for collectively bargained arrangements, and did not otherwise comply with the daily overtime requirements of an applicable ~~commission~~Labor and Workforce Development Agency order.

(c) The agreement described in subdivision (a) shall be confirmed by an affirmative vote by secret ballot by at least two-thirds of the affected employees, and may be rescinded at any time by a two-thirds vote of the affected employees. A new vote on whether the agreement described in subdivision (a) shall be continued shall be held every three years, and an affirmative vote by at least two-thirds of the affected employees shall be necessary to continue the agreement.

(d) The employer shall not be required to pay premium wage rates to employees working a schedule described in subdivision (a) unless the employee is required or permitted to work more than 12 hours in any workday, more than the scheduled three or four days in any workweek, or more than 40 hours in any workweek.

(e) This section shall not apply to any employer who is now, or in the future becomes, a party to a collective-bargaining agreement covering employees who would otherwise be covered by this section.

(f) No employee working a schedule described in subdivision (a) shall be required to work more than four consecutive days within seven consecutive days.

1182.7. (a) The Legislature finds that the time permitted the

~~Industrial Welfare Commission~~Labor and Workforce Development Agency to consider petitions, including, but not limited to, daily overtime compensation petitions that are to be given priority attention by the ~~commission~~secretary pursuant to Section 20 of Chapter 1083 of the Statutes of 1980, has created unanticipated and unwarranted delays in the review and possible modification of applicable ~~commission~~Labor and Workforce Development Agency orders. The Legislature finds further that legislation is necessary to provide redress of hardships resulting from these delays by the enactment of special ~~commission~~Labor and Workforce Development Agency review procedures that augment, and do not limit in any way, the rights and privileges of parties before the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency under this chapter.

(b) Notwithstanding any other provisions of this chapter to the contrary, if a labor organization or a trade association recognized in the health care industry files or has filed a petition with the ~~commission~~secretary that requests an amendment to an order of the ~~commission~~Labor and Workforce Development Agency that would directly regulate only the health care industry, the petitioner may request that the ordinary procedure established by this chapter for the review of petitions of this nature not be used and that the procedure specified in subdivisions (c) and (d) be followed instead. If the request is made by the petitioner, the ~~commission~~secretary shall be required to follow the procedure specified in subdivisions (c) and (d).

(c) Upon the filing of a request under subdivision (b), the procedure to revise an order of the ~~commission~~Labor and Workforce Development Agency provided in Sections 1178 to 1182, inclusive, shall be waived. In lieu of that procedure, the ~~commission~~secretary shall propose the adoption of or may reject the petition, in whole or in part, without appointing a wage board. The ~~commission~~secretary shall act on the petition within 45 days of the date the petition is originally filed. If the ~~commission~~secretary rejects the petition, it shall state its reasons for rejection.

The ~~commission~~Labor and Workforce Development Agency shall thereafter conduct hearings on any proposal to adopt the petition in whole or in part in the manner specified in subdivision (c) of Section 1178.5 and publish the proposed action in the manner provided in Section 1181. However, the hearings shall be conducted within 90 days of the date the petition is originally filed.

(d) Not more than 30 days following the hearings specified in subdivision (c), the ~~commission~~secretary shall take final action with respect to its proposal. No later than 15 days following final action,

notice of the action taken shall be given in the manner provided for in Sections 1182.1 and 1183. Any action adopting, amending, or repealing an order of the ~~commission~~Labor and Workforce Development Agency pursuant to this section shall take effect 60 days following the date of this notice.

(e) Notwithstanding any other provisions of this chapter, the ~~commission~~secretary shall not adopt, amend, or repeal a proposal which has been changed from that which has originally been made available to the public, unless the change is nonsubstantive in nature and the ~~commission~~secretary complies with the procedure specified in this subdivision.

If a substantive change is made to the original proposal after the close of the public hearing, the full text of the resulting change shall be noticed within five days and made available to the public for comments for at least 10 days before the ~~commission~~secretary adopts, amends, or repeals the regulation. No later than 10 days following the close of the public comment period, the ~~commission~~secretary shall take final action with respect to its modified proposal, and give notice of that action within 10 days in the manner provided in Sections 1182.1 and 1183. In no case shall any action adopting, amending, or repealing an order take effect more than 60 days following the close of the public comment period.

1182.8. No employer shall be in violation of any provision of any applicable order of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency relating to credit or charges for lodging for charging, pursuant to a voluntary written agreement, a resident apartment manager up to two-thirds of the fair market rental value of the apartment supplied to the manager, if no credit for the apartment is used to meet the employer's minimum wage obligation to the manager.

1182.11. Notwithstanding any other provision of this part, on and after March 1, 1997, the minimum wage for all industries shall not be less than five dollars ($5.00) per hour; on and after March 1, 1998, the minimum wage for all industries shall not be less than five dollars and seventy-five cents ($5.75) per hour. The ~~Industrial Welfare Commission~~Labor and Workforce Development Agency shall, at a public meeting, adopt minimum wage orders consistent with this section without convening wage boards, which wage orders shall be final and conclusive for all purposes.

1183. (a) So far as practicable, the ~~commission~~secretary, by mail, shall send a copy of the order authorized by Section 1182 to each employer in the occupation or industry in question, and each employer shall post a copy of the order in the building in which employees affected by the order are employed. The ~~commission~~secretary shall also send a copy of the order to each employer registering his or her name with the

~~commission~~secretary for that purpose, but failure to mail the order or notice of the order to any employer affected by the order shall not relieve the employer from the duty of complying with the order.

(b) The ~~commission~~secretary shall prepare a summary of the regulations contained in ~~its~~his or her orders. The summary shall be printed on the first page of the document containing the full text of the order. The summary shall include a brief description of the following subjects of the orders: minimum wage, hours and days of work, reporting time, pay records, cash shortages and breakage, uniforms and equipment, meals and lodging, meal and rest periods, and seats. The summary shall also include information as to how to contact the field office of the Division of Labor Standards Enforcement, how to obtain a copy of the full text of the order and the statement as to the basis for the order, and any other information the ~~commission~~secretary deems necessary. The ~~commission~~secretary, at ~~its~~his or her discretion, may prepare a separate summary for each order or any combination of orders, or it may incorporate the regulations of all its orders into a single summary.

(c) A finding by the ~~commission~~secretary that there has been publication of any action taken by the ~~commission~~secretary as required by Section 1182.1 is conclusive as to the obligation of an employer to comply with the order.

(d) Every employer who is subject to an order of the ~~commission~~Labor and Workforce Development Agency shall post a copy of the order and keep it posted in a conspicuous location frequented by employees during the hours of the workday.

1184. Any action taken by the ~~commission~~secretary pursuant to Section 1182 shall be effective on the first day of the succeeding January or July and not less than 60 days from the date of publication pursuant to Section 1182.1.

1185. The orders of the ~~commission~~Labor and Workforce Development Agency fixing minimum wages, maximum hours, and standard conditions of labor for all employees, when promulgated in accordance with the provisions of this chapter, shall be valid and operative and such orders are hereby expressly exempted from the provisions of Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

1186. A person employed in the practice of pharmacy is not exempt from coverage under any provision of the orders of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency unless he or she individually meets the criteria established for exemption as executive or administrative employees. No person employed in the practice of pharmacy may be subject to any

exemption from coverage under the orders of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency established for professional employees.

1187. The findings of fact made by the ~~commission~~secretary are, in the absence of fraud, conclusive.

1188. Any person aggrieved directly or indirectly by any final rule or regulation of the ~~commission~~secretary made under this chapter may apply to the ~~commission~~secretary for a rehearing in respect to any matters determined or covered therein and specified in the application for rehearing within twenty days after the publication thereof. The application for rehearing shall be verified and shall state fully the grounds upon which the application for rehearing is based. The ~~commission~~secretary upon considering an application for rehearing may grant the same by order and notice thereof given by mail to the party applying for the rehearing, and fix a time for the rehearing and reconsider its order, rule, or regulation. The ~~commission~~secretary may redetermine the matter upon the record before it and give notice of its redetermination in the same manner as provided for service of an original order, rule, or regulation. The ~~commission~~secretary may deny such rehearing upon the record before it, giving notice of its decision by mail to the applicant therefor. Such rehearing is deemed to be denied unless acted upon by the ~~commission~~secretary within thirty days after being filed.

1190. Nothing in this chapter shall prevent a review or other action permitted by the Constitution and laws of this State by a court of competent jurisdiction with reference to any order, rule, or regulation of the ~~commission~~secretary under this chapter.

1191. For any occupation in which a minimum wage has been established, the ~~commission~~secretary may issue to an employee who is mentally or physically handicapped, or both, a special license authorizing the employment of the licensee for a period not to exceed one year from date of issue, at a wage less than the legal minimum wage. The ~~commission~~secretary shall fix a special minimum wage for the licensee. Such license may be renewed on a yearly basis.

1191.5. Notwithstanding the provisions of Section 1191, the ~~commission~~secretary may issue a special license to a nonprofit organization such as a sheltered workshop or rehabilitation facility to permit the employment of employees who have been determined by the ~~commission~~secretary to meet the requirements in Section 1191 without requiring individual licenses of such employees. The ~~commission~~secretary shall fix a special minimum wage for such employees. The special license for the nonprofit corporation shall be renewed on a yearly basis, or more frequently as determined by the ~~commission~~secretary.

1192. For any occupation in which a minimum wage has been established, the ~~commission~~secretary may issue to an apprentice or learner a special license authorizing the employment of such apprentice or learner for the time and under the conditions which the ~~commission~~secretary determines and at a wage less than the legal minimum wage. The ~~commission~~secretary shall fix a special wage for such apprentice or learner.

1193. The ~~commission~~secretary may fix the maximum number of employees to be employed under the licenses provided for in Sections 1191 and 1192 in any occupation, trade, industry, or establishment in which a minimum wage has been established.

1193.5. The provisions of this chapter shall be administered and enforced by the division. Any authorized representative of the division shall have authority to:

(a) Investigate and ascertain the wages of all employees, and the hours and working conditions of all employees employed in any occupation in the state;

(b) Supervise the payment of unpaid minimum wages or unpaid overtime compensation owing to any employee under the provisions of this chapter or the orders of the ~~commission~~Labor and Workforce Development Agency. Acceptance of payment of sums found to be due on demand of the division shall constitute a waiver on the part of the employee of his or her cause of action under Section 1194.

Unpaid minimum wages or unpaid overtime wages recovered by the division under the provisions of this section which for any reason cannot be delivered within six months from date of collection to the employee for whom such wages were collected shall be deposited into the Industrial Relations Unpaid Wage Fund in the State Treasury.

1193.6. (a) The department or division may, with or without the consent of the employee or employees affected, commence and prosecute a civil action to recover unpaid minimum wages or unpaid overtime compensation, including interest thereon, owing to any employee under this chapter or the orders of the ~~commission~~Labor and Workforce Development Agency, and, in addition to these wages, compensation, and interest, shall be awarded reasonable attorney's fees, and costs of suit. The consent of any employee to the bringing of this action shall constitute a waiver on the part of the employee of his or her cause of action under Section 1194 unless the action is dismissed without prejudice by the department or the division.

(b) The amendments made to this section by Chapter 825 of the Statutes of 1991 shall apply only to civil actions commenced on or

after January 1, 1992.

1194.2. (a) In any action under Section 1193.6 or Section 1194 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the ~~commission~~Labor and Workforce Development Agency, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon. Nothing in this subdivision shall be construed to authorize the recovery of liquidated damages for failure to pay overtime compensation.

(b) Notwithstanding subdivision (a), if the employer demonstrates to the satisfaction of the court that the act or omission giving rise to the action was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of any provision of the Labor Code relating to minimum wage, or an order of the ~~commission~~Labor and Workforce Development Agency, the court may, in its discretion, refuse to award liquidated damages or award any amount of liquidated damages not exceeding the amount specified in subdivision (a).

(c) This section only shall apply to civil actions commenced on or after January 1, 1992.

1195. Any person may register with the Division of Labor Standards Enforcement a complaint that the wage paid to an employee for whom a minimum wage has been fixed by the ~~commission~~Labor and Workforce Development Agency is less than that rate.

The division shall investigate the matter and take all proceedings necessary to enforce the payment of a wage not less than the minimum wage.

1195.5. The Division of Labor Standards Enforcement shall determine, upon request, whether the wages of employees, which exceed the minimum wages fixed by the ~~commission~~Labor and Workforce Development Agency, have been correctly computed and paid. For this purpose, the division may examine the books, reports, contracts, payrolls and other documents of the employer relative to the employment of employees. The division shall enforce the payment of any sums found, upon examination, to be due and unpaid to the employees.

1197. The minimum wage for employees fixed by the ~~commission~~Labor and Workforce Development Agency is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.

1197.1. (a) Any employer or other person acting either individually

or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the ~~commission~~Labor and Workforce Development Agency shall be subject to a civil penalty as follows:

(1) For any initial violation that is intentionally committed, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee is underpaid.

(2) For each subsequent violation for the same specific offense, two hundred fifty dollars ($250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed.

(b) If, upon inspection or investigation, the Labor Commissioner determines that a person has paid or caused to be paid a wage less than the minimum, the Labor Commissioner may issue a citation to the person in violation. The citation may be served personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. Each citation shall be in writing and shall describe the nature of the violation, including reference to the statutory provision alleged to have been violated. The Labor Commissioner promptly shall take all appropriate action, in accordance with this section, to enforce the citation and to recover the civil penalty assessed in connection with the citation.

(c) If a person desires to contest a citation or the proposed assessment of a civil penalty therefor, the person shall, within 15 business days after service of the citation, notify the office of the Labor Commissioner that appears on the citation of his or her request for an informal hearing. The Labor Commissioner or his or her deputy or agent shall, within 30 days, hold a hearing at the conclusion of which the citation or proposed assessment of a civil penalty shall be affirmed, modified, or dismissed.

The decision of the Labor Commissioner shall consist of a notice of findings, findings, and an order, all of which shall be served on all parties to the hearing within 15 days after the hearing by regular first-class mail at the last known address of the party on file with the Labor Commissioner. Service shall be completed pursuant to Section 1013 of the Code of Civil Procedure. Any amount found due by the Labor Commissioner as a result of a hearing shall become due and payable 45 days after notice of the findings and written findings and order have been mailed to the party assessed. A writ of mandate may be taken from this finding to the appropriate superior court. The party shall pay any judgment and costs ultimately rendered by the court against the party for the assessment. The writ shall be taken within 45 days of service of the notice of findings, findings, and order thereon.

(d) A person to whom a citation has been issued shall, in lieu of

contesting a citation pursuant to this section, transmit to the office of the Labor Commissioner designated on the citation the amount specified for the violation within 15 business days after issuance of the citation.

(e) When no petition objecting to a citation or the proposed assessment of a civil penalty is filed, a certified copy of the citation or proposed civil penalty may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the person assessed has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the citation or proposed assessment of a civil penalty.

(f) When findings and the order thereon are made affirming or modifying a citation or proposed assessment of a civil penalty after hearing, a certified copy of these findings and the order entered thereon may be entered by the Labor Commissioner in the office of the clerk of the superior court in any county in which the person assessed has property or in which the person assessed has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order.

(g) A judgment entered pursuant to this section shall bear the same rate of interest and shall have the same effect as other judgments and be given the same preference allowed by the law on other judgments rendered for claims for taxes. The clerk shall make no charge for the service provided by this section to be performed by him or her.

(h) The civil penalties provided for in this section are in addition to any other penalty provided by law.

(i) This section shall not apply to any order of the ~~commission~~Labor and Workforce Development Agency relating to household occupations.

1198. The maximum hours of work and the standard conditions of labor fixed by the ~~commission~~Labor and Workforce Development Agency shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

1198.3. (a) The Chief of the Division of Labor Standards Enforcement may, when in his or her judgment hardship will result, exempt any employer or employees from any mandatory day or days off requirement contained in any order of the ~~commission~~secretary. Any exemption granted by the chief pursuant to this section shall be only of sufficient duration to permit the employer or employees to comply

with the requirements contained in the order of the ~~commission~~secretary, but not more than one year. The exemption may be renewed by the chief only after he or she has investigated and is satisfied that a good faith effort is being made to comply with the order of the ~~commission~~secretary.

(b) No employer shall discharge or in any other manner discriminate against any employee who refuses to work hours in excess of those permitted by the order of the ~~commission~~secretary.

1198.4. Upon request, the Chief of the Division of Labor Standards Enforcement shall make available to the public any enforcement policy statements or interpretations of orders of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency. Copies of such policy statements shall be furnished to the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency.

1199. Every employer or other person acting either individually or as an officer, agent, or employee of another person is guilty of a misdemeanor and is punishable by a fine of not less than one hundred dollars ($100) or by imprisonment for not less than 30 days, or by both, who does any of the following:

(a) Requires or causes any employee to work for longer hours than those fixed, or under conditions of labor prohibited by an order of the ~~commission~~Labor and Workforce Development Agency.

(b) Pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the ~~commission~~Labor and Workforce Development Agency.

(c) Violates or refuses or neglects to comply with any provision of this chapter or any order or ruling of the ~~commission~~secretary.

1200. In every prosecution for violation of any provision of this chapter, the minimum wage, the maximum hours of work, and the standard conditions of labor fixed by the ~~commission~~Labor and Workforce Development Agency shall be presumed to be reasonable and lawful.

1201. The ~~commission~~Labor and Workforce Development Agency shall not act as a board of arbitration during a strike or lockout.

1202. Upon the request of the ~~commission~~secretary, the Division of Labor Statistics and Research shall cause such statistics and other data and information to be gathered, and investigations made, as the ~~commission~~secretary may require. The cost thereof shall be paid out of the appropriations made for the expenses of the ~~commission~~Labor and Workforce Development Agency.

1203. The ~~commission~~Labor and Workforce Development Agency may publish and distribute from time to time
reports and bulletins covering its operations and proceedings under this chapter and such other matters relative thereto which it deems advisable.

1204. No order made by the ~~commission~~secretary under the provisions of Sections 1182 or 1184 of this chapter shall be effective unless and until compliance is had with the provisions of Section 1178 of this code.

1391. (a) Except as provided in Sections 1297, 1298, and 1308.7:

(1) No employer shall employ a minor 15 years of age or younger for more than eight hours in one day of 24 hours, or more than 40 hours in one week, or before 7 a.m. or after 7 p.m., except that from June 1 through Labor Day, a minor 15 years of age or younger may be employed for the hours authorized by this section until 9 p.m. in the evening.

(2) Notwithstanding paragraph (1), while school is in session, no employer shall employ a minor 14 or 15 years of age for more than three hours in any schoolday, nor more than 18 hours in any week, nor during school hours, except that a minor enrolled in and employed pursuant to a school-supervised and school-administered work experience and career exploration program may be employed for no more than 23 hours, any portion of which may be during school hours.

(3) No employer shall employ a minor 16 or 17 years of age for more than eight hours in one day of 24 hours or more than 48 hours in one week, or before 5 a.m., or after 10 p.m. on any day preceding a schoolday. However, a minor 16 or 17 years of age may be employed for the hours authorized by this section during any evening preceding a nonschoolday until 12:30 a.m. of the nonschoolday.

(4) Notwithstanding paragraph (3), while school is in session, no employer shall employ a minor 16 or 17 years of age for more than four hours in any schoolday, except as follows:

(A) The minor is employed in personal attendant occupations, as defined in the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency Minimum Wage Order No.
15 (8 Cal. Code Regs. Sec. 11150), school-approved work experience, or cooperative vocational education programs.

(B) The minor has been issued a permit to work pursuant to subdivision (c) of Section 49112 and is employed in accordance with the provisions of that permit.

(b) For purposes of this section, "schoolday" means any day in which a minor is required to attend school for 240 minutes or more.

(c) Any person or the agent or officer thereof, or any parent or guardian, who directly or indirectly violates or causes or suffers

the violation of this section is guilty of a misdemeanor punishable by a fine of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or imprisonment in the county jail for not more than 60 days, or both. Any person who willfully violates this section shall, upon conviction, be subject to a fine of not more than ten thousand dollars ($10,000) or to imprisonment in the county jail for not more than six months, or both. No person shall be imprisoned under this section, except for an offense committed after the conviction of that person for a prior offense under this article.

(d) Nothing in this section shall apply to any minor employed to deliver newspapers to consumers.

1391.2. (a) Notwithstanding Sections 1391 and 1391.1, any minor under 18 years of age who has been graduated from a high school maintaining a four-year course above the eighth grade of the elementary schools, or who has had an equal amount of education in a private school or by private tuition, or who has been awarded a certificate of proficiency pursuant to Section 48412 of the Education Code, may be employed for the same hours as an adult may be employed in performing the same work.

(b) Notwithstanding the provisions of the orders of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency no employer shall pay any minor described in this section in his employ at wage rates less than the rates paid to adult employees in the same establishment for the same quantity and quality of the same classification of work; provided, however, that nothing herein shall prohibit a variation of rates of pay for such minors and adult employees engaged in the same classification of work based upon a difference in seniority, length of service, ability, skill, difference in duties or services performed, whether regularly or occasionally, difference in the shift or time of day worked, hours of work, or other reasonable differentiation, when exercised in good faith.

1400. The definitions set forth in this section shall govern the construction and meaning of the terms used in this chapter:

(a) "Covered establishment" means any industrial or commercial facility or part thereof that employs, or has employed within the preceding 12 months, 75 or more persons.

(b) "Employer" means any person, as defined by Section 18, who directly or indirectly owns and operates a covered establishment. A parent corporation is an employer as to any covered establishment directly owned and operated by its corporate subsidiary.

(c) "Layoff" means a separation from a position for lack of funds or lack of work.

(d) "Mass layoff" means a layoff during any 30-day period of 50 or

more employees at a covered establishment.
(e) "Relocation" means the removal of all or substantially all of the industrial or commercial operations in a covered establishment to a different location 100 miles or more away.
(f) "Termination" means the cessation or substantial cessation of industrial or commercial operations in a covered establishment.
(g) (1) This chapter does not apply where the closing or layoff is the result of the completion of a particular project or undertaking of an employer subject to Wage Order 11, regulating the Broadcasting Industry, Wage Order 12, regulating the Motion Picture Industry, or Wage Order 16, regulating Certain On-Site Occupations in the Construction, Drilling, Logging and Mining Industries, of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency, and the employees were hired with the
understanding that their employment was limited to the duration of that project or undertaking.
(2) This chapter does not apply to employees who are employed in seasonal employment where the employees were hired with the understanding that their employment was seasonal and temporary.
(h) "Employee" means a person employed by an employer for at least 6 months of the 12 months preceding the date on which notice is required.

1684. (a) The Labor Commissioner shall not issue to any person a license to act as a farm labor contractor, nor shall the Labor Commissioner renew that license, until all of the following conditions are satisfied:
(1) The person has executed a written application in a form prescribed by the Labor Commissioner, subscribed and sworn to by the person, and containing all of the following:
(A) A statement by the person of all facts required by the Labor Commissioner concerning the applicant's character, competency, responsibility, and the manner and method by which the person proposes to conduct operations as a farm labor contractor if the license is issued.
(B) The names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates, or profit sharers, in the proposed operation as a farm labor contractor, together with the amount of their respective interests.
(C) A declaration consenting to the designation by a court of the Labor Commissioner as an agent available to accept service of summons in any action against the licensee if the licensee has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service.
(2) The Labor Commissioner, after investigation, is satisfied as

to the character, competency, and responsibility of the person.

(3) The person has deposited with the Labor Commissioner a surety bond in an amount based on the size of the person's annual payroll for all employees, as follows:

(A) For payrolls up to five hundred thousand dollars ($500,000), a twenty-five thousand dollar ($25,000) bond.

(B) For payrolls of five hundred thousand dollars ($500,000) to two million dollars ($2,000,000), a fifty thousand dollar ($50,000) bond.

(C) For payrolls greater than two million dollars ($2,000,000), a seventy-five thousand dollar ($75,000) bond.

Where the contractor has been the subject of a final judgment in a year in an amount equal to that of the bond required, he or she shall be required to deposit an additional bond within 60 days. The bond shall be payable to the people of the State of California and shall be conditioned that the farm labor contractor will comply with all the terms and provisions of this chapter and will pay all damages occasioned to any person by failure to do so, or by any violation of this chapter, or false statements or misrepresentations made in the procurement of the license. The bond shall also be payable for interest on wages and for any damages arising from violation of orders of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency, and for any other
monetary relief awarded to an agricultural worker as a result of a violation of this code.

(4) The person has paid to the Labor Commissioner a license fee of five hundred dollars ($500) plus a filing fee of ten dollars ($10). However, where a timely application for renewal is filed, the ten dollar ($10) filing fee is not required. The Labor Commissioner shall deposit fifty dollars ($50) of each licensee's annual license fee into the Farmworker Remedial Account. Funds from this account shall be disbursed by the Labor Commissioner only to persons determined by the Labor Commissioner to have been damaged by any licensee when the damage exceeds the limits of the licensee's bond, or to persons determined by the Labor Commissioner to have been damaged by an unlicensed farm labor contractor. In making these determinations, the Labor Commissioner shall disburse funds from the Farmworker Remedial Account to satisfy claims against farm labor contractors or unlicensed farm labor contractors, which shall also include interest on wages and any damages arising from the violation of orders of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency, and for any other
monetary relief awarded to an agricultural worker as a result of a violation of this code. The Labor Commissioner may disburse funds from the Farmworker Remedial Account to farm labor contractors, for payment of farmworkers, where a contractor is unable to pay

farmworkers due to the failure of a grower or packer to pay the contractor. Any disbursed funds subsequently recovered by the Labor Commissioner pursuant to Section 1693, or otherwise, shall be returned to the Farmworker Remedial Account.

(5) The person has taken a written examination that demonstrates an essential degree of knowledge of the current laws and administrative regulations concerning farm labor contractors as the Labor Commissioner deems necessary for the safety and protection of farmers, farmworkers, and the public. To successfully complete the examinations, the person must correctly answer at least 85 percent of the questions posed. The examination period shall not exceed four hours. The examination may only be taken a maximum of three times in a calendar year. The examinations shall include a demonstration of knowledge of the current laws and regulations regarding wages, hours, and working conditions, penalties, employee housing and transportation, collective bargaining, field sanitation, and safe work practices related to pesticide use, including all of the following subjects:

(A) Field reentry regulations.

(B) Worker pesticide safety training.

(C) Employer responsibility for safe working conditions.

(D) Symptoms and appropriate treatment of pesticide poisoning.

(6) The person has registered as a farm labor contractor pursuant to the federal Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.), when registration is required pursuant to federal law.

(b) (1) The Labor Commissioner shall consult with the Director of Pesticide Regulation, the Department of the California Highway Patrol, the Department of Housing and Community Development, the Employment Development Department, the Department of Food and Agriculture, the Department of Motor Vehicles, and the Division of Occupational Safety and Health in preparing the examination required by paragraph (5) of subdivision (a) and the appropriate educational materials pertaining to the matters included in the examination, and may charge a fee of not more than one hundred dollars ($100) to cover the cost of administration of the examination.

(2) In addition, the person must enroll and participate in at least eight hours of relevant, educational classes each year. The classes shall be chosen from a list of approved classes prepared by the Labor Commissioner, in consultation with the persons and entities listed in paragraph (1) and county agricultural commissioners.

(c) The Labor Commissioner may renew a license without requiring the applicant for renewal to take the examination specified in paragraph (5) of subdivision (a) if the Labor Commissioner finds that the applicant meets all of the following criteria:

(1) Has satisfactorily completed the examination during the

immediately preceding two years.

(2) Has not during the preceding year been found to be in violation of any applicable laws or regulations including, but not limited to, Division 7 (commencing with Section 12501) of the Food and Agricultural Code, Part 1 (commencing with Section 17000) of Division 13 of the Health and Safety Code, Division 2 (commencing with Section 200), Division 4 (commencing with Section 3200), and Division 5 (commencing with Section 6300) of this code, and Chapter 1 (commencing with Section 12500) of Division 6 of the Vehicle Code.

(3) Has, for each year since the license was obtained, enrolled and participated in at least eight hours of relevant, educational classes, chosen from a list of approved classes prepared by the Labor Commissioner.

(4) Has complied with all other requirements of this section.

2695.2. (a) (1) For a sheepherder employed on a regularly scheduled 24-hour shift on a seven-day-a-week "on-call" basis, an employer may, as an alternative to paying the minimum wage for all hours worked, instead pay no less than the monthly minimum wage adopted by the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency on April 24, 2001. Any sheepherder who performs nonsheepherding, nonagricultural work on any workday shall be fully covered for that workweek by the provisions of any applicable laws or regulations relating to that work.

(2) After July 1, 2002, the amount of the monthly minimum wage permitted under paragraph (1) shall be increased each time that the state minimum wage is increased and shall become effective on the same date as any increase in the state minimum wage. The amount of the increase shall be determined by calculating the percentage increase of the new rate over the previous rate, and then by applying the same percentage increase to the minimum monthly wage rate.

(b) (1) When tools or equipment are required by the employer or are necessary to the performance of a job, the tools and equipment shall be provided and maintained by the employer, except that a sheepherder whose wages are at least two times the minimum wage provided herein, or if paid on a monthly basis, at least two times the monthly minimum wage, may be required to provide and maintain handtools and equipment customarily required by the trade or craft.

(2) A reasonable deposit may be required as security for the return of the items furnished by the employer under provisions of paragraph (1) upon issuance of a receipt to the sheepherder for the deposit. The deposits shall be made pursuant to Article 2 (commencing with Section 400) of Chapter 3. Alternatively, with the prior written authorization of the sheepherder, an employer may deduct from the sheepherder's last check the cost of any item furnished pursuant to paragraph (1) when the item is not returned.

No deduction shall be made at any time for normal wear and tear. All items furnished by the employer shall be returned by the sheepherder upon completion of the job.

(c) No employer of sheepherders shall employ a sheepherder for a work period of more than five hours without a meal period of no less than 30 minutes, except that when a work period of not more than six hours will complete a day's work, the meal period may be waived by the mutual consent of the employer and the sheepherder. An employer may be relieved of this obligation if a meal period of 30 minutes cannot reasonably be provided because no one is available to relieve a sheepherder tending flock alone on that day. Where a meal period of 30 minutes can be provided but not without interruption, a sheepherder shall be allowed to complete the meal period during that day.

(d) To the extent practicable, every employer shall authorize and permit all sheepherders to take rest periods. The rest period, insofar as is practicable, shall be in the middle of each work period. The authorized rest times shall be based on the total hours worked daily at the rate of 10 minutes net rest time per four hours, or major fraction thereof, of work. However, a rest period need not be authorized for sheepherders whose total daily worktime is less than three and one-half hours.

(e) When the nature of the work reasonably permits the use of seats, suitable seats shall be provided for sheepherders working on or at a machine.

(f) After January 1, 2003, during times when a sheepherder is lodged in mobile housing units where it is feasible to provide lodging that meets the minimum standards established by this section because there is practicable access for mobile housing units, the lodging provided shall include at a minimum all of the following:

(1) Toilets and bathing facilities, which may include portable toilets and portable shower facilities.

(2) Heating.

(3) Inside lighting.

(4) Potable hot and cold water.

(5) Adequate cooking facilities and utensils.

(6) A working refrigerator, which may include a butane or propane gas refrigerator, or for no more than a one-week period during which a nonworking refrigerator is repaired or replaced, a means of refrigerating perishable food items, which may include ice chests, provided that ice is delivered to the sheepherder, as needed, to maintain a continuous temperature required to retard spoilage and ensure food safety.

(g) After January 1, 2003, all sheepherders shall be provided with all of the following at each worksite:

(1) Regular mail service.

(2) A means of communication through telephone or radio solely for use in a medical emergency affecting the sheepherder or for an emergency relating to the herding operation. If the means of communication is provided by telephone, the sheepherder may be charged for the actual cost of nonemergency telephone use. Nothing in this subdivision shall preclude an employer from providing additional means of communication to the sheepherder which are appropriate because telephones or radios are out of range or otherwise inoperable.

(3) Visitor access to the housing.

(4) Upon request and to the extent practicable, access to transportation to and from the nearest locale where shopping, medical, or cultural facilities and services are available on a weekly basis.

(h) In addition to any other civil penalties provided by law, any employer or any other person acting on behalf of the employer who violates or causes to be violated the provisions of this section shall be subject to a civil penalty, as follows:

(1) For the initial violation, fifty dollars ($50) for each underpaid employee for each pay period during which the employee was underpaid, plus an amount sufficient to recover the unpaid wages.

(2) For any subsequent violation, one hundred dollars ($100) for each underpaid employee for each pay period during which the employee was underpaid, plus an amount sufficient to recover the unpaid wages.

(3) The affected employee shall receive payment of all wages recovered.

(i) If the application of any provision of any subdivision, sentence, clause, phrase, word, or portion of this legislation is held invalid, unconstitutional, unauthorized, or prohibited by statute, the remaining provisions thereof shall not be affected and shall continue to be given full force and effect as if the part held invalid or unconstitutional had not been included.

(j) Every employer of sheepherders shall post a copy of this part in an area frequented by sheepherders where it may be easily read during the workday. Where the location of work or other conditions make posting impractical, every employer shall make a copy of this part available to sheepherders upon request. Copies of this part shall be posted and made available in a language understood by the sheepherder. An employer is deemed to have complied with this subdivision if he or she posts where practical, or makes available upon request where posting is impractical, a copy of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency Order 14-2001, as adopted on April 24, 2001, relating to sheepherders, provided that the posted material includes a sufficient summary of each of the provisions of this part.

3550. (a) Every employer subject to the compensation provisions of this division shall post and keep posted in a conspicuous location frequented by employees, and where the notice may be easily read by employees during the hours of the workday, a notice that states the name of the current compensation insurance carrier of the employer, or when such is the fact, that the employer is self-insured, and who is responsible for claims adjustment.

(b) Failure to keep any notice required by this section conspicuously posted shall constitute a misdemeanor, and shall be prima facie evidence of noninsurance.

(c) This section shall not apply with respect to the employment of employees as defined in subdivision (d) of Section 3351.

(d) The form and content of the notice required by this section shall be prescribed by the administrative director, after consultation with the ~~Commission on Health and Safety and Workers' Compensation~~Labor and Workforce Development Agency, and shall advise employees that all injuries should be reported to their employer. The notice shall be easily understandable. It shall be posted in both English and Spanish where there are Spanish-speaking employees. The notice shall include the following information:

(1) How to get emergency medical treatment, if needed.

(2) The kinds of events, injuries, and illnesses covered by workers' compensation.

(3) The injured employee's right to receive medical care.

(4) The rights of the employee to select and change the treating physician pursuant to the provisions of Section 4600.

(5) The rights of the employee to receive temporary disability indemnity, permanent disability indemnity, vocational rehabilitation services, and death benefits, as appropriate.

(6) To whom injuries should be reported.

(7) The existence of time limits for the employer to be notified of an occupational injury.

(8) The protections against discrimination provided pursuant to Section 132a.

(9) The location and telephone number of the nearest information and assistance officer.

(e) Failure of an employer to provide the notice required by this section shall automatically permit the employee to be treated by his or her personal physician with respect to an injury occurring during that failure.

(f) The form and content of the notice required to be posted by this section shall be made available to self-insured employers and insurers by the administrative director. Insurers shall provide this notice to each of their policyholders, with advice concerning the requirements of this section and the penalties for a failure to post

this notice.

3551. (a) Every employer subject to the compensation provisions of this code, except employers of employees defined in subdivision (d) of Section 3351, shall give every new employee, either at the time the employee is hired or by the end of the first pay period, written notice of the information contained in Section 3550. The content of the notice required by this section shall be prescribed by the administrative director after consultation with the ~~Commission on Health and Safety and Workers' Compensation~~Labor and Workforce Development Agency.

(b) The notice required by this section shall be easily understandable and available in both English and Spanish. In addition to the information contained in Section 3550, the content of the notice required by this section shall include:

(1) Generally, how to obtain appropriate medical care for a job injury.

(2) The role and function of the primary treating physician.

(3) A form that the employee may use as an optional method for notifying the employer of the name of the employee's "personal physician," as defined by Section 4600, or "personal chiropractor," as defined by Section 4601.

(c) The content of the notice required by this section shall be made available to employers and insurers by the administrative director. Insurers shall provide this notice to each of their policyholders, with advice concerning the requirements of this section and the penalties for a failure to provide this notice to all employees.

4651. (a) No disability indemnity payment shall be made by any written instrument unless it is immediately negotiable and payable in cash, on demand, without discount at some established place of business in the state.

Nothing in this section shall prohibit an employer from depositing the disability indemnity payment in an account in any bank, savings and loan association or credit union of the employee's choice in this state, provided the employee has voluntarily authorized the deposit, nor shall it prohibit an employer from electronically depositing the disability indemnity payment in an account in any bank, savings and loan association, or credit union, that the employee has previously authorized to receive electronic deposits of payroll, unless the employee has requested, in writing, that disability indemnity benefits not be electronically deposited in the account.

(b) It is not a violation of this section if a delay in the negotiation of a written instrument is caused solely by the application of state or federal banking laws or regulations.

(c) On or before July 1, 2004, the administrative director shall

present to the Governor recommendations on how to provide better access to funds paid to injured workers in light of the requirements of federal and state laws and regulations governing the negotiability of disability indemnity payments. The administrative director shall make specific recommendations regarding payments to migratory and seasonal farmworkers. The ~~Commission on Health and Safety and Workers' Compensation~~Labor and Workforce Development Agency and the Employment Development Department shall assist the administrative director in the completion of this report.

5307.27. On or before December 1, 2004, the administrative director, in consultation with the ~~Commission on Health and Safety and Workers' Compensation~~Labor and Workforce Development Agency, shall adopt, after public hearings, a medical treatment utilization schedule, that shall incorporate the evidence-based, peer-reviewed, nationally recognized standards of care recommended by the ~~commission~~agency pursuant to Section 77.5, and that shall address, at a minimum, the frequency, duration, intensity, and appropriateness of all treatment procedures and modalities commonly performed in workers' compensation cases.

5401. (a) Within one working day of receiving notice or knowledge of injury under Section 5400 or 5402, which injury results in lost time beyond the employee's work shift at the time of injury or which results in medical treatment beyond first aid, the employer shall provide, personally or by first-class mail, a claim form and a notice of potential eligibility for benefits under this division to the injured employee, or in the case of death, to his or her dependents. As used in this subdivision, "first aid" means any one-time treatment, and any followup visit for the purpose of observation of minor scratches, cuts, burns, splinters, or other minor industrial injury, which do not ordinarily require medical care. This one-time treatment, and followup visit for the purpose of observation, is considered first aid even though provided by a physician or registered professional personnel. "Minor industrial injury" shall not include serious exposure to a hazardous substance as defined in subdivision (i) of Section 6302. The claim form shall request the injured employee's name and address, social security number, the time and address where the injury occurred, and the nature of and part of the body affected by the injury. Claim forms shall be available at district offices of the Employment Development Department and the division. Claim forms may be made available to the employee from any other source.

(b) Insofar as practicable, the notice of potential eligibility for benefits required by this section and the claim form shall be a single document and shall instruct the injured employee to fully read

the notice of potential eligibility. The form and content of the notice and claim form shall be prescribed by the administrative director after consultation with the ~~Commission on Health and Safety and Workers' Compensation~~Labor and Workforce Development Agency. The notice shall be easily understandable and available in both English and Spanish. The content shall include, but not be limited to, the following:

(1) The procedure to be used to commence proceedings for the collection of compensation for the purposes of this chapter.

(2) A description of the different types of workers' compensation benefits.

(3) What happens to the claim form after it is filed.

(4) From whom the employee can obtain medical care for the injury.

(5) The role and function of the primary treating physician.

(6) The rights of an employee to select and change the treating physician pursuant to subdivision (e) of Section 3550 and Section 4600.

(7) How to get medical care while the claim is pending.

(8) The protections against discrimination provided pursuant to Section 132a.

(9) The following written statements:

(A) You have a right to disagree with decisions affecting your claim.

(B) You can obtain free information from an information and assistance officer of the state Division of Workers' Compensation, or you can hear recorded information and a list of local offices by calling (applicable information and assistance telephone number(s)).

(C) You can consult an attorney. Most attorneys offer one free consultation. If you decide to hire an attorney, his or her fee will be taken out of some of your benefits. For names of workers' compensation attorneys, call the State Bar of California at (telephone number of the State Bar of California's legal specialization program, or its equivalent).

(c) The completed claim form shall be filed with the employer by the injured employee, or, in the case of death, by a dependent of the injured employee, or by an agent of the employee or dependent. Except as provided in subdivision (d), a claim form is deemed filed when it is personally delivered to the employer or received by the employer by first-class or certified mail. A dated copy of the completed form shall be provided by the employer to the employer's insurer and to the employee, dependent, or agent who filed the claim form.

(d) The claim form shall be filed with the employer prior to the injured employee's entitlement to late payment supplements under subdivision (d) of Section 4650, or prior to the injured employee's request for a medical evaluation under Section 4060, 4061, or 4062.

Filing of the claim form with the employer shall toll, for injuries occurring on or after January 1, 1994, the time limitations set forth in Sections 5405 and 5406 until the claim is denied by the employer or the injury becomes presumptively compensable pursuant to Section 5402. For purposes of this subdivision, a claim form is deemed filed when it is personally delivered to the employer or mailed to the employer by first-class or certified mail.

6354.7. (a) The Workers' Occupational Safety and Health Education Fund is hereby created as a special account in the State Treasury. Proceeds of the fund may be expended, upon appropriation by the Legislature, by the ~~Commission on Health and Safety and Workers' Compensation~~Labor and Workforce Development Agency for the purpose of establishing and maintaining a worker occupational safety and health training and education program and insurance loss control services coordinator. The director shall levy and collect fees to fund these purposes from insurers subject to Section 6354.5. However, the fee assessed against any insurer shall not exceed the greater of one hundred dollars ($100) or 0.0286 percent of paid workers' compensation indemnity claims as reported for the previous calendar year to the designated rating organization for the analysis required under subdivision (b) of Section 11759.1 of the Insurance Code. All fees shall be deposited in the fund.

(b) The ~~commission~~agency shall establish and maintain a worker safety and health training and education program. The purpose of the worker occupational safety and health training and education program shall be to promote awareness of the need for prevention education programs, to develop and provide injury and illness prevention education programs for employees and their representatives, and to deliver those awareness and training programs through a network of providers throughout the state. The ~~commission~~agency may conduct the program directly or by means of contracts or interagency agreements.

(c) The ~~commission~~agency shall establish an employer and worker advisory board for the program. The advisory board shall guide the development of curricula, teaching methods, and specific course material about occupational safety and health, and shall assist in providing links to the target audience and broadening the partnerships with worker-based organizations, labor studies programs, and others that are able to reach the target audience.

(d) The program shall include the development and provision of a needed core curriculum addressing competencies for effective participation in workplace injury and illness prevention programs and on joint labor-management health and safety committees. The core curriculum shall include an overview of the requirements related to injury and illness prevention programs and hazard communication.

(e) The program shall include the development and provision of

additional training programs for any or all of the following categories:

(1) Industries on the high hazard list.

(2) Hazards that result in significant worker injuries, illnesses, or compensation costs.

(3) Industries or trades where workers are experiencing numerous or significant injuries or illnesses.

(4) Occupational groups with special needs, such as those who do not speak English as their first language, workers with limited literacy, young workers, and other traditionally underserved industries or groups of workers. Priority shall be given to training workers who are able to train other workers and workers who have significant health and safety responsibilities, such as those workers serving on a health and safety committee or serving as designated safety representatives.

(f) The program shall operate one or more libraries and distribution systems of occupational safety and health training material, which shall include, but not be limited to, all material developed by the program pursuant to this section.

(g) The advisory board shall annually prepare a written report evaluating the use and impact of programs developed.

(h) The payment of administrative costs incurred by the ~~commission~~agency in conducting the program shall be made from the Workers' Occupational Safety and Health Education Fund.

6359. (a) The Legislature finds and declares the following:

(1) Every year 70 adolescents die from work injuries in the United States and 200,000 are injured, 70,000 seriously enough to require hospital treatment. Most of these injuries are preventable.

(2) A recent report by the Institute of Medicine and the National Research Council has brought national attention to the need for better education and interventions to aid injury and illness prevention efforts aimed at young workers.

(3) Since 1996, the California Study Group on Young Workers' Health and Safety, consisting of 30 representatives from key agencies and organizations involved with California youth employment and education issues, including representatives from government agencies, business, labor, parent and teacher organizations, and others, has met to develop recommendations to better protect and educate California's young workers.

(4) The study group recommended the establishment of a Resource Network on Young Workers' Health and Safety, to assist in increasing the ability of young workers and their communities to identify and address workplace hazards in order to prevent young workers from becoming injured or ill on the job.

(b) It is the intent of the Legislature that the Department of

Industrial Relations, the University of California, the State Department of Education, the State Department of Health Services, and the Employment Development Department cooperatively and individually conduct activities aimed at the prevention of occupational injuries and illnesses among young workers.

(c) The Department of Industrial Relations shall contract with a coordinator to establish a statewide young worker health and safety resource network. The primary function of the resource network shall be to assist in increasing the ability of young workers and their communities statewide to identify and address workplace hazards in order to prevent young workers from becoming injured or ill on the job. The network shall coordinate and augment existing outreach and education efforts and provide technical assistance, education materials and other support to schools, job training programs, employers and other organizations working to educate students and their communities about workplace health and safety and child labor laws.

(d) The resource network shall provide, and the lead center shall coordinate, services to all key groups throughout the state involved in education and protecting young workers, including, but not limited to:

(1) Teachers.

(2) Schools.

(3) Job training programs.

(4) Employers of youth.

(5) Parent groups.

(6) Youth organizations.

(7) Work permit issuers.

(e) The resource network shall be advised by a statewide advisory group, including, but not limited to, representatives from the Department of Industrial Relations, the ~~Commission on Health and Safety and Workers' Compensation~~Labor and Workforce Development Agency, the University of California, the State Department of Education, the Department of Health Services, and the Employment Development Department, as well as business, labor, parents, and others experienced in working with youth doing agricultural and nonagricultural work. The advisory group shall represent diverse geographic regions of the state.

(f) This section shall be implemented subject to the availability of funding for the purposes of this section in the 2000-01 Budget Act.

Military & Veterans Code

1300. ~~There is in state government the Vietnam Veterans Memorial Commission composed of nine members, as follows:~~
~~(a) Two members appointed by the Speaker of the Assembly, at least one of whom shall be a Member of the Assembly. The nonlegislative member shall be a Vietnam veteran.~~
~~(b) Two members appointed by the Senate Committee on Rules, at least one of whom shall be a Member of the Senate. The nonlegislative member shall be a Vietnam veteran.~~
~~(c) Five members appointed by the Governor, one of whom shall be a member of the Governor's staff or a Governor's appointee in the executive branch of state government and at least four of whom shall be Vietnam veterans.~~
~~The members shall elect one of their number to serve as chairperson.~~ Any reference to the Vietnam Veterans Memorial Commission shall mean the Department of General Services.

~~1301. At least six members of the commission shall be Vietnam veterans.~~
~~Members of the Legislature shall serve on the commission as ex officio members without vote and shall participate in the activities of the commission to the extent that the participation is not incompatible with their legislative duties.~~
~~Members of the commission shall receive no compensation but, except for the legislative members, shall receive a per diem and expenses while engaged in commission activities.~~

1302. ~~The commission may request staff support and facilities for its activities from the Department of Veterans Affairs, and the department may provide that support.~~
The ~~commission~~ Department of General Services is responsible for setting policy. It is the duty of the staff hired by the ~~commission~~ Department of General Services to carry out that policy.

1303. (a) The construction of a memorial to California's Vietnam veterans on the grounds of the State Capitol is hereby authorized. For purposes of this chapter, the grounds of the State Capitol are

that property in the City of Sacramento bounded by Ninth, Fifteenth, "L", and "N" Streets. The actual site for the memorial shall be selected by the ~~commission~~ Department of General Services ~~after consultation with the Department of General Services~~.

(b) Funds for the construction of the memorial shall be provided through private contributions. The ~~commission~~ Department of General Services may receive contributions for this purpose.

1304. With respect to the design and construction of the memorial, the ~~commission~~ Department of General Services may do all of the following:

(a) Establish a schedule for the design, construction, and dedication of the memorial.

(b) Implement procedures to solicit designs for the memorial and devise a selection process for the choice of the design.

(c) Select individuals or organizations to provide fundraising services and to construct the memorial.

(d) Review and monitor the design and construction of the memorial and establish a program for the dedication of the memorial.

(e) Report to the Legislature through the Assembly Select Committee on Veterans' Affairs biannually on the progress of the memorial.

1306. (a) The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the General Fund to the ~~commission~~ Department of General Services as a loan for purposes of this chapter. The ~~commission~~ Department of General Services shall reimburse the amount of this appropriation, plus interest at the same rate of interest as that earned by moneys invested in the Pooled Money Investment Account during the term of the loan, from the first contributions received by the commission under this chapter.

(b) The Vietnam Veterans Memorial Account in the General Fund is hereby established. All funds received by the ~~commission~~ Department of General Services under this chapter shall be deposited in the account. The money in the account is hereby appropriated to the ~~commission~~ Department of General Services for purposes of this chapter without regard to fiscal years.

1307. The ~~commission~~ Department of General Services shall notify the Governor when construction of the memorial has been completed. This chapter shall remain in effect only until, and shall be repealed on, January 1 of the second year following that notification.

1330. ~~(a) There is in state government the California Mexican American Veterans' Memorial Beautification and Enhancement Commission composed of 11 members as follows:~~

~~(1) Two members appointed by the Speaker of the Assembly, at least one of whom shall be a Member of the Assembly, and at least one of whom shall be a veteran, as defined in Section 980.~~

~~(2) Two members appointed by the Senate Committee on Rules, at least one of whom shall be a Member of the Senate, and at least one of whom shall be a veteran, as defined in Section 980.~~

~~(3) Seven members appointed by the Governor, at least two of whom shall be veterans, as defined in Section 980.~~

~~(b) The members shall elect one of their number to serve as chairperson.~~ Any reference to the California Mexican American Veterans' Memorial Beautification and Enhancement Commission shall mean the Department of General Services.

~~1331. Members of the Legislature shall serve on the commission as ex officio members without vote and shall participate in the activities of the commission to the extent that the participation is not incompatible with their legislative duties. Members of the commission shall receive no compensation.~~

~~1332. The commission may request staff support and facilities for its activities from the Department of Veterans Affairs, and the department may provide that support and be reimbursed for the cost of this support.~~

1333. The ~~commission~~ Department of General Services shall be responsible for setting policy consistent with the purposes of this chapter. The staff hired by the ~~commission~~ Department of General Services shall carry out that policy.

1334. (a) The beautification and enhancement of an existing memorial on state grounds is hereby authorized. For the purposes of this act, "state grounds" means that property in the City of Sacramento bounded by "Ninth," "Tenth," "L," and "N" Streets. The actual site for the beautification and enhancement of the memorial

shall be the site of the existing memorial and surrounding ground.

(b) Funds for the beautification and enhancement of the memorial shall be provided through private contributions and by designation through a voluntary checkoff on tax returns. The ~~commission~~ Department of General Services may receive contributions for this purpose. However, the ~~commission~~ Department of General Services shall not solicit any funds for construction of the memorial until the ~~Veterans Memorial Commission~~ Department of General Services has completed construction of a memorial to California's veterans pursuant to Chapter 5 (commencing with Section 1310).

1335. With respect to the design and construction of an enhanced memorial, the ~~commission~~ Department of General Services may do all of the following:

(a) Establish a schedule for the design, construction, and dedication of the enhanced memorial.

(b) Implement procedures to solicit designs for beautifying and enhancing the memorial and devise a selection process for the choice of the design.

(c) Select individuals or organizations to provide fundraising services and to construct the enhanced memorial.

(d) Review and monitor the design and construction of the memorial and establish a program for the rededication of the memorial.

~~(e) Consult with the Department of General Services to determine parameters for the final size of the memorial.~~

~~(f) Consult with and obtain final design and site orientation approval from the Department of General Services.~~

1338. The ~~commission~~ Department of General Services shall notify the Governor and the Franchise Tax Board when beautification and enhancement of the memorial pursuant to this chapter is complete. This chapter shall remain in effect only until, and shall be repealed on, January 1 of the year following that notification, unless a later enacted statute, which is enacted before that date, deletes or extends that date.

1340. The California Mexican American Veterans' Memorial Beautification and Enhancement Account is hereby created in the General Fund. All funds received by the ~~California Mexican American Veterans' Memorial Beautification and Enhancement Commission~~ Department of General Services under Chapter 7 (commencing with Section 1330) and under Article 11 (commencing with Section 18821) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code shall be deposited in the account for the design and construction of the California Mexican American

Veterans' Memorial as specified in Section 18823 of the Revenue and Taxation Code.

1500. ~~There is created within the Department of Veterans Affairs the Governor's Commission on State Veterans Cemeteries.~~ Any reference to the Governor's Commission on State Veterans Cemeteries shall mean the Department of Veterans Affairs.

~~1501. The commission shall consist of seven members, as follows:~~

~~(a) There shall be five voting members, as follows:~~

~~(b) Two veterans, as defined in Section 980, appointed by the Governor.~~

~~(1) A veteran, as defined in Section 980, appointed by the Speaker of the Assembly.~~

~~(2) A veteran, as defined in Section 980, appointed by the Senate Committee on Rules.~~

~~(3) The Secretary of Veterans Affairs or the secretary's authorized representative.~~

~~(c) There shall be two nonvoting ex officio members, as follows:~~

~~(1) The Chairperson of the Assembly Committee on Veterans Affairs.~~

~~(2) The Chairperson of the Senate Committee on Veterans Affairs.~~

1502. The ~~commission~~ Department of Veterans Affairs shall have all of the following duties:

(a) Establish the need for the creation of state veterans' cemeteries and locate and prioritize sites for the future construction of those cemeteries, in accordance with that need.

(b) Give priority to cemetery sites that meet one or more of the following criteria:

(1) The site is available at no cost to the state.

(2) The department has previously studied or prepared budget packages, working drawings, or project cost summaries for the site.

(3) The parcel size is large enough to support expected interments for at least 20 years.

(4) The site has unique patriotic or military significance.

(5) There is a high concentration of veterans within the service area of the site.

(6) The site is uncompromised by nearby incompatible land uses.

(c) Report its findings to the Governor and the Legislature not later than May 31, 2005.

1503. The department may not implement any recommendation made pursuant to Section 1502 without statutory authorization, and unless the United States Department of Veterans Affairs

State Cemetery Grants Program, as described in Section 2408 of Title 38 of the United States Code, provides 100 percent of the project construction costs associated with the implementation of the ~~commission's~~ department's recommendation.

1504. This chapter shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

Public Resources Code

660. ~~There is in the department a State Mining and Geology Board consisting of nine members appointed by the Governor, subject to confirmation by the Senate.~~ Any reference to State Mining and Geology Board shall refer to the Department of Conservation

661. As used in this article, "board" means the ~~State Mining and Geology Board~~ department and "division" means the Division of Mines and Geology of the department.

~~662. (a) One member of the board shall be a registered geologist with background and experience in mining geology; one member shall be a mining engineer with background and experience in mining minerals in California; one member shall have background and experience in groundwater hydrology, water quality, and rock chemistry; one member shall be a representative of local government with background and experience in urban planning; one member shall have background and experience in the field of environmental protection or the study of ecosystems; one member shall be a registered geologist, registered geophysicist, registered civil engineer, or registered structural engineer with background and experience in seismology; one member shall be a landscape architect with background and experience in soil conservation or revegetation of disturbed soils; one member shall have background and experience in mineral resource conservation, development, and utilization; and one member shall not be required to have specialized experience.~~

~~(b) All members of the board shall represent the general public interest, but not more than one-third of the members at any one time may be currently employed by, or receive more than 25 percent of their annual income, not to exceed $25,000 a year per member, from an entity that owns or operates a mine in California. The representative of local government shall not be considered an employee of an entity that owns or operates a mine if the lead agency employing the representative owns or operates a mine. For purposes of this section, retirement or other benefits paid by a mining entity to an individual who is no longer employed by that entity are not considered to be compensation, if those benefits were earned prior to the date the individual terminated his or her employment with the entity.~~

~~(c) If a member of the board determines that he or she has a conflict of interest on a particular matter before the board pursuant to subdivision (b) or Section 663, he or she shall provide the clerk of the board with a brief written explanation of the basis for the conflict of interest, which shall become a part of the public record of the board. The written explanation shall be delivered prior to the time the matter to which it pertains is voted on by the board. This disclosure requirement is in addition to any other conflict-of-interest disclosure requirement imposed by law.~~

~~663. (a) No member of the board shall participate in any action of the board or attempt to influence any decision of the board that involves himself or herself, or any person with whom he or she is connected, as a director, officer, paid consultant, or full-time or part-time employee, or in which he or she has a financial interest within the meaning of Section 87103 of the Government Code.~~
~~(b) No board member shall participate in any proceeding before any state or local agency as a consultant or in any other capacity on behalf of any person who engages in surface mining operations.~~
~~(c) Upon request of any person, or on his or her own initiative, the Attorney General may file a complaint in the superior court for the county in which the board has its principal office alleging that a board member has knowingly violated this section, alleging the facts upon which the allegation is based, and asking that the member be removed from office. Further proceedings shall be in accordance as nearly as practicable with rules governing civil actions. If after trial the court finds that the board member has knowingly violated this section it shall order the member removed from office.~~

~~663.1. (a) For the purposes of this section, "ex parte communication" means any oral or written communication between a member of the board and an interested person about a matter within the board's jurisdiction that does not occur in a public hearing, workshop, or other official proceeding, or on the official record of the proceeding on the matter.~~
~~(b) For purposes of this section, "a matter within the board's jurisdiction" means any action on a reclamation plan or financial assurance appealed pursuant to subdivision (e) of Section 2770, any review of an order setting administrative penalties pursuant to Section 2774.2, or any review of an appeal pursuant to Section 2775.~~
~~(c) A board member or any person, other than a staff member of the board, department, or any other state agency, who is acting in his or her official capacity and who intends to influence the decision of the board on a matter within the board's jurisdiction, shall not conduct an ex parte communication, unless the board member or the person who engages in the communication with the board member discloses that communication in one of the following ways:~~
~~(1) The board member or the person fully discloses the communication and makes public the ex parte communication by providing a full report of the communication to the executive officer or, if the communication occurs within seven days of the next board hearing, to the board on the record of the proceeding of that hearing.~~
~~(2) When two or more board members receive substantially the same written communication or receive the same oral communication from the same party on the same matter, one of the board members fully discloses the communication on behalf of the other board member or members who received the communication and requests in writing that it be placed in the board's official record of the proceeding.~~

~~(d) (1) The board shall adopt standard disclosure forms for reporting ex parte communications which shall include, but not be limited to, all of the following information:~~
~~(A) The date, time, and location of the communication.~~
~~(B) The identity of the person or persons initiating and the person or persons receiving the communication.~~
~~(C) A complete description of the content of the communication, including the complete text of any written material that was part of the communication.~~
~~(2) The executive officer shall place in the public record any report of an ex parte communication.~~
~~(e) Communications shall cease to be ex parte communications when fully disclosed and placed in the board's official record.~~
~~(f) In addition to any other applicable penalty, a board member who knowingly violates this section is subject to a civil fine, not to exceed seven thousand five hundred dollars ($7,500). Notwithstanding any law to the contrary, the court may award attorneys' fees and costs to the prevailing party.~~
~~(g) Notwithstanding Section 11425.10 of the Government Code, the ex parte communications provisions of the Administrative Procedure Act (Article 7 (commencing with Section 11430.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code) do not apply to proceedings of the board under this code.~~

~~663.2. (a) No board member shall make, participate in making, or in any other way attempt to use his or her official position to influence a board decision about which the member has knowingly had an ex parte communication that has not been reported pursuant to Section 663.1.~~
~~(b) In addition to any other applicable penalty, including a civil fine imposed pursuant to subdivision (f) of Section 663.1, a board member who knowingly violates this section shall be subject to a civil fine, not to exceed seven thousand five hundred dollars ($7,500). Notwithstanding any law to the contrary, the court may award attorneys' fees and costs to the prevailing party.~~

~~664. Each member of the board shall hold office for four years. Vacancies shall be immediately filled by the Governor.~~

~~665. The members first appointed to the board shall classify themselves by lot so that the term of three members shall expire January 15, 1977, the term of two members shall expire January 15, 1978, the term of two members shall expire January 15, 1979, and the term of two members shall expire January 15, 1980.~~

~~667. Each member of the board shall receive one hundred dollars ($100) for each day during which the member is engaged in the performance of official duties. The compensation of each member, except the compensation of the chairman, shall not, however, exceed in any one fiscal year the sum of four thousand dollars ($4,000). The chairman of the board may receive compensation of not to exceed five thousand dollars ($5,000) in any one fiscal year for the performance of official duties. In addition to such compensation, each member shall be reimbursed for necessary traveling and other expenses incurred in the performance of official duties.~~

~~668. The board shall maintain its headquarters in Sacramento and shall hold meetings at such times and at such places as shall be determined by it. Five members of the board shall constitute a quorum for the purpose of transacting any business of the board. A majority affirmative vote of the total authorized membership of the board shall be necessary to adopt, amend, or repeal state policy for the reclamation of mined lands adopted pursuant to Article 4 (commencing with Section 2755) of Chapter 9 of Division 2. All meetings of the board shall be open to the public.~~

~~669. The Governor shall designate the chairman of the board from among the members of the board. The person designated as the chairman shall hold such office at the pleasure of the Governor. The board shall annually elect a vice chairman from among its members.~~

~~670. The board may appoint an executive officer who shall be exempt from civil service pursuant to subdivision (e) of Section 4 of Article XXIV of the California Constitution. The board may also employ such clerical assistance as may be necessary for the proper discharge of its duties. Neither the board nor its employees shall have or be given any powers in relation to the administration of the division.~~

~~671. The director shall have no power to amend or repeal any order, ruling, or directive of the board.~~

677. The ~~board shall nominate, and~~ the director shall appoint, the State Geologist, who shall either be registered in compliance with the Geologist and Geophysicist Act at least one year from the date of appointment, or the Board of Geologists and Geophysicists may, upon the review of academic and professional experience, grant registration. The State Geologist shall possess general knowledge of mineral resources, structural geology, seismology, engineering geology, and related disciplines in science and engineering, and the reclamation of mined lands and waters. The State Geologist shall advise the director regarding technical, scientific, and engineering issues, including the scientific quality of the division's products and activities.

678. The director may authorize the State Geologist to exercise his power to appoint employees of the division in accordance with the State Civil Service Act. The director may authorize the State Geologist, or any employee of the division, to exercise any power granted to, or perform any duty imposed upon, the director by the State Civil Service Act.

700. As used in this chapter:

(a) "Board" means the ~~State Board~~ Department of Forestry and Fire Protection.

(b) "Department" means the Department of Forestry and Fire Protection.

(c) "Director" means the Director of Forestry and Fire Protection.

730. ~~(a) There is in the department a State Board of Forestry and Fire Protection consisting of nine members appointed by the Governor,~~

~~subject to confirmation by the Senate.~~

~~(b) (1) On and after January 1, 1998, wherever any reference is made in any law to the State Board of Forestry in the department, the reference shall be deemed to be a reference to, and to mean, the State Board of Forestry and Fire Protection.~~

~~(2) No existing supplies, forms, signs, or logos shall be destroyed or changed to reflect the name change, and they shall continue to be used until exhausted or unserviceable.~~ Any reference to the State Board of Forestry and Fire Protection or the State Board of Forestry shall mean the Department of Forestry and Fire Protection.

~~731. All members of the board shall be appointed and shall be selected and approved for appointment on the basis of their educational and professional qualifications and their general knowledge of, interest in, and experience with, problems relating to watershed management (including hydrology and soil science), forest management practices, fish and wildlife, range management, forest economics, or land use planning. Five members shall be selected from the general public, three members shall be selected from the forest products industry, and one member shall be selected from the range livestock industry. At no time shall a majority of the members, nor any of the members selected from the general public, be persons with a direct personal financial interest, within the meaning of Section 1120 of the Government Code, in timberlands. All members of the board shall represent the general public interest.~~

~~731.1. The Legislature declares that some individuals appointed as members of the State Board of Forestry and Fire Protection are required to be chosen from backgrounds in the forest products and range livestock industries in order to represent and further the interests of those industries and that this representation and furtherance serves the general public interest, as specified in Section 731. Accordingly, the Legislature finds that, for purposes of persons who hold that office, the forest products and the range livestock industries are tantamount to and constitute the public generally within the meaning of Section 87103 of the Government Code in those decisions affecting the forest products or range livestock industries, unless the results of their actions taken as board members have a material financial effect on them distinguishable from their effect on other members of their respective industries generally.~~

~~732. Each member of the board shall hold office for four years from the expiration of the term of his or her predecessor. Vacancies shall be immediately filled by the Governor.~~

~~733. The members first appointed to the board shall classify themselves by lot so that the term of three members shall expire January 15, 1975, the term of two members shall expire January 15, 1976, the term of two members shall expire January 15, 1977, and the term of two members shall expire January 15, 1978, except that no member shall serve for a term in excess of four years without being reappointed and confirmed by the Senate as provided in this article.~~

~~735. Each member of the board shall receive compensation for each day during which the member engaged in the performance of official duties, except that the total number of days for which a member, other than the chairperson, may be compensated shall not exceed 80 days in any one fiscal year. The chairperson of the board may receive compensation for not more than 100 days in any one fiscal year. In addition to the compensation, each member shall be reimbursed for necessary traveling and other expenses incurred in the performance of official duties.~~

~~736. The board shall maintain its headquarters in Sacramento and shall hold meetings at such times and at such places as shall be determined by it. Five members of the board shall constitute a quorum for the purpose of transacting any business of the board. A majority affirmative vote of the total authorized membership of the board shall be necessary to adopt, amend, or repeal rules and regulations of the board adopted pursuant to Article 4 (commencing with Section 4551) of Chapter 8 of Part 2 of Division 4. All meetings of the board shall be open to the public.~~

~~737. (a) No member of the board shall participate in any board action pursuant to Article 8 (commencing with Section 4601) or Article 9 (commencing with Section 4621) of Chapter 8 of Part 2 of Division 4 which involves himself or any person with which he is connected as a director, officer, or employee, or in which he has a direct personal financial interest within the meaning of Section 1120~~

~~of the Government Code.~~

~~(b) Upon request of any person or on his own initiative, the Attorney General may file a complaint in the superior court for the county in which the board has its principal office alleging that a board member has knowingly violated this section and the facts upon which the allegation is based and asking that the member be removed from office. Further proceedings shall be in accordance as near as may be with rules governing civil actions. If after trial the court finds that the board member has knowingly violated this section it shall pronounce judgment that the member be removed from office.~~

~~738. The Governor shall designate the chairman of the board from among the members of the board. The person designated as the chairman shall hold such office at the pleasure of the Governor. The board shall annually elect a vice chairman from among its members.~~

739. The ~~board~~ Department of Forestry and Fire Protection may appoint an executive officer who shall be exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

740. The ~~board~~ Department of Forestry and Fire Protection shall represent the state's interest in the acquisition and management of state forests as provided by law and in federal land matters pertaining to forestry, and the protection of the state's interests in forest resources on private lands, and shall determine, establish, and maintain an adequate forest policy. General policies for guidance of the department shall be determined by the board.

741. (a) The ~~board~~ Department of Forestry and Fire Protection shall appoint a Range Management Advisory Committee and shall consult with the advisory committee on rangeland resource issues under consideration by the board.

(b) The advisory committee shall consist of 11 members, who shall be selected as follows:

(1) Two members of the general public, who have an interest and background in the conservation of range resources or special

knowledge in the protection of range and brushland soils and watersheds.

(2) One member nominated by the Watershed Fire Council of Southern California.

(3) One member nominated by the California Association of Resource Conservation Districts.

(4) Seven members nominated by organizations representing owners of range and brushlands.

(c) Members of the advisory committee shall serve without compensation.

(d) The Secretary of the Resources Agency, the Secretary for Environmental Protection, and the Secretary of Food and Agriculture shall notify the advisory committee of, and are encouraged to consult with the advisory committee on, rangeland resource issues that are under consideration by the Resources Agency, the California Environmental Protection Agency, and the Department of Food and Agriculture, respectively.

743. State agencies shall submit to the ~~board~~ Department of Forestry and Fire Protection plans for, and the results of, all investigations that relate to, or have an effect upon, forest resource utilization for review and comment. The ~~board~~ Department of Forestry and Fire Protection may, at its expense, contract with any state or local agency to investigate and report on any technical factors involved in forest management; provided, that the burden, including costs, of such reports shall bear a reasonable relationship to the needs for the reports and the benefits to be obtained from such reports.

745. The ~~board~~ Department of Forestry and Fire Protection shall implement a public information program on matters involving forest management and shall maintain an information file on forest management research and other pertinent matters.

759. The ~~board~~ Department of Forestry and Fire Protection may by regulation adopt such rules and regulations pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, as it determines are reasonably necessary to enable it to carry into effect the provisions of this article.

760. The ~~board~~ Department of Forestry and Fire Protection shall consider matters pertaining to the registration of professional foresters at least once every six months at regular meetings and may, as necessary, meet solely for the purpose of considering matters to carry out the provisions of this article.

760.5. The ~~board~~ Department of Forestry and Fire Protection may hire the clerical and secretarial employees, technical personnel, and other staff who are necessary and budgeted to properly assist the work of the ~~board~~ Department of Forestry and Fire Protection in carrying out the purposes of this article. This staff personnel shall be subject to the relevant system and procedures of the state civil service. The provisions of the State Civil Service Act contained in Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code shall apply to that personnel. The executive officer shall be an employee exempt from civil service.

761. The ~~board~~ Department of Forestry and Fire Protection shall keep a complete record of all applications for registration and certification and the ~~board's~~ Department of Forestry and Fire Protection's action thereon.

762. The ~~board~~ Department of Forestry and Fire Protection may by regulation provide for the issuance of certificates of specialization in such fields of specialization as the ~~board~~ Department of Forestry and Fire Protection may by regulation establish.

763. (a) The ~~board~~ Department of Forestry and Fire Protection shall establish an examining committee of at least seven members composed of the following, who shall be appointed by the ~~board~~ Department of Forestry and Fire Protection and serve at its pleasure:

(1) Two public members ~~with one selected from the membership of the board~~.

(2) At least four professional foresters in good standing representing a broad cross section of employment and expertise.

(3) At least one certified specialist registered pursuant to

Section 772 in good standing. If a certified specialist is not available to serve on the committee, this position shall be replaced by an additional professional forester in good standing.

(b) The examining committee shall do all of the following:

(1) Examine all applicants for registration as professional foresters and for specialty certificates.

(2) Recommend to the ~~board~~ Department of Forestry and Fire Protection applicants for the license of professional forester and applicants for specialty certificates who fulfill the requirements of this article.

(3) Review complaints, which review may include independent investigations or expert witness evaluations, and make disciplinary recommendations to the ~~board~~ Department of Forestry and Fire Protection.

(4) Establish ad hoc committees as needed with representatives of certified specialists.

(5) Recommend to the ~~board~~ Department of Forestry and Fire Protection whether an independent certification program qualifies for recognition under Section 754.

(6) Recommend adoption of the rules and regulations or changes in rules and regulations which may be needed to effect this article.

765. The examining committee shall adhere to the rules and regulations of the ~~board~~ Department of Forestry and Fire Protection. Any applicant for a license pursuant to this article who contends that he has been aggrieved by any action taken by the examining committee with respect to his qualifications may appeal to the ~~board~~ Department of Forestry and Fire Protection in accordance with rules or regulations prescribed by the ~~board~~ Department of Forestry and Fire Protection. The ~~board~~ Department of Forestry and Fire Protection on such appeal may administer an oral or written examination to the applicant as an aid in determining whether the applicant is qualified under the terms of this article.

767. An applicant for a license pursuant to this article shall apply to the ~~board~~ Department of Forestry and Fire Protection. Such application shall be accompanied by the payment of a fee in an amount fixed by the provisions of this article.

768. The ~~board~~ Department of Forestry and Fire Protection shall require an applicant to demonstrate such degree of experience and such general knowledge of the profession of forestry as the ~~board~~ Department of Forestry and Fire Protection deems necessary for the protection of the public.

769. An applicant shall meet all of the following qualifications:

(a) Be of good moral character and have a good reputation for honesty and integrity.

(b) Furnish evidence of having completed seven years of experience in forestry work.

Possession of a degree of bachelor of science, or equivalent degree as determined by the ~~board~~ Department of Forestry and Fire Protection, with a major in forestry, shall be deemed equivalent to four years of experience in the actual practice of forestry work.

At least three of the seven years of experience shall include having charge of forestry work, or forestry work under the supervision of a person registered, or qualified for, but exempt from, registration under the provision of this article. Work completed prior to July 1, 1973, shall qualify if it was under the supervision of a qualified forester, as defined in Section 754. The award of a master of forestry degree shall be acceptable as evidence of one year of such qualifying experience.

(c) Has successfully completed such examination or examinations as are prescribed by the ~~board~~ Department of Forestry and Fire Protection.

770. (a) Examinations shall be given by the ~~board~~ Department of Forestry and Fire Protection as often as it is deemed necessary, but at least every six months.

(b) The examination may consist of both written and oral portions. A grade of 75 percent shall be necessary for successful completion of the examination.

772. Instead of being registered as a professional forester, an applicant may request to be registered as a certified specialist in one or more fields of forestry. Nothing in this article shall authorize the ~~board~~ Department of Forestry and Fire Protection to certify or otherwise license wildlife biologists, fisheries biologists, botanists, ecological

restorationists, stream restorationists, hydrologists, or geologists.
Registration in a specialty area does not prohibit a professional forester from providing services within that professional forester's area of expertise. Any public agency or professional society may submit for ~~board~~ Department of Forestry and Fire Protection recognition its independent certification program as full qualification without examination for the ~~board's~~ Department of Forestry and Fire Protection's certificate of specialization. That certification as a specialist shall be granted provided the ~~board~~ Department of Forestry and Fire Protection determines the program fully protects the public interest in that area of practice encompassed by the program. Those certificants are subject to ~~board~~ Department of Forestry and Fire Protection registration and discipline with review by that specialty.

774. (a) Issuance of a license may be denied if sufficient evidence is received by the ~~board~~ Department of Forestry and Fire Protection of the commission or doing by the applicant of any act which, if committed or done by a licensee, would be grounds for the suspension or revocation of his license.
(b) In any decision denying an application, the ~~board~~ Department of Forestry and Fire Protection may provide that it will accept no future application from the applicant until he complies with specified conditions. No condition may be required by the ~~board~~ Department of Forestry and Fire Protection that is not just and reasonable.

775. The ~~board~~ Department of Forestry and Fire Protection may upon its own motion, and shall upon the verified complaint in writing of any person, cause investigation to be made of the actions of any person licensed pursuant to this article, and may temporarily suspend or permanently revoke the license of any person who is guilty of or commits any one or more of the acts or omissions constituting cause for disciplinary action.

776. Any accusation against a registrant or a certificant shall be filed within five years after the act or omission alleged as the ground for disciplinary action. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the ~~board~~ Department of Forestry and Fire Protection has all the powers granted in that chapter.

777. If the ~~board~~ Department of Forestry and Fire Protection finds against the registrant, the ~~board~~ Department of Forestry and Fire Protection, in its decision, may terminate all operations of the registrant during the period fixed by the decision, except those operations the ~~board~~ Department of Forestry and Fire Protection determines that the person may complete. The ~~board~~ Department of Forestry and Fire Protection may impose upon the registrant compliance with specific conditions as may be just in connection with his or her operations, and may further provide that, until the conditions are complied with, no application for restoration of the suspended or revoked registration shall be accepted by the ~~board~~ Department of Forestry and Fire Protection.

The ~~board~~ Department of Forestry and Fire Protection shall provide public notice of the suspension or revocation pursuant to this section.

The ~~board~~ Department of Forestry and Fire Protection may issue a private reprimand when a registrant commits a failure of responsibility which warrants a lesser level of discipline than suspension. The issuance of a private reprimand does not prohibit the ~~board~~ Department of Forestry and Fire Protection from using the subject of the private reprimand in an accusation, within the statute of limitations, seeking suspension or revocation resulting from a subsequent complaint, to establish a pattern of lesser failures of professional responsibility. If the evidence is insufficient to support a private reprimand or an accusation, the executive officer for registration may send a letter expressing the examining committee's concerns.

778. A registrant or certificant is subject to disciplinary action who:

(a) Has been convicted of a felony substantially related to the qualifications, functions, or duties of a registered professional forester. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the ~~board~~ Department of Forestry and Fire Protection is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

(b) Has been found guilty by the ~~board~~ Department of Forestry and Fire Protection of any deceit, misrepresentation, fraud, material misstatement of fact, incompetence, or gross negligence in his or her practice.

(c) Has been guilty of any fraud or deceit in obtaining his or her registration or certification.

(d) Aids or abets any person in the violation of any provision of this article.

(e) Fails in any material respect to comply with the provisions of this article.

778.5. The ~~board~~ Department of Forestry and Fire Protection shall develop criteria to determine whether a felony is substantially related to the qualifications, functions, or duties of a registered professional forester in order to aid it when considering the denial, suspension, or revocation of a license.

782. The ~~board~~ Department of Forestry and Fire Protection shall establish by regulation the amount of fees within the following ranges, and based on a determination by the ~~board~~ Department of Forestry and Fire Protection of the amount of revenues reasonably necessary to carry out this article:

(a) The application fee for registration or for each certificate of specialization shall be not less than fifty dollars ($50) and not more than two hundred dollars ($200).

(b) The registration fee and certificate of specialization fees and renewal fees shall be not less than twenty-five dollars ($25) and not more than two hundred fifty dollars ($250) per year. Every licensed person shall, on or before July 1 of the year of expiration, pay the renewal fee.

(c) The fee for the issuance of a duplicate display registration document or certificate of specialization shall be not less than five dollars ($5) and not more than twenty-five dollars ($25).

(d) The penalty fee for failure to apply for a renewal shall be not less than ten dollars ($10) and not more than twenty-five dollars ($25) for each month of delinquency. In return for the payment of the renewal fee and any applicable late fees, a renewal registration card shall be issued.

(e) A registrant or certificant may, upon written notice to the ~~board~~ Department of Forestry and Fire Protection, be granted a withdrawal period without penalty not to exceed five years. A reinstatement application shall be accompanied with a fee of not less than fifteen dollars ($15) and not more than fifty

dollars ($50), for registration or each certificate of specialization.

783. In case any person defaults in payment of the renewal fee, his or her registration may be revoked by the ~~board~~ Department of Forestry and Fire Protection on 60 days' notice in writing from the ~~board~~ Department of Forestry and Fire Protection, unless within this time the fee is paid, together with penalty, not exceeding the amount fixed by this article. Upon payment of the fee and penalty within one year, the ~~board~~ Department of Forestry and Fire Protection shall reinstate the person's registration.

California Recreational Trails Committee (Pub. Resources Code)

5070.3. Unless the context otherwise requires, the following definitions shall govern construction of this article:

(a) "Affirmative access area" means an area of already existing disability access improvements along a heritage corridor.

(b) "Committee" means the ~~California Recreational Trails Committee~~ Department of Parks and Recreation.

(c) "Heritage corridor" means a regional, state, or nationwide alignment of historical, natural, or conservation education significance, with roads, state and other parks, greenways, or parallel recreational trails, intended to have guidebooks, signs, and other features to enable self-guiding tourism, and environmental conservation education along most of its length and of all or some of the facilities open to the public along its length, with an emphasis on facilities whose physical and interpretive accessibility meet "whole-access" goals.

(d) "Heritage corridors access map" means a 1:500,000 publicly distributed map combining listings and locations of parks, trails, museums, and roadside historical and natural access points, including disability and interpretive access data, along designated heritage corridors.

(e) "Plan" means the California Recreational Trails System Plan.

(f) "System" means the California Recreational Trails System.

(g) "Whole-access" means a general level of trail and human accessibility that includes not only disabled persons but all others making up the "easy-access" majority of the public. This level of

accessibility may also benefit from amplified concepts of natural terrain accessibility and cooperation with volunteer and nonprofit accessibility groups.

~~5073.5. The Governor shall establish a California Recreational Trails Committee to advise the director in the development and coordination of the system. The committee shall consist of seven members appointed by the Governor. Two members shall be selected from the northern, two members from the southern, and two members from the central portions of the state, and one member shall be selected at large. Members shall be selected from lists submitted by private organizations which have a demonstrated interest in the establishment of recreation trails. The chairman of the committee shall be elected by the members from their membership.~~

~~5073.7. The terms of the members of the committee shall be four years, except that such members first appointed to the committee shall classify themselves by lot so that the term of three members shall expire January 15, 1976, the term of two members shall expire January 15, 1977, and the term of two members shall expire January 15, 1978.~~

~~Members of the committee shall serve without compensation, but shall be reimbursed for actual and necessary expenses, including traveling expenses, incurred in the performance of their duties.~~

5074. The ~~committee~~ Department of Parks and Recreation shall have the following powers and duties:

(a) Coordinate trail planning and development among cities, counties, and districts. In carrying out this responsibility, the ~~committee~~ Department of Parks and Recreation shall review records of easements and other interests in lands which are available for recreational trail usage, including public lands, utility easements, other rights-of-way, gifts, or surplus public lands which may be adaptable for such use, and shall advise the director in the development of standards for trail construction so that uniform construction standards may be available to cities, counties, and districts.

~~(b) Advise the director in the preparation and maintenance of the plan.~~

(b) Study the problems and opportunities presented by the use of private property for recreational trail use and ~~advise the director on~~ measures to mitigate undesirable aspects of such usage.

5090.04. "Commission" means the ~~Off-Highway Motor Vehicle Recreation Commission~~ Resources Agency.

~~5090.15. (a) There is in the department the Off-Highway Motor Vehicle Recreation Commission, consisting of seven members, three of whom shall be appointed by the Governor, two of whom shall be appointed by the Senate Committee on Rules, and two of whom shall be appointed by the Speaker of the Assembly.~~
~~(b) In order to be appointed to the commission, a nominee shall represent one or more of the following groups:~~
~~(1) Off-highway vehicle recreation interests.~~
~~(2) Biological or soil scientists.~~
~~(3) Groups or associations of predominantly rural landowners.~~
~~(4) Law enforcement.~~
~~(5) Environmental protection organizations.~~
~~(6) Nonmotorized recreationist interests.~~
~~It is the intent of the Legislature that appointees to the commission represent all of the groups delineated in paragraphs (1) to (6), inclusive, to the extent possible.~~
~~(c) Whenever any reference is made to the State Park and Recreation Commission pertaining to a duty, power, purpose, responsibility, or jurisdiction of the State Park and Recreation Commission with respect to the state vehicular recreation areas, as established by this chapter, it shall be deemed to be a reference to, and to mean, the Off-Highway Motor Vehicle Recreation Commission.~~
~~(d) Based on the findings in the 2004 Off-Highway Vehicle Fuel Tax Study, the division shall, not later than January 1, 2005, prepare and submit to the Legislature a report that identifies the principal reasons why people are using off-road trails and facilities, and an estimate of the proportional amount of off-highway motor vehicle use by jurisdiction, as a means of assisting in the determination of how fuel tax and in lieu of property tax funds should be expended.~~
~~(e) This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute that is enacted before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed~~Any reference to the Off Highway Motor Vehicle Recreational Commission shall refer to the Department of Parks and Recreation.

~~5090.16. In making appointments to the commission, the Governor, Senate Committee on Rules, and Speaker of the Assembly shall consider the places of residence of the members of the commission in order to ensure statewide representation.~~

~~5090.17. (a) The terms of the members of the commission shall be four years.~~
~~(b) Appointments to the commission shall comply with the qualifications for membership specified in Sections 5090.15 and 5090.16.~~

~~5090.18. In case of any vacancy in the membership of the commission, the appointing authority of the vacating member shall appoint a successor member for the unexpired portion of the term.~~

~~5090.19. The members of the commission shall elect a chairperson from their number who shall serve as chairperson for one year and until his or her successor is elected.~~

~~5090.20. The director is the secretary of the commission.~~

~~5090.21. Members of the commission may receive a salary for their services in an amount of fifty dollars ($50) for each day, up to a maximum salary of one hundred dollars ($100) per month. A member of the commission may also be reimbursed for the actual and necessary expenses which are incurred in the performance of the member's duties.~~
~~Notwithstanding any other provision of law, any member of the commission who is also a member of, and is entitled to receive the benefits from, the Legislators' Retirement System may elect to forego the compensation provided by this section and, if the compensation is foregone, the member shall not have his or her retirement benefits reduced and shall not be required to be reinstated into the retirement system.~~

~~5090.22. The chairperson of the commission may appoint committees composed of members of the commission and prescribe the jurisdiction of each.~~

25301. (a) At least every two years, the commission shall conduct assessments and forecasts of all aspects of energy industry supply, production, transportation, delivery and distribution, demand, and prices. The commission shall use these assessments and forecasts to develop energy policies that conserve resources, protect the environment, ensure energy reliability, enhance the state's economy, and protect public health and safety. To perform these assessments and forecasts, the commission may require submission of demand forecasts, resource plans, market assessments, and related outlooks from electric and natural gas utilities, transportation fuel and technology suppliers, and other market participants. These assessments and forecasts shall be done in consultation with the appropriate state and federal agencies including, but not limited to, the Public Utilities Commission, the Office of Ratepayer Advocates, the Air Resources Board, ~~the Electricity Oversight Board~~, the Independent System Operator, the Department of Water Resources, the California Energy Commission ~~California Consumer Power and Conservation Financing Authority~~, the Department of Transportation, and the Department of Motor Vehicles.

(b) In developing the assessments and forecasts prepared pursuant to subdivision (a), the commission shall do all of the following:

(1) Provide information about the performance of energy industries.

(2) Develop and maintain the analytical capability sufficient to answer inquiries about energy issues from government, market participants, and the public.

(3) Analyze and develop energy policies.

(4) Provide an analytical foundation for regulatory and policy decisionmaking.

(5) Facilitate efficient and reliable energy markets.

25302. (a) Beginning November 1, 2003, and every two years thereafter, the commission shall adopt an integrated energy policy report. This integrated report shall contain an overview of major energy trends and issues facing the state, including, but not limited to, supply, demand, pricing, reliability, efficiency, and impacts on public health and safety, the economy, resources, and the environment. Energy markets and systems shall be grouped and assessed in three subsidiary volumes:

(1) Electricity and natural gas markets.

(2) Transportation fuels, technologies, and infrastructure.

(3) Public interest energy strategies.

(b) The commission shall compile the integrated energy policy report prepared pursuant to subdivision (a) by consolidating the analyses and findings of the subsidiary volumes in paragraphs (1), (2), and (3) of subdivision (a). The integrated energy policy report shall present policy recommendations based on an indepth and integrated analysis of the most current and pressing energy issues facing the state. The analyses supporting this integrated energy policy report shall explicitly address interfuel and intermarket effects to provide a more informed evaluation of potential tradeoffs when developing energy policy across different markets and systems.

(c) The integrated energy policy report shall include an assessment and forecast of system reliability and the need for resource additions, efficiency, and conservation that considers all aspects of energy industries and markets that are essential for the state economy, general welfare, public health and safety, energy diversity, and protection of the environment. This assessment shall be based on determinations made pursuant to this chapter.

(d) Beginning November 1, 2004, and every two years thereafter, the commission shall prepare an energy policy review to update analyses from the integrated energy policy report prepared pursuant to subdivisions (a), (b), and (c), or to raise energy issues that have emerged since the release of the integrated energy policy report. The commission may also periodically prepare and release technical analyses and assessments of energy issues and concerns to provide timely and relevant information for the Governor, the

Legislature, market participants, and the public.

(e) In preparation of the report, the commission shall consult with the following entities: the Public Utilities Commission, the Office of Ratepayer Advocates, the State Air Resources Board, ~~the Electricity Oversight Board,~~ the Independent System Operator, the Department of Water Resources, the California Energy Commission ~~Consumer Power and Conservation Financing Authority~~, the Department of Transportation, and the Department of Motor Vehicles, and any federal, state, and local agencies it deems necessary in preparation of the integrated energy policy report. To assure collaborative development of state energy policies, these agencies shall make a good faith effort to provide data, assessment, and proposed recommendations for review by the commission.

(f) The commission shall provide the report to the Public Utilities Commission, the Office of Ratepayer Advocates, the State Air Resources Board, ~~the Electricity Oversight Board,~~ the Independent System Operator, the Department of Water Resources, the California Energy Commission ~~Consumer Power and Conservation Financing Authority~~, and the Department of Transportation. For the purpose of ensuring consistency in the underlying information that forms the foundation of energy policies and decisions affecting the state, those entities shall carry out their energy-related duties and responsibilities based upon the information and analyses contained in the report. If an entity listed in this subdivision objects to information contained in the report, and has a reasonable basis for that objection, the entity shall not be required to consider that information in carrying out its energy-related duties.

(g) The commission shall make the report accessible to state, local, and federal entities and to the general public.

25417.5. (a) In furtherance of the purposes of the commission as set forth in this chapter, the commission has the power and authority to do all of the following:

(1) Borrow money, for the purpose of obtaining funds to make loans pursuant to this chapter, from the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, and the California Energy Commission, as successor to the California Consumer Power and Conservation Financing Authority, from the proceeds of revenue bonds issued by any of those agencies.

(2) Pledge, to provide collateral in connection with the borrowing of money pursuant to paragraph (1), loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), or the principal and interest payments on loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440).

(3) Sell loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), at prices determined in the sole

discretion of the commission, to the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, and the California Energy Commission as successor to the California Consumer Power and Conservation Financing Authority to raise funds to enable the commission to make loans to eligible institutions.

(4) Enter into loan agreements or other contracts necessary or appropriate in connection with the pledge or sale of loans pursuant to paragraph (2) or (3), or the borrowing of money as provided in paragraph (1), containing any provisions that may be required by the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, or the California Energy Commission as successor to the California Consumer Power and Conservation Financing Authority as conditions of issuing bonds to fund loans to, or the purchase of loans from, the commission.

(b) In connection with the pledging of loans, or of the principal and interest payment on loans, pursuant to paragraph (2) of subdivision (a), the commission may enter into pledge agreements setting forth the terms and conditions pursuant to which the commission is pledging loans or the principal and interest payment on loans, and may also agree to have the loans held by bond trustees or by independent collateral or escrow agents and to direct that payments received on those loans be paid to those trustee, collateral, or escrow agents.

(c) The commission may employ financial consultants, legal advisers, accountants, and other service providers, as may be necessary in its judgment, in connection with activities pursuant to this chapter.

(d) Notwithstanding any other provision of law, this chapter provides a complete, separate, additional, and alternative method for implementing the measures authorized by this chapter, including the authority of the eligible institutions or local jurisdictions to have borrowed and to borrow in the future pursuant to loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), and is supplemental and additional to powers conferred by other laws.

25443.5. (a) In furtherance of the purposes of the commission as set forth in this chapter, the commission has the power and authority to do all of the following:

(1) Borrow money, for the purpose of obtaining funds to make loans pursuant to this chapter, from the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, and the California Energy Commission as successor to the California Consumer Power and Conservation Financing Authority from the proceeds of revenue bonds issued by any of those agencies.

(2) Pledge, to provide collateral in connection with the borrowing of money pursuant to paragraph (1), loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), or the principal and interest payments on loans made pursuant to this

chapter or Chapter 5.2 (commencing with Section 25410).

(3) Sell loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), at prices determined in the sole discretion of the commission, to the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, and the California Energy Commission as successor to the California Consumer Power and Conservation Financing Authority to raise funds to enable the commission to make loans to eligible institutions.

(4) Enter into loan agreements or other contracts necessary or appropriate in connection with the pledge or sale of loans pursuant to paragraph (2) or (3), or the borrowing of money as provided in paragraph (1), containing any provisions that may be required by the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, or the California Energy Commission as successor to the California Consumer Power and Conservation Financing Authority as conditions of issuing bonds to fund loans to, or the purchase of loans from, the commission.

(b) In connection with the pledging of loans, or of the principal and interest payment on loans, pursuant to paragraph (2) of subdivision (a), the commission may enter into pledge agreements setting forth the terms and conditions pursuant to which the commission is pledging loans or the principal and interest payment on loans, and may also agree to have the loans held by bond trustees or by independent collateral or escrow agents and to direct that payments received on those loans be paid to those trustee, collateral, or escrow agents.

(c) The commission may employ financial consultants, legal advisers, accountants, and other service providers, as may be necessary in its judgment, in connection with activities pursuant to this chapter.

(d) Notwithstanding any other provision of law, this chapter provides a complete, separate, additional, and alternative method for implementing the measures authorized by this chapter, including the authority of the eligible institutions or local jurisdictions to have borrowed and to borrow in the future pursuant to loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), and is supplemental and additional to powers conferred by other laws.

25534. (a) The commission may, after one or more hearings, amend the conditions of, or revoke the certification for, any facility for any of the following reasons:

(1) Any material false statement set forth in the application, presented in proceedings of the commission, or included in supplemental documentation provided by the applicant.

(2) Any significant failure to comply with the terms or conditions of approval of the application, as specified by the commission in

its written decision.

(3) A violation of this division or any regulation or order issued by the commission under this division.

(4) The owner of a project does not start construction of the project within 12 months after the date all permits necessary for the project become final and all administrative and judicial appeals have been resolved provided the California Energy Commission as successor to the California Consumer Power and Conservation Financing Authority notifies the commission that it is willing and able to construct the project pursuant to subdivision (g). The project owner may extend the 12-month period by 24 additional months pursuant to subdivision (f). This paragraph applies only to projects with a project permit application deemed complete by the commission after January 1, 2003.

(b) The commission may also administratively impose a civil penalty for a violation of paragraph (1) or (2) of subdivision (a). Any civil penalty shall be imposed in accordance with Section 25534.1 and may not exceed seventy-five thousand dollars ($75,000) per violation, except that the civil penalty may be increased by an amount not to exceed one thousand five hundred dollars ($1,500) per day for each day in which the violation occurs or persists, but the total of the per day penalties may not exceed fifty thousand dollars ($50,000).

(c) A project owner shall commence construction of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) within 12 months after the project has been certified by the commission and after all accompanying project permits are final and administrative and judicial appeals have been completed. The project owner shall submit construction and commercial operation milestones to the commission within 30 days after project certification. Construction milestones shall require the start of construction within the 12-month period established by this subdivision. The commission shall approve milestones within 60 days after project certification. If the 30-day deadline to submit construction milestones to the commission is not met, the commission shall establish milestones for the project.

(d) The failure of the owner of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to meet construction or commercial operation milestones, without a finding by the commission of good cause, shall be cause for revocation of certification or the imposition of other penalties by the commission.

(e) A finding by the commission that there is good cause for failure to meet the start-of-construction deadline required by paragraph (4) of subdivision (a) or any subsequent milestones of subdivision (c) shall be made if the commission determines that any of the following criteria are met:

(1) The change in any deadline or milestone does not change the established deadline or milestone for the start of commercial operation.

(2) The deadline or milestone is changed due to circumstances beyond the project owner's control, including, but not limited to, administrative and legal appeals.

(3) The deadline or milestone will be missed but the project owner demonstrates a good faith effort to meet the project deadline or milestone.

(4) The deadline or milestone will be missed due to unforeseen natural disasters or acts of God that prevent timely completion of the project deadline or milestone.

(5) The deadline or milestone will be missed for any other reason determined reasonable by the commission.

(f) The commission shall extend the start-of-construction deadline required by paragraph (4) of subdivision (a) by an additional 24 months, if the owner reimburses the commission's actual cost of licensing the project, less the amount paid pursuant to subdivision (a) of Section 25806. For the purposes of this section, the commission's actual cost of licensing the project shall be based on a certified audit report filed by the commission staff within 180 days of the commission's certification of the project. The certified audit shall be filed and served on all parties to the proceeding, is subject to public review and comment, and is subject to at least one public hearing if requested by the project owner. Any reimbursement received by the commission pursuant to this subdivision shall be deposited in the General Fund.

(g) If the owner of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) fails to commence construction, without good cause, within 12 months after the project has been certified by the commission and has not received an extension pursuant to subdivision (f), the commission shall provide immediate notice to the California Energy Commission as successor to the California Consumer Power and Conservation Financing Authority. The authority shall evaluate whether to pursue the project independently or in conjunction with any other public or private entity, including the original certificate holder. If the authority demonstrates to the commission that it is willing and able to construct the project either independently or in conjunction with any other public or private entity, including the original certificate holder, the commission may revoke the original certification and issue a new certification for the project to the authority, unless the authority's statutory authorization to finance or approve new programs, enterprises, or projects has expired. If the authority declines to pursue the project, the permit shall remain with the current project owner until it expires pursuant to the regulations adopted by the commission.

(h) If the commission issues a new certification for a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to the authority, the commission shall adopt new milestones for the project that allow the authority up to 24 months to start construction of the project or to start to meet the applicable deadlines or milestones. If the authority fails to begin construction in conformity with the deadlines or milestones adopted by the commission, without good cause, the certification may be revoked.

(i) (1) If the commission issues a new certification for a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to the authority and the authority pursues the project without participation of the original certificate holder, the authority shall offer to reimburse the original certificate holder for the actual costs the original certificate holder incurred in permitting the project and in procuring assets associated with the license, including, but not limited to, major equipment and the emission offsets. In order to receive reimbursement, the original certificate holder shall provide to the commission documentation of the actual costs incurred in permitting the project. The commission shall validate those costs. The certificate holder may refuse to accept the offer of reimbursement for any asset associated with the license and retain the asset. To the extent the certificate holder chooses to accept the offer for an asset, it shall provide the authority with the asset.

(2) If the authority reimburses the original certificate holder for the costs described in paragraph (1), the original certificate holder shall provide the authority with all of the assets for which the original certificate holder received reimbursement.

(j) This section does not prevent a certificate holder from selling its license to construct and operate a project prior to its revocation by the commission. In the event of a sale to an entity that is not an affiliate of the certificate holder, the commission shall adopt new deadlines or milestones for the project that allow the new certificate holder up to 12 months to start construction of the project or to start to meet the applicable deadlines or milestones.

(k) Paragraph (4) of subdivision (a) and subdivisions (c) to (j), inclusive, do not apply to licenses issued for the modernization, repowering, replacement, or refurbishment of existing facilities or to a qualifying small power production facility or a qualifying cogeneration facility within the meaning of Sections 201 and 210 of Title II of the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Secs. 796(17), 796(18), and 824a-3), and the regulations adopted pursuant to those sections by the Federal Energy Regulatory Commission (18 C.F.R. Parts 292.101 to 292.602,

inclusive), nor shall those provisions apply to any other generation units installed, operated, and maintained at a customer site exclusively to serve that facility's load. For the purposes of this subdivision, "replacement" of an existing facility includes, but is not limited to, a comparable project at a location different than the facility being replaced, provided that the commission certifies that the new project will result in the decommissioning of the existing facility.

(l) Paragraph (4) of subdivision (a) and subdivisions (c) to (j), inclusive, do not apply to licenses issued to "local publicly owned electric utilities" as defined in subdivision (d) of Section 9604 of the Public Utilities Code whose governing bodies certify to the commission that the project is needed to meet the projected native load of the local publicly owned utility.

(m) To implement this section, the commission and the California Energy Commission as successor to the California Consumer Power and Conservation Financing Authority may, in consultation with each other, adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including, without limitation, Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, or general welfare.

40400. ~~There is in the Resources Agency the California Integrated Waste Management Board. Any reference in any law or regulation to the State Solid Waste Management Board or the California Waste Management Board shall hereafter apply to the California Integrated Waste Management Board.~~ Any reference to the California Integrated Waste Management Board shall refer to the California Environmental Protection Agency.

40401. ~~The board shall consist of the following members:~~

~~(a) One member appointed by the Governor who has private sector experience in the solid waste industry.~~

~~(b) One member appointed by the Governor who has served as an elected or appointed official of a nonprofit environmental protection organization whose principal purpose is to promote recycling and the protection of air and water quality.~~

~~(c) Two members appointed by the Governor who shall represent the public.~~

~~(d) One member appointed by the Senate Committee on Rules who shall represent the public.~~

~~(e) One member appointed by the Speaker of the Assembly who shall represent the public.~~

Upon recommendation of the Secretary for Environmental Protection, the Governor may appoint one subordinate officer to the Secretary for Environmental Protection under this section who shall hold office at the pleasure of the Secretary. The appointment of the these subordinate officers is subject to confirmation by the Senate. This subordinate officer shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code. This subordinate officers shall have such duties as shall be

assigned, from time to time, by the Secretary, and shall be responsible to the Secretary for the performance thereof.

~~40402. Except the member appointed pursuant to subdivision (a) of Section 40401, no person shall be a member of the board if that person shall be a member of the board if that person has received more than 10 percent of his or her income in the two years before the appointment to the board, directly or indirectly, from a person or entity subject to regulation by the board. For the purposes of this section, "income" does not include the salary or expenses received by a member of a city council or a county supervisor in carrying out their official duties.~~

~~40403. (a) Except as provided under subdivision (b), no board member may derive any income directly or indirectly, except income from a vested retirement plan, from a person or from an entity subject to regulation by the board or from any organization which actively participates in matters before the board.~~
~~(b) No board member appointed pursuant to subdivision (a) of Section 40401 may derive any earned income directly or indirectly from a person or from an entity subject to regulation by the board or from any organization which actively participates in matters before the board. For purposes of this subdivision, "earned income" means wages, salaries, professional fees, directors fees, and other amounts received as compensation for personal services actually rendered, but does not include any amount received as a pension or annuity, dividends, interest, or any other return on a security including proceeds from the sale of a security.~~

~~40404. (a) The members of the board shall represent the state at large and not any particular area of the state and shall serve full time.~~
~~(b) Except as provided in Section 40406 for specified members of the board the appointments to the board which are made by the Governor shall be subject to confirmation by the Senate in accordance with Article 2 (commencing with Section 1770) of Chapter 4 of Division 4 of Title 1 of the Government Code.~~

~~40405. The chairperson of the board shall be elected by a majority of the board members. The member appointed pursuant to subdivision (a) or (b) of Section 40401 shall not serve as chairperson.~~

~~40406. (a) Except as provided for the initial board in subdivision (b), each member of the board shall be appointed for a term of four years. A vacancy shall be filled by the appointing power for the unexpired portion of the term in which it occurs.~~
~~(b) The terms of the initial members of the board are as follows:~~
~~(1) The term of the initial member appointed pursuant to subdivision (a) of Section 40401 ends on January 1, 1992.~~
~~(2) The term of the initial member appointed pursuant to subdivision (b) of Section 40401 ends on January 1, 1993.~~
~~(3) The term of one of the initial members appointed pursuant to subdivision (c) of Section 40401 ends on January 1, 1996.~~
~~(4) The term of one of the initial members appointed pursuant to subdivision (c) of Section 40401 ends on January 1, 1997.~~
~~(5) The term of the initial member appointed pursuant to subdivision (d) of Section 40401 ends~~

on January 1, 1995.
(6) The term of the initial members appointed pursuant to subdivision (e) of Section 40401 ends on January 1, 1994.
(c) Notwithstanding subdivision (b) of Section 40404, the initial members appointed by the Governor pursuant to subdivision (c) of Section 40401 are not subject to confirmation by the Senate.
(d) The Governor shall appoint the initial members appointed pursuant to subdivisions (a) and (b) of Section 40401 and transmit the appointment on or before July 1, 1990. The Senate shall confirm or refuse to confirm the appointments made pursuant to subdivision (a) or (b), or both, on or before a date which is 90 days after receipt of the notice of appointment.
(e) If the Senate refuses or fails to confirm the appointments pursuant to subdivision (d), the Governor, on or before a date which is within 20 days after that refusal or failure, shall appoint another person and transmit the appointment and the Senate shall confirm or refuse to confirm that appointment on or before a date which is 90 days after receipt of the notice of appointment.
(f) If the Senate takes no action to confirm or refuse to confirm an appointment pursuant to subdivision (d) or (e) on or before January 1, 1991, that appointment is deemed confirmed.

40407. The board shall elect a vice chairperson from its members.

40408. The annual salary of the members of the board is provided for by Chapter 6 (commencing at Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code. Each member of the board shall also receive necessary traveling and other expenses incurred in the performance of his or her official duties out of appropriations made for the support of the board.

40410. (a) Each member of the board shall have one vote. Except as provided in Section 40500, the affirmative vote of at least four members shall be required for the transaction of any business of the board.
(b) A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the board, and four members of the board shall at all times constitute a quorum.

40411. (a) No member of the board shall participate in any board action or attempt to influence any decision or recommendation by any employee of or consultant to the board which involves himself or herself or which involves any entity with which the member is connected as a director, officer, consultant, or full- or part-time employee, or in which the member has a direct personal financial interest within the meaning of Section 87100 of the Government Code.
(b) No board member shall participate in any proceeding before any agency as a consultant or in any other capacity on behalf of any solid waste handler or any organization which actively participates in matters before the board.
(c) For a period of 12 months after leaving office, a former board member shall not act as agent or attorney for, or otherwise represent, any other person before the board by making any formal or informal appearance or by making any oral or written communication to the board.

40412. (a) For the purposes of this section, "ex parte communication" means any oral or written communication concerning matters, other than purely procedural matters, under the board's jurisdiction which are subject to a rollcall vote pursuant to Section 40510.
(b) No board member or any person, excepting a staff member of the board acting in his or her

official capacity, who intends to influence the decision of a board member on a matter before the board, shall conduct an ex parte communication, except as follows:
(1) If an ex parte communication occurs, the board member shall notify the interested party that a full disclosure of the ex parte communication shall be entered in the board's record.
(2) Communications cease to be ex parte communications when either of the following occurs:
(A) The board member or the person who engaged in the communication with the board member fully discloses the communication and requests in writing that it be placed in the board's official record of the proceeding.
(B) When two or more board members receive substantially the same written communication, or are party to the same oral communication, from the same party on the same matter, and a single board member fully discloses the communication on behalf of the other board member or members who received the communication and requests in writing that it be placed in the board's official record of the proceeding.
(c) Notwithstanding Section 11425.10 of the Government Code, the ex parte communications provisions of the Administrative Procedure Act (Article 7 (commencing with Section 11430.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code) do not apply to proceedings of the board to which this section applies.

40413. Any person who violates Section 40411 or 40412 is punishable by a fine of not more than fifty thousand dollars ($50,000) or by imprisonment for not more than one year in the county jail or in the state prison, or by both that fine and imprisonment.

40414. Upon request of any person or on his or her own initiative, the Attorney General may file a complaint in the superior court for the county in which the board has its principal office alleging that a board member has knowingly violated Section 40403, 40411, or 40412 and the facts upon which the allegation is based and asking that the member be removed from office. Further proceedings shall be in accordance, as near as may be, with rules governing civil actions. If, after trial, the court finds that the board member has knowingly violated any of those sections, it shall pronounce judgment that the member be removed from office.

40430. The board shall appoint an executive director who may be exempt from civil service laws. The board may delegate any power, duty, purpose, function, and jurisdiction to the executive director which the board determines to be appropriate. The board shall prescribe the duties and fix the salary of the executive director. The executive director shall perform and discharge the powers, duties, purposes, functions, and jurisdiction vested in the board and delegated to the executive director by the board. The executive director may redelegate any of the powers, duties, purposes, functions, and jurisdiction which are delegated to him or her by the board to his or her subordinates.

40431. The board may appoint legal counsel, clerical and secretarial employees, technical personnel, and other staff, and acquire facilities, that it finds necessary for the performance of its functions. The staff of the board shall be subject to the relevant system and procedures of the state civil service. The State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code) applies to those personnel.

~~40432. The Attorney General shall represent the board and the state in litigation concerning affairs of the board, unless the Attorney General represents another state agency that is a party to the action. In that case, the Attorney General may represent the board with the written consent of the board and the other state agency, the board may contract for the services of private counsel, subject to Section 11040 of the Government Code, or the legal counsel of the board may represent the board. Sections 11041, 11042, and 11043 of the Government Code are not applicable to the board.~~

~~40433. The Governor shall appoint one adviser for each member of the board upon the recommendation of the board member.~~

~~40500. The board may appoint a committee of not less than three members of the board to carry on investigations, inquiries, or hearings which the board may undertake or hold. Every order made by a committee pursuant to an inquiry, investigation, or hearing, when approved or confirmed by the board and ordered filed in its office, shall be the order of the board.~~

~~40501. The board may hold any hearings and conduct any investigations in any part of the state necessary to carry out its powers and duties. The board shall have the same powers as are conferred upon heads of departments of the state by Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.~~

40502. (a) The ~~board~~ Secretary for Environmental Protection shall adopt rules and regulations, as necessary, to carry out this division in conformity with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The ~~board~~ Secretary for Environmental Protection shall make available to any person, upon request, copies of proposed regulations.

(b) (1) The ~~board~~ Secretary for Environmental Protection shall adopt regulations regarding city, county, and regional agency source reduction and recycling elements and nondisposal facility elements, required to be submitted to the ~~board~~ Secretary for Environmental Protection pursuant to Section 41791.5, which shall be deemed to be emergency regulations and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of public peace, health and safety, or general welfare. These emergency regulations shall not alter the deadlines for the submission of countywide and regional agency integrated waste management plans specified in Section 41791.

(2) Prior to adopting the emergency regulations required pursuant to paragraph (1), the ~~board~~ Secretary for Environmental Protection shall do all of the following:

(A) Make available to any person, upon request, a copy of the proposed regulations at least 30 days prior to adoption.

(B) Hold at least two public hearings in different parts of the state in order to receive public comment on the regulations.

(C) Publish notice in the California Regulatory Notice Register of the proposed adoption of the emergency regulations, the identity of a contact person at the board from whom copies of the proposed regulations may be obtained, and the dates, times, and locations of the public hearings that are required pursuant to subparagraph (B).

(c) Any emergency regulations adopted by the ~~board~~ Secretary for Environmental Protection pursuant to paragraph (1) of subdivision (b) shall be filed with the Office of Administrative Law

at the earliest feasible date, but not later than December 31, 1993. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any emergency regulations adopted pursuant to paragraph (1) of subdivision (b) shall remain in effect for not more than three years from the date of adoption.

40503. The ~~board~~ Secretary for Environmental Protection shall maintain its headquarters in the County of Sacramento, and may establish regional offices in any part of the state that the ~~board~~ Secretary for Environmental Protection deems necessary.

~~40504. The board shall hold meetings at least monthly at the times and places determined by the board.~~

40505. In order to carry out its powers and duties under this chapter, the ~~board~~ Secretary for Environmental Protection may enter into any contracts that the ~~board~~ Secretary for Environmental Protection determines to be necessary.

40506. The ~~board~~ Secretary for Environmental Protection may accept grants, gifts and donations for the purposes specified in this division.

40506.1. (a) Notwithstanding any other provision of law, the ~~board~~ Secretary for Environmental Protection may sell any of its loans made pursuant to this division on the secondary market and may pool its loans. All proceeds shall be deposited into the same accounts into which the loan repayments from each loan would have been deposited, and the use of the proceeds shall be limited to the authorized uses of these accounts.
(b) The ~~board~~ Secretary for Environmental Protection shall not sell its loans pursuant to this section if the loan sale results in more than a 25-percent discount of the principal amount, excluding any expenses or reserves required as a condition of the loan sale.

40507. (a) On or before March 1 of each year, the ~~board~~ Secretary for Environmental Protection shall file an annual report with the Legislature highlighting significant programs or actions undertaken by the board to implement programs pursuant to this division during the prior calendar year. The report shall include, but is not limited to, the information described in subdivision (b).
(b) Commencing January 1, 1997, the ~~board~~ Secretary for Environmental Protection shall file annual progress reports with the Legislature covering the activities and actions undertaken by the board in the prior fiscal year. The ~~board~~ Secretary for Environmental Protection shall prepare, and may electronically file with the Legislature, the progress reports throughout the calendar year, as determined by the board, on the following programs:
(1) The local enforcement agency program.
(2) The research and development program.
(3) The public education program.
(4) The market development program.
(5) The used oil program.
(6) The planning and local assistance program.
(7) The site cleanup program.
(c) The progress report shall specifically include, but is not limited to, all of the following

information:
(1) Pursuant to paragraph (1) of subdivision (b), the status of the certification and evaluation of local enforcement agencies pursuant to Chapter 2 (commencing with Section 43200) of Part 4.
(2) Pursuant to paragraph (2) of subdivision (b), all of the following information:
(A) The results of the research and development programs established pursuant to Chapter 13 (commencing with Section 42650) of Part 3.
(B) A report on information and activities associated with the establishment of the Plastics Recycling Information Clearinghouse, pursuant to Section 42520.
(C) A report on the progress in implementing the monitoring and control program for the subsurface migration of landfill gas established pursuant to Section 43030, including recommendations, as needed, to improve the program.
(D) A report on the comparative costs and benefits of the recycling or conversion processes for waste tires funded pursuant to Chapter 17 (commencing with Section 42860) of Part 3.
(3) Pursuant to paragraph (3) of subdivision (b), all of the following information:
(A) A review of actions taken by the ~~board~~ Secretary for Environmental Protection to educate and inform individuals and public and private sector entities who generate solid waste on the importance of source reduction, recycling, and composting of solid waste, and recommendations for administrative or legislative actions which will inform and educate these parties.
(B) A report on the effectiveness of the public information program required to be implemented pursuant to Chapter 12 (commencing with Section 42600) of Part 3, including recommendations on administrative and legislative changes to improve the program.
(C) A report on the status and effectiveness of school district source reduction and recycling programs implemented pursuant to Chapter 12.5 (commencing with Section 42620) of Part 3, including recommendations on administrative and legislative changes to improve the program's effectiveness.
(D) A report on the effectiveness of the integrated waste management educational program and teacher training plan implemented pursuant to Part 4 (commencing with Section 71300) of Division 34, including recommendations on administrative and legislative changes which will improve the program.
(E) A summary of available and wanted materials, a profile of the participants, and the amount of waste diverted from disposal sites as a result of the California Materials Exchange Program established pursuant to subdivision (a) of Section 42600.
(4) Pursuant to paragraph (4) of subdivision (b), all of the following information:
(A) A review of market development strategies undertaken by the ~~board~~ Secretary for Environmental Protection pursuant to this division to ensure that markets exist for materials diverted from solid waste facilities, including recommendations for administrative and legislative actions which will promote expansion of those markets. The recommendations shall include, but not be limited to, all of the following:
(i) Recommendations for actions to develop more direct liaisons with private manufacturing industries in the state to promote increased utilization of recycled feedstock in manufacturing processes.
(ii) Recommendations for actions which can be taken to assist local governments in the inclusion of recycling activities in county overall economic development plans.
(iii) Recommendations for actions to utilize available financial resources for expansion of recycling industry capacity.
(iv) Recommendations to improve state, local, and private industry product and material

procurement practices.
(B) Development and implementation of a program to assist local agencies in the identification of markets for materials that are diverted from disposal facilities through source reduction, recycling, and composting pursuant to Section 40913.
(C) A report on the Recycling Market Development Zone Loan Program provided for in subdivision (c) of Section 42010), pursuant to subdivision (f) of Section 42010.
(D) A report on implementation of the Compost Market Program pursuant to Chapter 5 (commencing with Section 42230) of Part 3.
(E) A report on the progress in developing and implementing the comprehensive Market Development Plan, pursuant to Article 2 of Chapter 1 (commencing with Section 42005) of Part 3.
(F) The number of retreaded tires purchased by the Department of General Services during the prior fiscal year pursuant to Section 42414.
(G) The results of the study performed in consultation with the Department of General Services pursuant to Section 42416 to determine if tire retreads, procured by the department, have met all quality and performance criteria of a new tire, including any recommendations to expand, revise, or curtail the program.
(H) The number of recycled lead-acid batteries purchased during the prior fiscal year by the Department of General Services pursuant to Section 42443.
(I) A list of established price preferences for recycled paper products for the prior fiscal year pursuant to paragraph (1) of subdivision (c) of the Public Contract Code.
(J) A report on the implementation of the white office paper recovery program pursuant to Chapter 10 (commencing with Section 42560) of Part 3.
(5) Pursuant to paragraph (5) of subdivision (b), both of the following information:
(A) A report on the annual audit of the used oil recycling program established pursuant to Chapter 4 (commencing with Section 48600) of Part 7.
(B) A summary of industrial and lubricating oil sales and recycling rates, the results of programs funded pursuant to Chapter 4 (commencing with Section 48600) of Part 7, recommendations, if any, for statutory changes to the program, including changes in the amounts of the payment required by Section 48650 and the recycling incentive, and plans for present and future programs to be conducted over the next two years.
(6) Pursuant to paragraph (6) of subdivision (b), all of the following information:
(A) The development by the ~~board~~ Secretary for Environmental Protection of the model countywide or regional siting element and model countywide or regional agency integrated waste management plan pursuant to Section 40912, including its effectiveness in assisting local agencies.
(B) The adoption by the ~~board~~ Secretary for Environmental Protection of a program to provide assistance to cities, counties, or regional agencies in the development and implementation of source reduction programs pursuant to subdivision (b) of Section 40912.
(C) The development by the ~~board~~ Secretary for Environmental Protection of model programs and materials to assist rural counties and cities in preparing city and county source reduction and recycling elements pursuant to Section 40914.
(D) A report on the number of tires that are recycled or otherwise diverted from disposal in landfills or stockpiles.
(E) A report on the development and implementation of recommendations, with proposed implementing regulations, for providing technical assistance to counties and cities that meet

criteria specified in Section 41782, so that those counties and cities will be able to meet the objectives of this division. The recommendations shall, among other things, address both of the following matters:
(i) Assistance in developing methods of raising revenue at the local level to fund rural integrated waste management programs.
(ii) Assistance in developing alternative methods of source reduction, recycling, and composting of solid waste suitable for rural local governments.
(F) A report on the status and implementation of the "Buy Recycled" program established pursuant to subdivision (d) of Section 42600, including the waste collection and recycling programs established pursuant to Sections 12164.5 and 12165 of the Public Contract Code.
(7) Pursuant to paragraph (7) of subdivision (b), a description of sites cleaned up under the Solid Waste Disposal and Codisposal Site Cleanup Program established pursuant to Article 2.5 (commencing with Section 48020) of Chapter 2 of Part 7, a description of remaining sites where there is no responsible party or the responsible party is unable or unwilling to pay for cleanup, and recommendations for any needed legislative changes.

40507.1. (a) As part of the annual report required to be submitted by the ~~board~~ Secretary for Environmental Protection to the Legislature pursuant to Section 40507 on or before March 1, 2003, the ~~board~~ Secretary for Environmental Protection shall include a report on new and emerging conversion technologies, including, but not limited to, noncombustion thermal technologies, including gasification and pyrolysis, chemical technologies such as acid hydrolysis or distillation, and biological technologies, other than composting, such as enzyme hydrolysis. The ~~board~~ Secretary for Environmental Protection shall only evaluate those conversion technologies that provide demonstrated environmental benefits over the transformation and disposal of solid waste.
(b) The report required by subdivision (a) shall contain all of the following:
(1) Specific and discrete definitions and descriptions of each conversion technology evaluated.
(2) A description and evaluation of the life-cycle environmental and public health impacts of each conversion technology in comparison to those environmental and public health impacts from the transformation and disposal of solid waste.
(3) A description and evaluation of the technical performance characteristics, feedstocks, emissions, and residues used by each conversion technology and identification of the cleanest, least polluting conversion technologies.
(4) A description and evaluation of the impacts on the recycling and composting markets as a result of each conversion technology.
(c) The ~~board~~ Secretary for Environmental Protection shall require that the report be subject to an external scientific peer review process conducted pursuant to Section 57004 of the Health and Safety Code.
(d) The ~~board~~ Secretary for Environmental Protection shall consult with the State Energy Resources Conservation and Development Commission and other state, federal, or international governmental agencies in preparing the report required by this section.

40508. The ~~board~~ Secretary for Environmental Protection is designated as the state solid waste management agency for all purposes stated in the Federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.) and any other federal act heretofore or hereafter enacted affecting solid waste.

40509. The ~~board~~ Secretary for Environmental Protection may render technical assistance and make recommendations concerning potential solid waste disposal sites upon the request of the board of supervisors of any county. The ~~board~~ Secretary for Environmental Protection may request any state agency to assist the board in rendering technical assistance and making recommendations pursuant to this section.

~~40510. The board shall use a rollcall vote for all official board decisions, including, but not limited to, approval, denial, or amendment of integrated waste management plans, exemptions, time extensions, approval, denial, and amendment of any permits issued pursuant to a vote of the board and other appropriate decisions. The rollcall votes shall be included in the minutes of the board's meetings.~~

40511. (a) Notwithstanding Section 7550.5 of the Government Code, on or before December 1, 2000, the ~~board~~ Secretary for Environmental Protection , in consultation with the Department of Conservation, shall prepare and submit to the Legislature a report that identifies any duplication or overlap between the following programs authorized under this division and Division 12.1 (commencing with Section 14500) administered and funded by the two agencies:
(1) Public information and education programs.
(2) Local government review and assistance programs.
(3) Recycled materials market development programs.
(b) The report shall include, but not be limited to, suggested legislation, budget actions, or administrative actions that could be taken to eliminate duplication or overlap between the two agencies and programs.

Public Utilities Code

335. ~~In order to ensure that the interests of the people of California are served, a five-member Electricity Oversight Board is hereby created as provided in Section 336. For purposes of this chapter,~~ Any reference in this chapter, and in any other law or regulation, to the Oversight Board or Electricity Oversight Board shall mean the ~~Electricity Oversight Board~~ California Energy Commission . ~~Its functions shall be~~ The California Energy Commission shall do all of the following :

(a) ~~To oversee~~ Oversee the Independent System Operator and the Power Exchange.

(b) ~~To determine~~ Determine the composition and terms of service and ~~to~~ exercise the exclusive right to decline to confirm the appointments of specific members of the governing board of the Power Exchange. [NOTE: deleted]

(c) ~~To serve~~ Serve as an appeal board for majority decisions of the Independent System Operator governing board, as they relate to matters subject to exclusive state jurisdiction, as specified in Section 339.

(d) Those members of the Power Exchange governing board whose appointments the ~~Oversight Board~~ the California Energy Commission has the exclusive right to

decline to confirm include proposed governing board members representing agricultural end users, industrial end users, commercial end users, residential end users, end users at large, nonmarket participants, and public interest groups. [NOTE: This was previously marked out.]

(e) ~~To investigate~~ Investigate any matter related to the wholesale market for electricity to ensure that the interests of California's citizens and consumers are served, protected, and represented in relation to the availability of electric transmission and generation and related costs, during periods of peak demand.

336. ~~(a) The five-member Oversight Board shall be comprised as follows:~~

~~(1) Three members, who are California residents and electricity ratepayers, appointed by the Governor from a list jointly provided by the California Energy Resources Conservation and Development Commission and the Public Utilities Commission, and subject to confirmation by the Senate.~~

~~(2) One member of the Assembly appointed by the Speaker of the Assembly.~~

~~(3) One member of the Senate appointed by the Senate Committee on Rules.~~

~~(b) Legislative members shall be nonvoting members, however, they are otherwise full members of the board with all rights and privileges pertaining thereto.~~

~~(c) Oversight Board members shall serve three-year terms with no limit on reappointment. For purposes of the initial appointments set forth in paragraph (1), the Governor shall appoint one member to a one-year term, one to a two-year term, and one to a three-year term.~~

~~(d) The Governor shall designate one of the voting members as the chairperson of the Oversight Board who shall preside over meetings and direct the executive director in the routine administration of the Oversight Board's business. The chairperson may designate one of the other voting members to preside over meetings in the absence of the chairperson.~~

~~(e) Two voting members shall constitute a quorum. Any decision or action of the Oversight Board shall be by majority vote of the voting members.~~

~~(f) The members of the Oversight Board shall serve without compensation, but shall be reimbursed for all necessary expenses incurred in the performance of their duties.~~

337. (a) The Independent System Operator governing board shall be composed of a five-member independent governing board of directors appointed by the Governor and subject to confirmation by the Senate.

Any reference in this chapter or in any other provision of law to the Independent System Operator governing board means the independent governing board appointed under this subdivision.

(b) A member of the independent governing board appointed under subdivision (a) may not be affiliated with any actual or potential participant in any market administered by the Independent System Operator.

(c) (1) All appointments shall be for three-year terms.

(2) There is no limit on the number of terms that may be served by any member.

(d) The ~~Oversight Board~~ California Energy Commission shall require the articles of incorporation and bylaws of the Independent System Operator to be revised in accordance with this section, and shall make filings with the Federal Energy Regulatory Commission as the ~~Oversight Board~~ California Energy Commission determines to be necessary.

(e) For the purposes of the initial appointments to the Independent System Operator governing board, as provided in subdivision (a), the Governor shall appoint one member to a one-year term, two members to a two-year term, and two members to a three-year term.

338. ~~The Oversight Board~~ The California Energy Commission shall have the exclusive right to approve procedures and the qualifications for Power Exchange governing board members specified in subdivision (d) of Section 335, all of whom shall be required to be electricity customers in the area served by the Power Exchange. The Power Exchange governing board shall include, but not be limited to, representatives of investor-owned electric distribution companies, publicly owned electric distribution companies, nonutility generators, public buyers and sellers, private buyers and sellers, industrial end-users, commercial end-users, residential end-users, agricultural end-users, public interest groups, and nonmarket participant representatives. The structural composition of the Power Exchange governing board existing on July 1, 1999, shall remain in effect until an agreement with a participating state is legally in effect. However, prior to such an agreement, California shall retain the right to change the Power Exchange governing board into a nonstakeholder board. In the event of such a legislative change, revised bylaws shall be filed with the Federal Energy Regulatory Commission under Section 205 of the Federal Power Act (16 U.S.C.A. Sec. 824d).

339. (a) The ~~Oversight Board~~ California Energy Commission is the appeal board for majority decisions of the Independent System Operator governing board relating to matters that are identified in subdivision (b) as they pertain to the Independent System Operator.

(b) The following matters are subject to California's exclusive jurisdiction:

(1) Selections by California of governing board members, as described in Sections 335, 337, and 338.

(2) Matters pertaining to retail electric service or retail sales of electric energy.

(3) Ensuring that the purposes and functions of the Independent System Operator and Power Exchange are consistent with the purposes and functions of California nonprofit public benefit corporations, including duties of care and conflict of interest standards for directors of the corporations.

(4) State functions assigned to the Independent System Operator and Power Exchange under state law.

(5) Open meeting standards and meeting notice requirements.

(6) Appointment of advisory representatives representing state interests.

(7) Public access to corporate records.

(8) The amendment of bylaws relevant to these matters.

(c) Only members of the Independent System Operator governing board may appeal a majority decision of the Independent System Operator related to any of the matters specified in subdivision (b) to the ~~Oversight Board~~ California Energy Commission .

340. The ~~Oversight Board~~ California Energy Commission shall take the steps that are necessary to ensure the earliest possible incorporation of the Independent System Operator and the Power Exchange as separately incorporated public benefit, nonprofit corporations under the Corporations Code.

341. The ~~Oversight Board~~ California Energy Commission may do all of the following:

(a) Meet at the times and places it may deem proper.

(b) Accept appropriations, grants, or contributions from any public source, private foundation, or individual.

(c) Sue and be sued.

(d) Contract with state, local, or federal agencies for services or work required by the ~~Oversight Board~~ California Energy Commission .

(e) Contract for or employ any services or work required by the ~~Oversight Board~~ California Energy Commission that in its opinion cannot satisfactorily be performed by its staff or by other state agencies.

(f) Appoint advisory committees from members of other public agencies and private groups or individuals.

(g) As a body, or on the authorization of the ~~Oversight Board~~ California Energy Commission , as a subcommittee composed of one or more members, hold hearings at the times and places it may deem proper.

(h) Issue subpoenas to compel the production of books, records, papers, accounts, reports, and documents and the attendance of

witnesses.
(i) Administer oaths.
(j) Adopt or amend rules and regulations to carry out the purposes and provisions of this chapter, and to govern ~~the~~ its procedures ~~of the Oversight Board~~ .
(k) Exercise any authority consistent with this chapter delegated to it by a federal agency or authorized to it by federal law.
(l) Make recommendations to the Governor and the Legislature at the time or times the ~~Oversight Board~~ California Energy Commission deems necessary.
(m) Participate in proceedings relevant to the purposes of this chapter or to the purposes of Division 4.9 (commencing with Section 9600) or, as part of any coordinated effort by the state, participate in activities to promote the formation of interstate agreements to enhance the reliability and function of the electricity system and the electricity market.
(n) Do any and all other things necessary to carry out the purposes of this chapter.

341.2. The Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) applies to meetings of the ~~Oversight Board~~ California Energy Commission . In addition to the allowances of that act, the ~~Oversight Board~~ California Energy Commission may hold a closed session to consider the appointment of one or more candidates to the governing board of the Power Exchange, deliberate on matters involving the removal of a member of the governing board of the Power Exchange, or to consider a matter based on information that has received a grant of confidential status pursuant to regulations of the ~~Oversight Board~~ California Energy Commission , provided that any action taken on such a matter shall be taken by vote in an open session.

341.3. Voting members of the ~~Oversight Board~~ California Energy Commission shall be required to file financial disclosure statements with the Fair Political Practices Commission. The appointing authority for voting members shall avoid appointing persons with conflicts of interest.

341.4. ~~The Oversight Board shall appoint, and fix the salary of, an executive director who shall have charge of administering the affairs of the Oversight Board, including entering into contracts, subject to the direction and policies of the Oversight Board.~~
Notwithstanding Sections 11042 and 11043 of the Government Code, the ~~Oversight Board~~ California Energy Commission shall appoint an attorney who shall advise the ~~Oversight Board~~ California Energy Commission ~~and each member~~ and represent the ~~Oversight Board~~ California Energy Commission as a party in any state or federal action or proceeding related to the purposes of this chapter or to an action of the ~~Oversight Board~~ California Energy Commission

and who shall perform generally all the duties of attorney to the ~~Oversight Board~~ California Energy Commission under this section . ~~For purposes of this section, the Oversight Board may appoint a person exempt pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution. The executive director shall, in accordance with Article VII of the California Constitution and subject to the approval of the Oversight Board, appoint employees as may be necessary to carry out the Oversight Board's duties and responsibilities.~~

341.5. (a) The Independent System Operator and Power Exchange bylaws shall contain provisions that identify those matters specified in subdivision (b) of Section 339 as matters within state jurisdiction. The bylaws shall also contain provisions which state that California's bylaws approval function with respect to the matters specified in subdivision (b) of Section 339 shall not preclude the Federal Energy Regulatory Commission from taking any action necessary to address undue discrimination or other violations of the Federal Power Act (16 U.S.C.A. Sec. 791a et seq.) or to exercise any other commission responsibility under the Federal Power Act. In taking any such action, the Federal Energy Regulatory Commission shall give due respect to California's jurisdictional interests in the functions of the Independent System Operator and Power Exchange and to attempt to accommodate state interests to the extent those interests are not inconsistent with the Federal Energy Regulatory Commission's statutory responsibilities. The bylaws shall state that any future agreement regarding the apportionment of the Independent System Operator and Power Exchange board appointment function among participating states associated with the expansion of the Independent System Operator and Power Exchange into multistate entities shall be filed with the Federal Energy Regulatory Commission pursuant to Section 205 of the Federal Power Act (16 U.S.C.A. Sec. 824d).

(b) Any necessary bylaw changes to implement the provisions of Section 335, 337, 338, 339, or subdivision (a) of this section, or changes required pursuant to an agreement as contemplated by subdivision (a) of this section with a participating state for a regional organization, shall be effective upon approval of the respective governing boards and the ~~Oversight Board~~ California Energy Commission and acceptance for filing by the Federal Energy Regulatory Commission.

372. (a) It is the policy of the state to encourage and support the development of cogeneration as an efficient, environmentally beneficial, competitive energy resource that will enhance the reliability of local generation supply, and promote local business growth. Subject to the specific conditions provided in this section, the commission shall determine the applicability to customers of

uneconomic costs as specified in Sections 367, 368, 375, and 376. Consistent with this state policy, the commission shall provide that these costs shall not apply to any of the following:

(1) To load served onsite or under an over the fence arrangement by a nonmobile self-cogeneration or cogeneration facility that was operational on or before December 20, 1995, or by increases in the capacity of such a facility to the extent that such increased capacity was constructed by an entity holding an ownership interest in or operating the facility and does not exceed 120 percent of the installed capacity as of December 20, 1995, provided that prior to June 30, 2000, the costs shall apply to over the fence arrangements entered into after December 20, 1995, between unaffiliated parties. For the purposes of this subdivision, "affiliated" means any person or entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common on control with another specified entity. "Control" means either of the following:

(A) The possession, directly or indirectly, of the power to direct or to cause the direction of the management or policies of a person or entity, whether through an ownership, beneficial, contractual, or equitable interest.

(B) Direct or indirect ownership of at least 25 percent of an entity, whether through an ownership, beneficial or equitable interest.

(2) To load served by onsite or under an over the fence arrangement by a nonmobile self-cogeneration or cogeneration facility for which the customer was committed to construction as of December 20, 1995, provided that the facility was substantially operational on or before January 1, 1998, or by increases in the capacity of such a facility to the extent that the increased capacity was constructed by an entity holding an ownership interest in or operating the facility and does not exceed 120 percent of the installed capacity as of January 1, 1998, provided that prior to June 30, 2000, the costs shall apply to over the fence arrangements entered into after December 20, 1995, between unaffiliated parties.

(3) To load served by existing, new, or portable emergency generation equipment used to serve the customer's load requirements during periods when utility service is unavailable, provided such emergency generation is not operated in parallel with the integrated electric grid, except on a momentary parallel basis.

(4) After June 30, 2000, to any load served onsite or under an over the fence arrangement by any nonmobile self-cogeneration or cogeneration facility.

(b) Further, consistent with state policy, with respect to self-cogeneration or cogeneration deferral agreements, the commission shall do the following:

(1) Provide that a utility shall execute a final self-cogeneration or cogeneration deferral agreement with any customer that, on or before December 20, 1995, had executed a letter of intent (or similar documentation) to enter into the agreement with the utility, provided that the final agreement shall be consistent with the terms and conditions set forth in the letter of intent and the commission shall review and approve the final agreement.

(2) Provide that a customer that holds a self-cogeneration or cogeneration deferral agreement that was in place on or before December 20, 1995, or that was executed pursuant to paragraph (1) in the event the agreement expires, or is terminated, may do any of the following:

(A) Continue through December 31, 2001, to receive utility service at the rate and under terms and conditions applicable to the customer under the deferral agreement that, as executed, includes an allocation of uneconomic costs consistent with subdivision (e) of Section 367.

(B) Engage in a direct transaction for the purchase of electricity and pay uneconomic costs consistent with Sections 367, 368, 375, and 376.

(C) Construct a self-cogeneration or cogeneration facility of approximately the same capacity as the facility previously deferred, provided that the costs provided in Sections 367, 368, 375, and 376 shall apply consistent with subdivision (e) of Section 367, unless otherwise authorized by the commission pursuant to subdivision (c).

(3) Subject to the fire wall described in subdivision (e) of Section 367 provide that the ratemaking treatment for self-cogeneration or cogeneration deferral agreements executed prior to December 20, 1995, or executed pursuant to paragraph (1) shall be consistent with the ratemaking treatment for the contracts approved before January 1995.

(c) The commission shall authorize, within 60 days of the receipt of a joint application from the serving utility and one or more interested parties, applicability conditions as follows:

(1) The costs identified in Sections 367, 368, 375, and 376 shall not, prior to June 30, 2000, apply to load served onsite by a nonmobile self-cogeneration or cogeneration facility that became operational on or after December 20, 1995.

(2) The costs identified in Sections 367, 368, 375, and 376 shall not, prior to June 30, 2000, apply to any load served under over the fence arrangements entered into after December 20, 1995, between unaffiliated entities.

(d) For the purposes of this subdivision, all onsite or over the fence arrangements shall be consistent with Section 218 as it existed on December 20, 1995.

(e) To facilitate the development of new microcogeneration

applications, electrical corporations may apply to the commission for a financing order to finance the transition costs to be recovered from customers employing the applications.

(f) To encourage the continued development, installation, and interconnection of clean and efficient self-generation and cogeneration resources, to improve system reliability for consumers by retaining existing generation and encouraging new generation to connect to the electric grid, and to increase self-sufficiency of consumers of electricity through the deployment of self-generation and cogeneration, both of the following shall occur:

(1) The commission and the ~~Electricity Oversight Board~~ California Energy Commission shall determine if any policy or action undertaken by the Independent System Operator, directly or indirectly, unreasonably discourages the connection of existing self-generation or cogeneration or new self-generation or cogeneration to the grid.

(2) If the commission and the California Energy Commission ~~Electricity Oversight Board~~ find that any policy or action of the Independent System Operator unreasonably discourages, the connection of existing self-generationor cogeneration or new self-generation or cogeneration to the grid, the commission and the ~~Electricity Oversight Board~~ the California Energy Commission shall undertake all necessary efforts to revise, mitigate, or eliminate that policy or action of the Independent System Operator.

3302. As used in this division, unless the context otherwise requires, the following terms have the following meanings:

(a) "Act" means the California Consumer Power and Conservation Financing Authority Act.

(b) "Authority" means the ~~California Consumer Power and Conservation Financing Authority established pursuant to Section 3320~~ California Energy Commission and any board, commission, department, or officer succeeding to the functions thereof, or to whom the powers conferred upon the authority by this division shall be given by law.

(c) ~~"Board" means the Board of Directors of the California Consumer Power and Conservation Financing Authority~~ (Reserved) .

(d) "Bond purchase agreement" means a contractual agreement executed between the authority and an underwriter or underwriters and, where appropriate, a participating party, whereby the authority agrees to sell bonds issued pursuant to this division.

(e) "Bonds" means bonds, including structured, senior, and subordinated bonds or other securities; loans; notes, including bond revenue or grant anticipation notes; certificates of indebtedness; commercial paper; floating rate and variable maturity securities; and any other evidences of indebtedness or ownership, including certificates of participation or beneficial interest, asset backed certificates, or lease-purchase or installment purchase agreements, whether taxable or excludable from gross income for state and federal income taxation purposes.

(f) "Commission" means the Public Utilities Commission.

(g) "Cost," as applied to a program, project or portion thereof financed under this division, means all or any part of the cost of construction, improvement, repair, reconstruction, renovation, and acquisition of all lands, structures, improved or unimproved real or personal property, rights, rights-of-way, franchises, licenses, easements, and interests acquired or used for a project; the cost of demolishing or removing or relocating any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved; the cost of all machinery and equipment; financing charges; the costs of any environmental mitigation; the costs of issuance of bonds or other indebtedness; interest prior to, during, and for a period after, completion of the project, as determined by the authority; provisions for working capital; reserves for principal and interest; reserves for reduction of costs for loans or other financial assistance; reserves for maintenance, extension, enlargements, additions, replacements, renovations, and improvements; and the cost of architectural, engineering, financial, appraisal, and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incidental to determining the feasibility of any project, enterprise, or program or incidental to the completion or financing of any project or program.

(h) "Electrical corporation" has the same meaning as that term is defined in Section 218.

(i) "Energy Commission" means the ~~State Energy Resources Conservation and Development Commission~~ California Energy Commission.

(j) "Enterprise" means a revenue-producing improvement, building, system, plant, works, facilities, or undertaking used for or useful for the generation or production of electric energy for lighting, heating, and power for public or private uses. Enterprise includes, but is not limited to, all parts of the enterprise, all appurtenances to it, lands, easements, rights in land, water rights, contract rights, franchises, buildings, structures, improvements, equipment, and facilities appurtenant or relating to the enterprise.

(k) "Financial assistance" in connection with a project, enterprise or program, includes, but is not limited to, any combination of grants, loans, the proceeds of bonds issued by the authority, insurance, guarantees or other credit enhancements or liquidity facilities, and contributions of money, property, labor, or other things of value, as may be approved by resolution of the board; the purchase or retention of authority bonds, the bonds of a participating party for their retention or for sale by the authority, or the issuance of authority bonds or the bonds of a special purpose trust used to fund the cost of a project or program for which a participating party is directly or indirectly liable, including, but not limited to, bonds, the security for which is provided in whole or

in part pursuant to the powers granted by this division; bonds for which the authority has provided a guarantee or enhancement; or any other type of assistance determined to be appropriate by the authority.

(l) "Fund" means the California Consumer Power and Conservation Financing Authority Fund.

(m) "Loan agreement" means a contractual agreement executed between the authority and a participating party that provides that the authority will loan funds to the participating party and that the participating party will repay the principal and pay the interest and redemption premium, if any, on the loan.

(n) "Local publicly owned electric utility" has the same meaning as that term is defined in Section 9604.

(o) "Participating party" means either of the following:

(1) Any person, company, corporation, partnership, firm, federally recognized California Indian tribe, or other entity or group of entities, whether organized for profit or not for profit, engaged in business or operations within the state and that applies for financial assistance from the authority for the purpose of implementing a project or program in a manner prescribed by the authority.

(2) Any subdivision of the state or local government, including, but not limited to, departments, agencies, commissions, cities, counties, nonprofit corporations, special districts, assessment districts, and joint powers authorities within the state or any combination of these subdivisions, that has, or proposes to acquire, an interest in a project, or that operates or proposes to operate a program under Section 3365, and that makes application to the authority for financial assistance in a manner prescribed by the authority.

(p) "Program" means a program that provides financial assistance, as provided in Article 6 (commencing with Section 3365).

(q) "Project" means plants, facilities, equipment, appliances, structures, expansions, and improvements within the state that serve the purposes of this division as approved by the authority, and all activities and expenses necessary to initiate and complete those projects described in Article 5 (commencing with Section 3350) and Article 7 (commencing with Section 3368), of Chapter 3.

(r) "Revenues" means all receipts, purchase payments, loan repayments, lease payments, rents, fees and charges, and all other income or receipts derived by the authority from an enterprise, or by the authority or a participating party from any other financing arrangement undertaken by the authority or a participating party, including, but not limited to, all receipts from a bond purchase agreement, and any income or revenue derived from the investment of any money in any fund or account of the authority or a participating

party.
(s) "State" means the State of California.

3310. The ~~authority~~ California Energy Commission may ~~only~~ exercise its powers under this division pursuant to Article 4 (commencing with Section 3340) of Chapter 3 for the following purposes:
(a) Establish, finance, purchase, lease, own, operate, acquire, or construct generating facilities and other projects and enterprises, on its own or through agreements with public and private third parties or joint ventures with public or private entities, or provide financial assistance for projects or programs by participating parties, to supplement private and public sector power supplies, taking into account generation facilities in operation or under development as of the effective date of this section, and to ensure a sufficient and reliable supply of electricity for California's consumers at just and reasonable rates.
(b) Finance programs, administered by the Energy Commission, the commission, and other approved participating parties for consumers and businesses to invest in cost-effective energy efficient appliances, renewable energy projects, and other programs that will reduce the demand for energy in California.
(c) Finance natural gas transportation and storage projects under Article 7 (commencing with Section 3368) of Chapter 3.
(d) Achieve an adequate energy reserve capacity in California within five years of the effective date of this division.
(e) Provide financing for owners of aged, inefficient, electric powerplants to perform necessary retrofits to improve the efficiency and environmental performances of those powerplants.

3320. (a) There is hereby created in the state government the California Consumer Power and Conservation Financing Authority, which shall be responsible for administering this division. Any reference to the California Consumer Power and Conservation Financing Authority or "commission" in Public Utilities Code, Division 1.5, shall refer to the California Energy Commission, and any other law or regulation referring to the California Consumer Power and Conservation Financing Authority shall mean the California Energy Commission.
(b) The authority shall implement the purposes of Chapter 2 (commencing with Section 3310), and to that end finance projects and programs in accordance with this division, all to the mutual benefit of the people of the state and to protect their health, welfare, and safety.

3325. ~~(a) The authority shall be governed by a five-member board of directors that shall consist of the following persons:~~

~~(1) Four individuals appointed by the Governor, subject to confirmation by the Senate. These four members shall have considerable experience in power generation, natural gas transportation or storage, energy conservation, financing, or ratepayer advocacy.~~

~~(2) The State Treasurer.~~

~~(b) (1) For the initial term, the appointed members shall serve staggered terms as follows:~~

~~(A) The member appointed first shall serve a term of four years.~~

~~(B) The member appointed second shall serve a term of three years.~~

~~(C) The member appointed third shall serve a term of two years.~~

~~(D) The member appointed fourth shall serve a term of one year.~~

~~(2) The second and any subsequent terms shall be for four years.~~

~~(c) A quorum is necessary for any action to be taken by the board. Three of the members shall constitute a quorum, and the affirmative vote of three board members shall be necessary for any action to be taken by the board.~~

~~(d) (1) The chairperson of the board shall be appointed by the Governor. This position shall be a full-time, paid position.~~

~~(2) Except as provided in this subdivision, the members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties to the extent that reimbursement for these expenses is not otherwise provided or payable by another public agency, and shall receive one hundred dollars ($100) for each full day of attending meetings of the authority.~~

3326. ~~(a) The members of the board shall be subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)) of the Government Code, and all other applicable provisions of law.~~

~~(b) The board may purchase insurance for its fiduciaries or for itself to cover liability or losses occurring by reason of the act or omission of a fiduciary, if the insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by the fiduciary.~~

3327. ~~Meetings of the board shall be open to the public and shall be conducted in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).~~

3330. The ~~chief executive officer~~ California Energy Commission shall manage and conduct the business and affairs of ~~the authority and~~ the fund ~~subject to the direction of the board~~. Except as otherwise provided in this section, the California Energy Commission ~~board~~ may assign to a designee ~~the executive director~~, by resolution, those duties generally necessary or convenient to carry out its powers and purposes under this division. Any action involving final approval of any bonds, notes, loans, or other financial assistance shall require the approval of a majority of the members of the California Energy Commission~~board~~.

3340. ~~The authority is authorized and empowered to do any of the following:~~

~~(a) Adopt an official seal.~~

~~(b) Sue and be sued in its own name.~~

~~(c) Employ or contract with officers and employees to administer the authority. The authority may contract for the services of a chief executive officer, who shall serve at the pleasure of the board. If the chief executive officer contracts for the services of any other officer or employee, the contract shall be subject to the approval of the board.~~

~~(d) Exercise the power of eminent domain.~~

~~(e) Adopt rules and regulations for the regulation of its affairs and the conduct of its business.~~

~~(f) D~~ The California Energy Commission is authorized to do all things generally necessary or convenient to carry out its powers under, and the purposes of, this division.

3342. The fiscal powers granted to the California Energy Commission ~~authority~~ by this division may be exercised without regard or reference to any other department, division, or agency of the state, except the Legislature or as otherwise stated in this division. This division shall be deemed to provide an alternative method of doing the things authorized by this division, and shall be regarded as supplemental and additional to powers conferred by other laws.

3343. No member of the ~~board~~ California Energy Commission or any person executing bonds of the ~~authority~~ Energy Commission pursuant to this division shall be personally liable on the bonds or subject to any personal liability or accountability by reason of the issuance thereof.

3344. All expenses incurred in carrying out this division shall be payable solely from funds provided under the authority of this

division and no liability or obligation shall be imposed upon the State of California and, no~~ne~~ expenses shall be incurred by the California Energy Commission ~~authority~~ in carrying out this division beyond the extent to which moneys shall have been provided under this division. Under no circumstances shall the ~~authority~~ create any debt, liability, or obligation on the part of the State of California California Energy Commission payable from any source whatsoever other than the moneys provided under this division.

3345. The California Energy Commission's ~~authority's~~ operating budget under this division shall be subject to review and appropriation in the annual Budget Act. For purposes of this section, the ~~authority's~~ California Energy Commission's operating budget under this division shall include the costs of personnel, administration, and overhead attributable to carrying out the duties of this division.

3346. The ~~authority~~ California Energy Commission shall, on or before January 1 of each year, prepare and submit to the Governor, the Chairperson of the Joint Legislative Budget Committee, and the chairperson of the committee in each house that considers appropriations, a report regarding its activities and expenditures pursuant to this division.

3347. The Bureau of State Audits shall perform an evaluation of the effectiveness of the ~~authority's~~ California Energy Commission's efforts in achieving its purposes as described in Section 3310. The evaluation shall include recommendations as to whether there is a continued need for the California Energy Commission's authority under this division beyond January 1, 2007. The evaluation shall be submitted to the Governor and the Legislature on or before January 1, 2005~~.~~

3384. The ~~authority~~ California Energy Commission may not finance or approve any new program, enterprise, or project on or after January 1, 2007, under this division, unless authority to approve such an activity is granted by statute enacted on or before January 1, 2007.

132355.4. (a) Whenever a majority of the employees employed by the consolidated agency in a unit appropriate for collective bargaining indicate a desire to be represented by a labor organization, and upon determining that the labor organization represents at least a majority of the employees in the appropriate unit, the determination of questions concerning employee representation and the conduct of employee-employer relations for the consolidated agency shall be governed by the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code).

(b) For the purposes of the wage orders of the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency, the consolidated agency shall be considered a special district.

185012. As used in this division, unless the context requires otherwise, the following terms have the following meanings:

(a) "Authority" or "High-Speed Rail Authority" means the ~~High-Speed Rail Authority~~California Transportation Commission.

(b) "Department" means the Department of Transportation.

(c) "High-speed rail" means intercity passenger rail service that utilizes an alignment and technology that makes it capable of sustained speeds of 200 miles per hour or greater.

185020. ~~(a) There is in state government a High-Speed Rail Authority.~~ Any reference to the High-Speed Rail Authority, shall mean the California Transportation Commission. The California Transportation Commissionshall succeed to, and be vested with all of the powers, duties, responsibilities, purposes, and jurisdiction in matters now or hereafter vested by law in the High-Speed Rail Authority.

~~(b) (1) The authority is composed of nine members as follows:~~

~~(A) Five members appointed by the Governor.~~

~~(B) Two members appointed by the Senate Committee on Rules.~~

~~(C) Two members appointed by the Speaker of the Assembly.~~

~~(2) For the purposes of making appointments to the authority, the Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall take into consideration geographical diversity to ensure that all regions of the state are adequately represented.~~

~~(c) Except as provided in subdivision (d), and until their successors are appointed, members of the authority shall hold office for terms of four years. A vacancy shall be filled by the appointing power making the original appointment, by appointing a member to serve the remainder of the term.~~

~~(d) (1) On and after January 1, 2001, the terms of all persons who are then members of the authority shall expire, but those members may continue to serve until they are reappointed or until their successors are appointed. In order to provide for evenly staggered terms, persons appointed or reappointed to the authority after January 1, 2001, shall be appointed to initial terms to expire as follows:~~

~~(A) Of the five persons appointed by the Governor, one shall be appointed to a term which expires on December 31, 2002, one shall be appointed to a term which expires on December 31, 2003, one shall be appointed to a term which expires on December 31, 2004, and two shall be appointed to terms which expires on December 31, 2005.~~

~~(B) Of the two persons appointed by the Senate Committee on Rules, one shall be appointed to a term which expires on December 31, 2002,~~

~~and one shall be appointed to a term which expires on December 31, 2004.~~

~~(C) Of the two persons appointed by the Speaker of the Assembly, one shall be appointed to a term which expires on December 31, 2003, and one shall be appointed to a term which expires on December 31, 2005.~~

~~(2) Following expiration of each of the initial terms provided for in this subdivision, the term shall expire every four years thereafter on December 31.~~

~~(e) Members of the authority are subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).~~

~~(f) From among its members, the authority shall elect a chairperson, who shall preside at all meetings of the authority, and a vice chairperson to preside in the absence of the chairperson. The chairperson shall serve a term of one year.~~

~~(g) Five members of the authority constitute a quorum for taking any action by the authority.~~

185022. ~~(a) Each member of the authority shall receive compensation of one hundred dollars ($100) for each day that the member is attending to the business of the authority, but shall not receive more than five hundred dollars ($500) in any calendar month.~~

~~(b) Members of the authority shall be reimbursed for their actual travel expenses incurred in attending to the business of the authority.~~

185024. ~~(a) The authority shall appoint an executive director, who shall serve at the pleasure of the authority, to administer the affairs of the authority as directed by the authority.~~

~~(b) The executive director is exempt from civil service and shall be paid a salary established by the authority and approved by the Department of Personnel Administration.~~

~~(c) The executive director may, as authorized by the authority, appoint necessary staff to carry out the provisions of this part.~~

185030. The ~~authority~~ California Transportation Commission shall direct the development and implementation of intercity high-speed rail service that is fully integrated with the state's existing intercity rail and bus network, consisting of interlinked conventional and high-speed rail lines and associated feeder buses. The intercity network in turn shall be fully coordinated and connected with commuter rail lines and urban rail transit lines developed by local agencies, as well as other transit services, through the use of common station facilities

whenever possible.

185032. (a) (1) Upon an appropriation in the Budget Act for that purpose, the ~~authority~~ California Transportation Commission shall prepare a plan for the construction and operation of a high-speed train network for the state, consistent with and continuing the work of the Intercity High-Speed Rail Commission conducted prior to January 1, 1997 and the High-Speed Rail Authority. The plan shall include an appropriate network of conventional intercity passenger rail service and shall be coordinated with existing and planned commuter and urban rail systems.

(2) The authorization and responsibility for planning, construction, and operation of high-speed passenger train service at speeds exceeding 125 miles per hour in this state is exclusively granted to the ~~authority~~ California Transportation Commission.

(3) Except as provided in paragraph (2), nothing in this subdivision precludes other local, regional, or state agencies from exercising powers provided by law with regard to planning or operating, or both, passenger rail service.

(b) The plan, upon completion, shall be submitted to the Legislature and the Governor for approval by the enactment of a statute.

185034. The ~~authority~~ California Transportation Commission may do any of the following:

(1) Conduct engineering and other studies related to the selection and acquisition of rights-of-way and the selection of a franchisee, including, but not limited to, environmental impact studies, socioeconomic impact studies, and financial feasibility studies.

(2) Evaluate alternative high-speed rail technologies, systems and operators, and select an appropriate high-speed rail system.

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

(4) Accept grants, fees, and allocations from the state, from political subdivisions of the state or from the federal government, foreign governments, and private sources.

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

(6) Enter into contracts with public and private entities for the preparation of the plan.

(7) Prepare a detailed financing plan, including any necessary taxes, fees, or bonds to pay for the construction of the high-speed train network.

(8) Develop a proposed high-speed rail financial plan, including necessary taxes, bonds, or both, or other indebtedness, and submit the plan to the Legislature and to the Governor.

(9) Keep the public informed of its activities.

185036. Upon approval by the Legislature, by the enactment of a statute, or approval by the voters of a financial plan providing the

necessary funding for the construction of a high-speed network, the ~~authority~~ California Transportation Commission may do any of the following:

(a) Enter into contracts with private or public entities for the design, construction and operation of high-speed trains. The contracts may be separated into individual tasks or segments or may include all tasks and segments, including a design-build or design-build-operate contract.

(b) Acquire rights-of-way through purchase or eminent domain.

(c) Issue debt, secured by pledges of state funds, federal grants, or project revenues. The pledge of state funds shall be limited to those funds expressly authorized by statute or voter-approved initiatives.

(d) Enter into cooperative or joint development agreements with local governments or private entities.

(e) Set fares and schedules.

(f) Relocate highways and utilities.

185038. Any legal or equitable action brought against the ~~authority~~ California Transportation Commission shall be brought in a court of competent jurisdiction in the County of Sacramento. For purposes of this section, subdivision (1) of Section 401 of the Code of Civil Procedure does not apply.

Revenue & Taxation Code

17053.34. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "net tax" (as defined in Section 17039) to a qualified taxpayer who employs a qualified employee in a targeted tax area during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the qualified

taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the targeted tax area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period prior to the targeted tax area expiration date shall continue to qualify for the credit under this section after the targeted tax area expiration date, in accordance with all provisions of this section applied as if the targeted tax area designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Targeted tax area expiration date" means the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

(i) At least 90 percent of his or her services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer's trade or business located in a targeted tax area.

(ii) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a targeted tax area.

(iii) Is hired by the qualified taxpayer after the date of original designation of the area in which services were performed as a targeted tax area.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9

of the Welfare and Institutions Code, or its successor.

(III) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was an economically disadvantaged individual 14 years of age or older.

(IV) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a dislocated worker who meets any of the following:

(aa) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(bb) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

(cc) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(dd) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(ee) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(ff) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(gg) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(hh) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

(V) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(VI) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on

probation by a state court without a finding of guilty.

(VII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible for or a recipient of any of the following:

(aa) Federal Supplemental Security Income benefits.

(bb) Aid to Families with Dependent Children.

(cc) Food stamps.

(dd) State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a resident of a targeted tax area.

(X) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) (A) "Qualified taxpayer" means a person or entity that meets both of the following:

(i) Is engaged in a trade or business within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(ii) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299, inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section or Section 23634 shall be allowed to the pass-through entity and passed through to the partners or shareholders in accordance with applicable provisions of this part or Part 11 (commencing with Section 23001). For purposes of this subdivision, the term "pass-through entity" means any partnership or S corporation.

(6) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) If the qualified taxpayer is allowed a credit for qualified wages pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to those qualified wages.

(d) The qualified taxpayer shall do both of the following:

(1) Obtain from either the Employment Development Department, as permitted by federal law, or the local county or city Job Training Partnership Act administrative entity or the local county GAIN office or social services agency, as appropriate, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(e) (1) For purposes of this section:

(A) All employees of trades or businesses, which are not incorporated, that are under common control shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23634, shall apply with respect to determining employment.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (f)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(f) (1) (A) If the employment, other than seasonal employment, of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that

employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the qualified taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified employee continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(g) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(h) For purposes of this section, "targeted tax area" means an area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(i) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 17053.33, including any credit carryover from prior years, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer's business income attributable to the targeted tax area determined as if that attributable income represented all of the income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the targeted tax area . For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (h).

(5) In the event that a credit carryover is allowable under subdivision (h) for any taxable year after the targeted tax area expiration date, the targeted tax area shall be deemed to remain in existence for purposes of computing the limitation specified in this subdivision.

17053.46. (a) For each taxable year beginning on or after January 1, 1995, there shall be allowed as a credit against the "net tax" (as defined in Section 17039) to a qualified taxpayer for hiring a qualified disadvantaged individual or a qualified displaced employee during the taxable year for employment in the LAMBRA. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of

employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the employer during the taxable year to qualified disadvantaged individuals or qualified displaced employees that does not exceed 150 percent of the minimum wage.

(B) The total amount of qualified wages which may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars ($2,000,000) per taxable year.

(C) Wages received during the 60-month period beginning with the first day the individual commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the LAMBRA expiration date. However, wages paid or incurred with respect to qualified disadvantaged individuals or qualified displaced employees who are employed by the qualified taxpayer within the LAMBRA within the 60-month period prior to the LAMBRA expiration date shall continue to qualify for the credit under this section after the LAMBRA expiration date, in accordance with all provisions of this section applied as if the LAMBRA designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "LAMBRA" means a local agency military base recovery area designated in accordance with Section 7114 of the Government Code.

(4) "Qualified disadvantaged individual" means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in the LAMBRA.

(B) Who is hired by the employer after the designation of the area as a LAMBRA in which the individual's services were primarily performed.

(C) Who is any of the following immediately preceding the individual's commencement of employment with the taxpayer:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.).

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 as provided pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) An economically disadvantaged individual age 16 years or older.

(iv) A dislocated worker who meets any of the following conditions:

(I) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(II) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of such a closure or layoff.

(III) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(IV) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(V) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(VI) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(VII) Experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(VIII) Has been terminated or laid off or has received a notice of termination or layoff as a consequence of compliance with the Clean Air Act.

(v) An individual who is enrolled in or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(vi) An ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilty.

(vii) A recipient of:

(I) Federal Supplemental Security Income benefits.

(II) Aid to Families with Dependent Children.

(III) Food stamps.

(IV) State and local general assistance.

(viii) Is a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(5) "Qualified taxpayer" means a taxpayer or partnership that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA.

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(B) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a taxpayer who first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B), the divisors "2,000" and "12" shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(6) "Qualified displaced employee" means an individual who satisfies all of the following requirements:

(A) Any civilian or military employee of a base or former base who has been displaced as a result of a federal base closure act.

(B) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the

taxpayer's trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in a LAMBRA.

(C) Who is hired by the employer after the designation of the area in which services were performed as a LAMBRA.

(7) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(8) "LAMBRA expiration date" means the date the LAMBRA designation expires, is no longer binding, or becomes inoperative.

(c) For qualified disadvantaged individuals or qualified displaced employees hired on or after January 1, 2001, the taxpayer shall do both of the following:

(1) Obtain from either the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office, or social services agency, as appropriate, a certification that provides that a qualified disadvantaged individual or qualified displaced employee meets the eligibility requirements specified in subparagraph (C) of paragraph (4) of subdivision (b) or subparagraph (A) of paragraph (6) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section, both of the following apply:

(A) All employees of trades or businesses that are under common control shall be treated as employed by a single employer.

(B) The credit (if any) allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit.

The regulations prescribed under this paragraph shall be based on principles similar to the principles that apply in the case of controlled groups of corporations as specified in subdivision (e) of Section 23622.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (d)) for any calendar year ending after that acquisition, the employment relationship between an employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any employee, with respect to whom qualified wages are taken into

account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount (determined under those regulations) equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of an individual who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of an individual, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of an individual, if that individual is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified

disadvantaged individual who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that individual.

(iii) A failure to continue the seasonal employment of a qualified disadvantaged individual, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified disadvantaged individual.

(iv) A failure to continue seasonal employment of a qualified disadvantaged individual due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified disadvantaged individual, if that individual is replaced by other qualified displaced employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(4) At the close of the second taxable year, if the taxpayer has not increased the number of its employees as determined by paragraph (5) of subdivision (b), then the amount of the credit previously claimed shall be added to the taxpayer's net tax for the taxpayer's second taxable year.

(f) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated (for purposes of this part) as the employer with respect to those wages.

(g) The credit shall be reduced by the credit allowed under Section 17053.7. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (h) or (i).

(h) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(i) (1) The amount of credit otherwise allowed under this section and Section 17053.45, including prior year credit carryovers, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax that would be imposed on the taxpayer's business income attributed to a LAMBRA determined as if that attributed income represented all of the net income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the LAMBRA. For that purpose, the taxpayer's business income that is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the LAMBRA in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a LAMBRA by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the LAMBRA during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the LAMBRA during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable

years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (h).

(j) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

17053.47. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "net tax" (as defined in Section 17039) to a qualified taxpayer for hiring a qualified disadvantaged individual during the taxable year for employment in the Manufacturing Enhancement Area. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified disadvantaged individuals that does not exceed 150 percent of the minimum wage.

(B) The total amount of qualified wages which may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars ($2,000,000) per taxable year.

(C) Wages received during the 60-month period beginning with the first day the qualified disadvantaged individual commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the Manufacturing Enhancement Area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the Manufacturing Enhancement Area within the 60-month period prior to the Manufacturing Enhancement Area expiration date shall continue to qualify for the credit under this section after the Manufacturing Enhancement Area expiration date, in accordance with all provisions

of this section applied as if the Manufacturing Enhancement Area designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Manufacturing Enhancement Area" means an area designated pursuant to Section 7073.8 of the Government Code according to the procedures of Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(4) "Manufacturing Enhancement Area expiration date" means the date the Manufacturing Enhancement Area designation expires, is no longer binding, or becomes inoperative.

(5) "Qualified disadvantaged individual" means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer's trade or business located in a Manufacturing Enhancement Area.

(ii) Who performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in the Manufacturing Enhancement Area.

(B) Who is hired by the qualified taxpayer after the designation of the area as a Manufacturing Enhancement Area in which the individual's services were primarily performed.

(C) Who is any of the following immediately preceding the individual's commencement of employment with the qualified taxpayer:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor.

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985, or its successor, as provided pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any individual who has been certified eligible by the Employment Development Department under the federal Targeted Jobs Tax Credit Program, or its successor, whether or not this program is in effect.

(6) "Qualified taxpayer" means any taxpayer engaged in a trade or business within a Manufacturing Enhancement Area designated pursuant to Section 7073.8 of the Government Code and who meets both of the following requirements:

(A) Is engaged in those lines of business described in Codes 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) At least 50 percent of the qualified taxpayer's workforce

hired after the designation of the Manufacturing Enhancement Area is composed of individuals who, at the time of hire, are residents of the county in which the Manufacturing Enhancement Area is located.

(C) Of this percentage of local hires, at least 30 percent shall be qualified disadvantaged individuals.

(7) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) (1) For purposes of this section, all of the following apply:

(A) All employees of trades or businesses that are under common control shall be treated as employed by a single qualified taxpayer.

(B) The credit (if any) allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.7, shall apply with respect to determining employment.

(2) If a qualified taxpayer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (d)) for any calendar year ending after that acquisition, the employment relationship between a qualified disadvantaged individual and a qualified taxpayer shall not be treated as terminated if the qualified disadvantaged individual continues to be employed in that trade or business.

(d) (1) (A) If the employment, other than seasonal employment, of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (b) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that qualified disadvantaged individual completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(B) If the seasonal employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, the tax

imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(2) (A) Subparagraph (A) of paragraph (1) does not apply to any of the following:

(i) A termination of employment of a qualified disadvantaged individual who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of a qualified disadvantaged individual, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A termination of employment of a qualified disadvantaged individual due to a substantial reduction in the trade or business operations of the qualified taxpayer.

(v) A termination of employment of a qualified disadvantaged individual, if that individual is replaced by other qualified disadvantaged individuals so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified disadvantaged individual who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified disadvantaged individual.

(iii) A failure to continue the seasonal employment of a qualified disadvantaged individual, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified disadvantaged

individual.

(iv) A failure to continue seasonal employment of a qualified disadvantaged individual due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified disadvantaged individual, if that qualified disadvantaged individual is replaced by other qualified disadvantaged individuals so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified disadvantaged individual shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified disadvantaged individual continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(e) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated (for purposes of this part) as the employer with respect to those wages.

(f) The credit shall be reduced by the credit allowed under Section 17053.7. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the qualified taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (g) or (h).

(g) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(h) (1) The amount of credit otherwise allowed under this section, including prior year credit carryovers, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer's business income attributed to a Manufacturing Enhancement Area determined as if that attributed

income represented all of the net income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the Manufacturing Enhancement Area. For that purpose, the taxpayer's business income that is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the Manufacturing Enhancement Area in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a Manufacturing Enhancement Area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the Manufacturing Enhancement Area during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the Manufacturing Enhancement Area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (g).

(i) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

17053.74. (a) There shall be allowed a credit against the "net tax" (as defined in Section 17039) to a taxpayer who employs a qualified employee in an enterprise zone during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(ii) For up to 1,350 qualified employees who are employed by the taxpayer in the Long Beach Enterprise Zone in aircraft manufacturing activities described in Codes 3721 to 3728, inclusive, and Code 3812 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, "qualified wages" means that portion of hourly wages that does not exceed 202 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the enterprise zone designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Zone expiration date" means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in an enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an

enterprise zone.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

(III) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older.

(IV) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a dislocated worker who meets any of the following:

(aa) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(bb) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

(cc) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(dd) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(ee) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(ff) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(gg) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and

mechanization.

(hh) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

(V) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(VI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

(VII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:

(aa) Federal Supplemental Security Income benefits.

(bb) Aid to Families with Dependent Children.

(cc) Food stamps.

(dd) State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a resident of a targeted employment area, as defined in Section 7072 of the Government Code.

(X) An employee who qualified the taxpayer for the enterprise zone hiring credit under former Section 17053.8 or the program area hiring credit under former Section 17053.11.

(XI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) "Taxpayer" means a person or entity engaged in a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of the Government Code.

(6) "Seasonal employment" means employment by a taxpayer that has regular and predictable substantial reductions in trade or business

operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the enterprise zone, a certification which provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:

(A) All employees of trades or businesses, which are not incorporated, that are under common control shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.7, shall apply with respect to determining employment.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to

qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified

employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and a qualified employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the qualified employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(g) For purposes of this section, "enterprise zone" means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 17053.10, 17053.17 and 17053.46 claimed for the same employee. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (i) or (j).

(i) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 17053.70, including any credit carryover from prior years, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer's business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1997.

23622.7. (a) There shall be allowed a credit against the "tax" (as defined by Section 23036) to a taxpayer who employs a qualified employee in an enterprise zone during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(ii) For up to 1,350 qualified employees who are employed by the taxpayer in the Long Beach Enterprise Zone in aircraft manufacturing activities described in Codes 3721 to 3728, inclusive, and Code 3812 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, "qualified wages" means that portion of hourly wages that does not exceed 202 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the enterprise zone designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Zone expiration date" means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in an enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

(III) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older.

(IV) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a dislocated worker who meets any of the following:

(aa) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(bb) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

(cc) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(dd) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(ee) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(ff) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(gg) Is a seasonal or migrant worker who experiences chronic

seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(hh) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

(V) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(VI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

(VII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:

(aa) Federal Supplemental Security Income benefits.

(bb) Aid to Families with Dependent Children.

(cc) Food stamps.

(dd) State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a resident of a targeted employment area (as defined in Section 7072 of the Government Code).

(X) An employee who qualified the taxpayer for the enterprise zone hiring credit under former Section 23622 or the program area hiring credit under former Section 23623.

(XI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) "Taxpayer" means a corporation engaged in a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the

Government Code.

(6) "Seasonal employment" means employment by a taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the enterprise zone, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:

(A) All employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section to each member shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) For purposes of this subdivision, "controlled group of corporations" means "controlled group of corporations" as defined in Section 1563(a) of the Internal Revenue Code, except that:

(i) "More than 50 percent" shall be substituted for "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(ii) The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of

any qualified employee with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment, whether or not consecutive, or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified

employee who voluntarily fails to return to the seasonal employment of the taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and a qualified employee shall not be treated as terminated by either of the following:

(i) By a transaction to which Section 381(a) of the Internal Revenue Code applies, if the qualified employee continues to be employed by the acquiring corporation.

(ii) By reason of a mere change in the form of conducting the trade or business of the taxpayer, if the qualified employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) Rules similar to the rules provided in Section 46(e) and (h) of the Internal Revenue Code shall apply to both of the following:

(1) An organization to which Section 593 of the Internal Revenue Code applies.

(2) A regulated investment company or a real estate investment trust subject to taxation under this part.

(g) For purposes of this section, "enterprise zone" means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 23623.5, 23625, and 23646 claimed for the same employee. The credit shall also be reduced by the

federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (i) or (j).

(i) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 23612.2, including any credit carryover from prior years, that may reduce the "tax" for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer's business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the income year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the income year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the income year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the income year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable

year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to taxable years on or after January 1, 1997.

23622.8. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "tax" (as defined in Section 23036) to a qualified taxpayer for hiring a qualified disadvantaged individual during the taxable year for employment in the Manufacturing Enhancement Area. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified disadvantaged individuals that does not exceed 150 percent of the minimum wage.

(B) The total amount of qualified wages which may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars ($2,000,000) per taxable year.

(C) Wages received during the 60-month period beginning with the first day the qualified disadvantaged individual commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the Manufacturing Enhancement Area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the Manufacturing Enhancement Area within the 60-month period prior to the Manufacturing Enhancement Area expiration date shall continue to qualify for the credit under this section after the Manufacturing Enhancement Area expiration date, in accordance with all provisions of this section applied as if the Manufacturing Enhancement Area designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Manufacturing Enhancement Area" means an area designated pursuant to Section 7073.8 of the Government Code according to the procedures of Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(4) "Manufacturing Enhancement Area expiration date" means the date the Manufacturing Enhancement Area designation expires, is no longer binding, or becomes inoperative.

(5) "Qualified disadvantaged individual" means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer's trade or business located in a Manufacturing Enhancement Area.

(ii) Who performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in the Manufacturing Enhancement Area.

(B) Who is hired by the qualified taxpayer after the designation of the area as a Manufacturing Enhancement Area in which the individual's services were primarily performed.

(C) Who is any of the following immediately preceding the individual's commencement of employment with the qualified taxpayer:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.) or its successor.

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985, or its successor, as provided pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) Any individual who has been certified eligible by the Employment Development Department under the federal Targeted Jobs Tax Credit Program, or its successor, whether or not this program is in effect.

(6) "Qualified taxpayer" means any corporation engaged in a trade or business within a Manufacturing Enhancement Area designated pursuant to Section 7073.8 of the Government Code and that meets all of the following requirements:

(A) Is engaged in those lines of business described in Codes 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) At least 50 percent of the qualified taxpayer's workforce hired after the designation of the Manufacturing Enhancement Area is composed of individuals who, at the time of hire, are residents of

the county in which the Manufacturing Enhancement Area is located.

(C) Of this percentage of local hires, at least 30 percent shall be qualified disadvantaged individuals.

(7) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) (1) For purposes of this section, all of the following apply:

(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single qualified taxpayer.

(B) The credit (if any) allowable by this section with respect to each member shall be determined by reference to its proportionate share of the expenses of the qualified wages giving rise to the credit and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.7, shall apply with respect to determining employment.

(2) If a qualified taxpayer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (d)) for any calendar year ending after that acquisition, the employment relationship between a qualified disadvantaged individual and a qualified taxpayer shall not be treated as terminated if the qualified disadvantaged individual continues to be employed in that trade or business.

(d) (1) (A) If the employment, other than seasonal employment, of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (b) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that qualified disadvantaged individual completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(B) If the seasonal employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the income year that includes the 60th

month following the month in which the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(2) (A) Subparagraph (A) of paragraph (1) does not apply to any of the following:

(i) A termination of employment of a qualified disadvantaged individual who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of a qualified disadvantaged individual, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A termination of employment of a qualified disadvantaged individual due to a substantial reduction in the trade or business operations of the qualified taxpayer.

(v) A termination of employment of a qualified disadvantaged individual, if that individual is replaced by other qualified disadvantaged individuals so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified disadvantaged individual who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified disadvantaged individual.

(iii) A failure to continue the seasonal employment of a qualified disadvantaged individual, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified disadvantaged individual.

(iv) A failure to continue seasonal employment of a qualified disadvantaged individual due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified disadvantaged individual, if that qualified disadvantaged individual is replaced by other qualified disadvantaged individuals so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified disadvantaged individual shall not be treated as terminated by either of the following:

(i) By a transaction to which Section 381(a) of the Internal Revenue Code applies, if the qualified disadvantaged individual continues to be employed by the acquiring corporation.

(ii) By reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified disadvantaged individual continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(e) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the qualified taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (f) or (g).

(f) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(g) (1) The amount of credit otherwise allowed under this section, including prior year credit carryovers, that may reduce the "tax" for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer's business income attributed to a Manufacturing Enhancement Area determined as if that attributed income represented all of the net income of the qualified taxpayer subject to tax under this part.

(2) Attributable income is that portion of the taxpayer's California source business income that is apportioned to the

Manufacturing Enhancement Area. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the Manufacturing Enhancement Area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a Manufacturing Enhancement Area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For the purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the Manufacturing Enhancement Area during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the Manufacturing Enhancement Area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (g).

(h) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

23634. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "tax" (as defined by Section 23036) to a qualified taxpayer who employs a qualified employee in a targeted tax area during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the targeted tax area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period prior to the targeted tax area expiration date shall continue to qualify for the credit under this section after the targeted tax area expiration date, in accordance with all provisions of this section applied as if the targeted tax area designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Targeted tax area expiration date" means the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

(i) At least 90 percent of his or her services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer's trade or business located in a targeted tax area.

(ii) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a targeted tax area.

(iii) Is hired by the qualified taxpayer after the date of original designation of the area in which services were performed as a targeted tax area.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

(III) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was an economically disadvantaged individual 14 years of age or older.

(IV) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a dislocated worker who meets any of the following:

(aa) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(bb) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

(cc) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(dd) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(ee) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(ff) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(gg) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(hh) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

(V) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state

rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(VI) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

(VII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person eligible for or a recipient of any of the following:

(aa) Federal Supplemental Security Income benefits.

(bb) Aid to Families with Dependent Children.

(cc) Food stamps.

(dd) State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a resident of a targeted tax area.

(X) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) (A) "Qualified taxpayer" means a person or entity that meets both of the following:

(i) Is engaged in a trade or business within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(ii) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299, inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section or Section 17053.34 shall be allowed to the pass-through entity and passed through to the partners or shareholders in accordance with

applicable provisions of this part or Part 10 (commencing with Section 17001). For purposes of this subparagraph, the term "pass-through entity" means any partnership or S corporation.

(6) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) If the qualified taxpayer is allowed a credit for qualified wages pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to those qualified wages.

(d) The qualified taxpayer shall do both of the following:

(1) Obtain from either the Employment Development Department, as permitted by federal law, or the local county or city Job Training Partnership Act administrative entity or the local county GAIN office or social services agency, as appropriate, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(e) (1) For purposes of this section:

(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section to each member shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) For purposes of this subdivision, "controlled group of corporations" means "controlled group of corporations" as defined in Section 1563(a) of the Internal Revenue Code, except that:

(i) "More than 50 percent" shall be substituted for "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(ii) The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (f)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(f) (1) (A) If the employment, other than seasonal employment, of any qualified employee with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the qualified taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the qualified taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified employee shall not be treated as terminated by either of the following:

(i) By a transaction to which Section 381(a) of the Internal Revenue Code applies, if the qualified employee continues to be employed by the acquiring corporation.

(ii) By reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified employee continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(g) Rules similar to the rules provided in Sections 46(e) and (h) of the Internal Revenue Code shall apply to both of the following:

(1) An organization to which Section 593 of the Internal Revenue Code applies.

(2) A regulated investment company or a real estate investment trust subject to taxation under this part.

(h) For purposes of this section, "targeted tax area" means an area designated pursuant to Chapter 12.93 (commencing with Section

7097) of Division 7 of Title 1 of the Government Code.

(i) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 23633, including any credit carryover from prior years, that may reduce the "tax" for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer's business income attributable to the targeted tax area determined as if that attributable income represented all of the income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the targeted tax area. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (h).

(5) In the event that a credit carryover is allowable under subdivision (h) for any taxable year after the targeted tax area designation has expired or been revoked, the targeted tax area shall

be deemed to remain in existence for purposes of computing the limitation specified in this subdivision.

23646. (a) For each taxable year beginning on or after January 1, 1995, there shall be allowed as a credit against the "tax" (as defined in Section 23036) to a qualified taxpayer for hiring a qualified disadvantaged individual or a qualified displaced employee during the taxable year for employment in the LAMBRA. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) That portion of wages paid or incurred by the employer during the taxable year to qualified disadvantaged individuals or qualified displaced employees that does not exceed 150 percent of the minimum wage.

(B) The total amount of qualified wages which may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars ($2,000,000) per taxable year.

(C) Wages received during the 60-month period beginning with the first day the individual commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operation of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the LAMBRA expiration date. However, wages paid or incurred with respect to qualified disadvantaged individuals or qualified displaced employees who are employed by the qualified taxpayer within the LAMBRA within the 60-month period prior to the LAMBRA expiration date shall continue to qualify for the credit under this section after the LAMBRA expiration date, in accordance with all provisions of this section applied as if the LAMBRA designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "LAMBRA" means a local agency military base recovery area designated in accordance with the provisions of Section 7114 of the Government Code.

(4) "Qualified disadvantaged individual" means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in the LAMBRA.

(B) Who is hired by the employer after the designation of the area as a LAMBRA in which the individual's services were primarily performed.

(C) Who is any of the following immediately preceding the individual's commencement of employment with the taxpayer:

(i) An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor.

(ii) Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) An economically disadvantaged individual age 16 years or older.

(iv) A dislocated worker who meets any of the following conditions:

(I) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(II) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of such a closure or layoff.

(III) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(IV) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(V) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(VI) Was an active member of the Armed Forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(VII) Experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(VIII) Has been terminated or laid off or has received a notice of termination or layoff as a consequence of compliance with the Clean Air Act.

(v) An individual who is enrolled in or has completed a state rehabilitation plan or is a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(vi) An ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilty.

(vii) A recipient of:

(I) Federal Supplemental Security Income benefits.

(II) Aid to Families with Dependent Children.

(III) Food stamps.

(IV) State and local general assistance.

(viii) Is a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(5) "Qualified taxpayer" means a corporation that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees as determined below in the LAMBRA.

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(B) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a qualified taxpayer that first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B) the divisors "2,000" and "12" shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(6) "Qualified displaced employee" means an individual who satisfies all of the following requirements:

(A) Any civilian or military employee of a base or former base that has been displaced as a result of a federal base closure act.

(B) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in a LAMBRA.

(C) Who is hired by the employer after the designation of the area in which services were performed as a LAMBRA.

(7) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(8) "LAMBRA expiration date" means the date the LAMBRA designation expires, is no longer binding, or becomes inoperative.

(c) For qualified disadvantaged individuals or qualified displaced employees hired on or after January 1, 2001, the taxpayer shall do both of the following:

(1) Obtain from either the Employment Development Department, as permitted by federal law, the administrative entity of the local county or city for the federal Job Training Partnership Act, or its successor, the local county GAIN office, or social services agency, as appropriate, a certification that provides that a qualified disadvantaged individual or qualified displaced employee meets the eligibility requirements specified in subparagraph (C) of paragraph (4) of subdivision (b) or subparagraph (A) of paragraph (6) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section, both of the following apply:

(A) All employees of all corporations that are members of the same controlled group of corporations shall be treated as employed by a single employer.

(B) The credit (if any) allowable by this section to each member shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit.

(2) For purposes of this subdivision, "controlled group of corporations" has the meaning given to that term by Section 1563(a) of the Internal Revenue Code, except that both of the following apply:

(A) "More than 50 percent" shall be substituted for "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(B) The determination shall be made without regard to Section 1563 (a)(4) and Section 1563(e)(3)(C) of the Internal Revenue Code.

(3) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between an employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment of any employee, other than seasonal employment, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior income years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that

qualified disadvantaged individual.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of an individual, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A termination of employment of an individual due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of an individual, if that individual is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified disadvantaged individual who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified disadvantaged individual.

(iii) A failure to continue the seasonal employment of a qualified disadvantaged individual, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A failure to continue seasonal employment of a qualified disadvantaged individual due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified disadvantaged individual, if that individual is replaced by other qualified disadvantaged individuals so as to create a net increase in both the number of seasonal employees and the hours of seasonal

employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated by either of the following:

(i) A transaction to which Section 381(a) of the Internal Revenue Code applies, if the employee continues to be employed by the acquiring corporation.

(ii) A mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(4) At the close of the second taxable year, if the taxpayer has not increased the number of its employees as determined by paragraph (5) of subdivision (b), then the amount of the credit previously claimed shall be added to the taxpayer's tax for the taxpayer's second taxable year.

(f) In the case of an organization to which Section 593 of the Internal Revenue Code applies, and a regulated investment company or a real estate investment trust subject to taxation under this part, rules similar to the rules provided in Section 46(e) and Section 46 (h) of the Internal Revenue Code shall apply.

(g) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (h) or (i).

(h) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(i) (1) The amount of credit otherwise allowed under this section and Section 23645, including any prior year carryovers, that may reduce the "tax" for the taxable year shall not exceed the amount of tax that would be imposed on the taxpayer's business income attributed to a LAMBRA determined as if that attributed income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the LAMBRA.

For that purpose, the taxpayer's business income that is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the LAMBRA in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a LAMBRA by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the LAMBRA during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the LAMBRA during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (h).

(j) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

Streets and Highways Code

Departmental Transportation Advisory Committee

154. The department shall encourage the construction and development by counties of portions of the county highways as official county scenic highways and may furnish to the counties any information or other assistance which will aid the counties in the construction or development of such scenic highways.

Whenever the department, ~~with the advice of the~~ ~~Departmental Transportation Advisory Committee~~ determines that any county highway meets the minimum standards prescribed by the department for official scenic highways, including the concept of the "complete

highway," as described in Section 261, it may authorize the county in which the highway is located to designate the highway as an official county scenic highway and the department shall so indicate the highway in publications of the department and in any maps which are prepared by the department for distribution to the public which show the highway.

If the department, ~~with the advice of the Departmental Transportation Advisory Committee~~, determines that any county highway which has been designated as an official county scenic highway no longer meets the minimum standards prescribed by the department for official scenic highways, it may, after notice to the county and a hearing on the matter, if requested by the county, revoke the authority of the county to designate the highway as an official county scenic highway.

261. The department shall, ~~with the advice of the Departmental Transportation Advisory Committee,~~ establish and apply pertinent planning and design standards for development of official scenic highways.

In establishing and applying such standards for, and undertaking the development of, official scenic highways, the department shall take into consideration the concept of the "complete highway," which is a highway which incorporates not only safety, utility, and economy but also beauty. The department shall also take into consideration in establishing such standards that, in a "complete highway," pleasing appearance is a consideration in the planning and design process. In the development of official scenic highways, the department shall give special attention both to the impact of the highway on the landscape and to the highway's visual appearance. The standards for official scenic highways shall also require that local governmental agencies have taken such action as may be necessary to protect the scenic appearance of the scenic corridor, the band of land generally adjacent to the highway right-of-way, including, but not limited to, (1) regulation of land use and intensity (density) of development; (2) detailed land and site planning; (3) control of outdoor advertising; (4) careful attention to and control of earthmoving and landscaping; and (5) the design and appearance of structures and equipment.

262. Whenever the department determines that the corridor protection program for any state highway in the state scenic highway system established by this article has been implemented by local governmental agencies and a plan and program has been developed by the department for bringing the highway up to the standards for official scenic highways established by the department, including the concept of the "complete highway," as described in Section 261, the department shall designate the highway as an official state scenic

highway and shall so indicate the highway in any publications of the department or in any maps which are issued by the department to the public.

The department shall cause appropriate signs to be placed and maintained along the portions of the state scenic highway system which the department has designated as official state scenic highways that indicate that the highways are official state scenic highways.

If at any time the department, ~~with the advice of the Departmental Transportation Advisory Committee~~ determines that the corridor protection program of local governmental agencies, with respect to any highway which has been designated as an official state scenic highway, no longer adequately carries out responsibility of the local governmental agencies for the protection of the scenic corridor, it may revoke the designation of the highway as an official state scenic highway and remove the signs which so indicate the highway.

262.5. (a) Whenever the department determines that any state highway within or traversing United States National Forest lands meets the standards for official state scenic highways, the department shall designate the highway as an official state scenic highway and shall so indicate the highway in any publications of the department or in any maps which are issued by the department to the public.

(b) The department shall cause appropriate signs to be placed and maintained along those portions of the highways which the department has designated pursuant to subdivision (a) as official state scenic highways that indicate that those portions of the highways are official state scenic highways.

(c) If at any time the department, ~~with the advice of the Departmental Transportation Advisory Committee,~~ determines that a state highway, designated as an official state scenic highway pursuant to subdivision (a), no longer meets the standards for official state scenic highways, it may revoke the designation of the highway as an official state highway and remove the signs which so indicate the highway.

2157. ~~There is hereby created the Departmental Transportation Advisory Committee. At the 1973-74 Regular Session of the Legislature, and at the commencement of the 1977-78 Regular Session and each four years thereafter, the Speaker of the Assembly and the Rules Committee of the Senate shall jointly appoint a committee of 16 members, to consist of county and city officials, representatives of transportation planning agencies, representatives of air, highway, motoring, and public transportation organizations, and others interested in transportation planning to act in an advisory capacity~~

~~to the department in the preparation of various transportation reports required by statute, including, but not limited to, functional classification and needs studies. The department shall cooperate and confer with the advisory committee so appointed. Each committee so appointed shall remain in existence until such time as a new advisory committee is appointed. Any vacancy on the committee shall be filled by a joint appointment by the Speaker of the Assembly and the Rules Committee of the Senate, and the appointee shall serve until the appointment of a new committee.~~

2158. The ~~Departmental Transportation Advisory Committee~~ department shall succeed to and is hereby vested with all of the powers, duties, purposes, responsibilities, and jurisdiction in matters now or hereafter vested by law in the Departmental Transportation Advisory Committee and the Scenic Highway Advisory Committee, or any officer or employee thereof. Whenever reference is made to the Departmental Transportation Advisory Committee or the Scenic Highway Advisory Committee, it shall be deemed to be a reference to the ~~Departmental Transportation Advisory Committee~~ department. The Department of Transportation shall have possession and control of all records, books, papers, and other property, real, personal and mixed, now or hereafter held for the benefit or use of the Scenic Highway Advisory Committee.

30914.5. (a) Prior to the allocation of revenue for transit operating assistance under subdivision (d) of Section 30914, the Metropolitan Transportation Commission shall adopt performance measures related to fare-box recovery, ridership, and other performance measures as needed. The performance measures shall be developed in consultation with the affected transit operators and the commission's advisory council.

(b) The Metropolitan Transportation Commission shall execute an operating agreement with the sponsors of the projects described in subdivision (d) of Section 30914. This agreement shall include, at a minimum, a fully funded operating plan that conforms to and is consistent with the adopted performance measures. The agreement shall also include a schedule of projected fare revenues or other operating revenues to indicate that the service is viable in the near-term and is expected to meet the adopted performance measures in future years. For any individual project sponsor, this operating agreement may include additional requirements, as determined by the commission, to be met prior to the allocation of transit assistance under subdivision (d) of Section 30914.

(c) Prior to the annual allocation of transit operating assistance funds by the Metropolitan Transportation Commission pursuant to subdivision (d) of Section 30914, project sponsors shall present an audited annual report to the commission that contains audited

financial information, including an opinion of the independent auditors on the status and cost of the project and its compliance with the approved performance measures.

(d) The Metropolitan Transportation Commission shall adopt a regional transit connectivity plan by December 1, 2005. The connectivity plan shall be incorporated into the commission's Transit Coordination Implementation Plan pursuant to Section 66516.5 of the Government Code. The connectivity plan shall require operators to comply with the plan utilizing commission authority pursuant to Section 66516.5 of the Government Code. The commission shall consult with the Partnership Transit Coordination Council in developing a plan that identifies and evaluates opportunities for improving transit connectivity and shall include, but not be limited to, the following components:

(1) A network of key transit hubs connecting regional rapid transit services to one another, and to feeder transit services. "Regional rapid transit" means long-haul transit service that crosses county lines, and operates mostly in dedicated rights-of-way, including freeway high-occupancy vehicle lanes, crossing a bridge, or on the bay. The identified transit hubs shall operate either as a timed transfer network or as pulsed hub connections, providing regularly scheduled connections between two or more transit lines.

(2) Physical infrastructure and right-of-way improvements necessary to improve system reliability and connections at transit hubs. Physical infrastructure improvements may include, but are not limited to, improved rail-to-rail transfer facilities, including cross-platform transfers, and intermodal transit improvements that facilitate rail-to-bus, rail-to-ferry, ferry-to-ferry, ferry-to bus, and bus-to-bus transfers. Capital improvements identified in the plan shall be eligible for funding in the commission's regional transportation plan.

(3) Regional standards and procedures to ensure maximum coordination of schedule connections to minimize transfer times between transit lines at key transit hubs, including, but not limited to, the following:

(A) Policies and procedures for improved fare collection.

(B) Enhanced trip-planning services, including Internet-based programs, telephone information systems, and printed schedules.

(C) Enhanced schedule coordination through the implementation of real-time transit-vehicle location systems that facilitate communication between systems and result in improved timed transfers between routes.

(D) Performance measures and data collection to monitor the performance of the connectivity plan.

The connectivity plan shall focus on, but not be limited to, feeder transit lines connecting to regional rapid transit services,

and the connection of regional rapid transit services to one another.

The connectivity plan shall be adopted following a Metropolitan Transportation Commission public hearing at least 60 days prior to adoption. The commission shall adopt performance measures and collect appropriate data to monitor the performance of the connectivity plan. The plan shall be evaluated every three years by the commission as part of the update to its regional transportation plan. No agency shall be eligible to receive funds under this section unless the agency is a participant operator in the commission's regional transit connectivity plan.

The provisions of this subdivision shall only be effective if the voters approve the toll increase as set forth in Section 30921, and the expenditures incurred by the Metropolitan Transportation Commission up to five hundred thousand dollars ($500,000) that are related to the requirements of this subdivision, including any study, shall be reimbursed from toll revenues identified in paragraph (33) of subdivision (c) of Section 30914.

(e) The TransLink Consortium, per the TransLink Interagency Participation Agreement, shall by July 1, 2007, develop a plan for an integrated fare program covering all regional rapid transit trips funded in full or in part by this section. "Regional rapid transit" means long-haul transit services that cross county lines, and operate mostly in dedicated rights-of-way, including freeway high-occupancy vehicle lanes, crossing a bridge, or on the bay. Interregional rail services, originating or terminating from outside the bay area, shall not be considered regional rapid transit. The purpose of the integrated fare program is to encourage greater use of the region's transit network by making it easier and less costly for transit riders whose regular commute involves multizonal travel and may involve the transfer between two or more transit agencies, including regional-to-regional and regional-to-local transfers. The integrated fare program shall include a zonal fare system for the sole purpose of creating a monthly zonal pass (monthly pass), allowing for unlimited or discounted fares for transit riders making a minimum number of monthly transit trips between two or more zones. The number of minimum trips shall be established by the plan. The integrated fare program shall not apply to fare structures that are not purchased on a monthly basis. For the purposes of these zonal fares, geographic zones shall be created in the bay area. To the extent practical, zone boundaries for overlapping systems shall be in the same places and shall correspond to the boundaries of the local transit service areas. A regional rapid transit zone may cover more than one local service area, or may subdivide an existing local service area. The monthly pass shall be created in at least the following two forms:

(1) For the use of interzonal regional rapid transit trips without

local transit discounts.

(2) For the use of interzonal regional rapid transit trips with local transit discounts. The plan may recommend the elimination of existing transit pass arrangements to simplify the marketing of the monthly pass. The integrated fare program shall establish a monitoring program to evaluate the impact of the integrated fare program on the operating finances of the participating agencies. The integrated fare program shall be adjusted as necessary to ensure that the program does not jeopardize the viability of local or regional rapid transit routes impacted by the program, and to the extent feasible, provide an equitable revenue sharing arrangement among the participating agencies. This subdivision shall only be effective if the voters approve the toll increase as set forth in Section 30921, and any expenditures related to the implementation of this subdivision incurred by the TransLink Consortium shall be reimbursed by toll revenues designated in paragraph (35) of subdivision (c) of Section 30914.

(f) The Metropolitan Transportation Commission (MTC) shall, by July 1, 2006, adopt a Bay Area Regional Rail Plan (plan) for the development of passenger rail services in the San Francisco Bay area over the short, medium, and long term. The plan shall formulate strategies to integrate passenger rail systems, improve interfaces with connecting services, expand the regional rapid transit network, and coordinate investments with transit-supportive land use. The plan shall be governed by a steering committee consisting of appointees from the Department of Transportation (Caltrans), the San Francisco Bay Area Rapid Transit District (BART), Caltrain, the National Railroad Passenger Corporation (Amtrak), the Capitol Corridor Joint Powers Authority, the Altamont Commuter Express, the ~~California High-Speed Rail Authority~~ California Transportation Commission, the Metropolitan Transportation Commission (MTC), the Sonoma-Marin Area Rail Transit District (SMART), the Santa Clara Valley Transportation Authority, the Solano Transportation Authority, and the owners of standard gauge rail. Congestion management agencies and other agencies as determined by the steering committee shall be invited as nonvoting members. Under policy guidance from the steering committee and with input from bay area transit agencies, Caltrain and BART shall provide day-to-day management and technical support for the development of this plan. The plan proposals shall be evaluated using performance criteria, including, but not limited to, transit-supportive land use and access, ridership, cost-effectiveness, regional network connectivity, and capital and operating financial stability. Additional performance criteria shall be developed as necessary. The plan shall include, but not be limited to, all of the following:

(1) Identification of issues in connectivity, access, capacity, operations and cost-effectiveness.

(2) Identification of opportunities to enhance rail connectivity and to maximize passenger convenience when transferring between systems. Up to five hundred thousand dollars ($500,000) of the funds described in paragraph (33) of subdivision (c) of Section 30914 may be expended by BART or Caltrain, or by both, to study the feasibility and construction of, an intermodal transfer hub at the Niles (Shinn Street) Junction.

(3) Recommendation of improvements to the interface with shuttles, buses, other rail systems, and other feeder modes.

(4) Identification of potential impacts on capacity constraints and operations on existing passenger and freight carriers.

(**5**) Identification of bottlenecks where added capacity could cost-effectively increase performance.

(6) Recommendation of potential efficiency improvements through economies of scale, such as through joint vehicle procurement and maintenance facilities.

(7) Recommendation of strategies to acquire right-of-way and station property to preserve future service options.

(8) Identification of potential capital and operating funding sources for proposed actions.

(9) Identification of locations where the presence of passenger rail could stimulate redevelopment and thereby direct growth to the urban core.

(10) Recommendation of technology-appropriate service expansion in specific corridors. Technologies to be considered include conventional rail transit modes, bus rapid transit, and emerging rail technologies. Identify phasing strategies for the implementation of rail services where appropriate.

(11) Examination of how recommendations would integrate with proposed high-speed rail to the Central Valley and southern California. Up to two million five hundred thousand dollars ($2,500,000) of the funds described in paragraph (33) of subdivision (c) of Section 30914 may be expended by BART or Caltrain, or by both, to study bay area access to the high-speed rail system. The High-Speed Rail Authority, or its successor, shall collaborate with the steering committee established in this subdivision in conducting this study, if funds are expended for the study pursuant to this paragraph.

(12) Recommendation of a governance strategy to implement and operate future regional rapid transit services.

This subdivision shall only be effective if the voters approve the toll increase as set forth in Section 30921. Any expenditures incurred by the Metropolitan Transportation Commission or the project sponsors identified in paragraph (33) of subdivision (c) of Section 30914 related to the requirements of this subdivision, including any study and administration, shall be appropriate charges against toll

revenue to be reimbursed from toll revenues.

Vehicle Code

34501.9. (a) Nothing in this division or the regulations adopted under this division is intended to, or shall, affect the rate of payment of wages, including, but not limited to, regular, premium, or overtime rates, paid to any person whether for on-duty hours or driving hours or otherwise.

(b) Nothing in this division or the regulations adopted under this division is intended to, or shall, affect the regulations adopted pursuant to other provisions of law concerning the rate or rates of payment of wages by any other public agency, including, but not limited to, the ~~Industrial Welfare Commission~~Labor and Workforce Development Agency or the Division of Labor Standards Enforcement of the Department of Industrial Relations.

Water Code

150. (a) ~~There is in the Department of Water Resources the California Water Commission.~~ Any reference to the California Water Commission shall refer to the Department of Water Resources.

(b) As used in this article, "commission" means the Department of Water Resources.

151. ~~The California Water Commission consists of nine members who are appointed by the Governor subject to the confirmation of the Senate, as provided in this article.~~

152. ~~Seven members of the California Water Commission appointed by the Governor shall be selected and approved for appointment on the basis of their general educational and business qualifications, and their knowledge of, interest in, and experience with problems relating to the control, storage, and beneficial use of water. They shall be appointed in such a manner as to afford representation on the commission of all parts of the state so far as it is practicable. In considering qualifications of such members of the commission, engineering ability and experience shall be deemed advisable. Two members of the commission appointed by the Governor shall be members of the public having an interest in and knowledge of the environment and need have none of the other qualifications specified in this section. The next two members appointed to the commission by the Governor after the effective date of the amendment of this~~

~~section at the 1970 Regular Session of the Legislature shall be members of the public having such interest in and knowledge of the environment.~~

153. ~~The terms of the members of the California Water Commission in office when this article takes effect shall expire as follows: one member on January 15, 1958, two members on January 15, 1959, two members on January 15, 1960, and two members on January 15, 1961. The terms of the two additional members of the commission provided for by the act amending this section first appointed by the Governor shall expire as follows: one member on January 15, 1962, and one member on January 15, 1963. The terms of the successors to such members shall be for four years.~~

154. ~~Appointments shall be for terms of four years. Vacancies shall be immediately filled by the Governor for the unexpired portion of the terms in which they occur.~~

155. ~~The appointments made by the Governor to membership on the California Water Commission shall be subject to confirmation by the Senate at the next regular or special session of the Legislature and the refusal or failure of the Senate to confirm an appointment shall create a vacancy in the office to which the appointment was made.~~

156. ~~The members of the California Water Commission may be removed from office by the Legislature, by concurrent resolution adopted by a majority vote of all members elected to each house, for dereliction of duty or corruption or incompetency.~~

157. ~~Each member of the California Water Commission shall receive one hundred dollars ($100) for each day during which the member is engaged in the performance of official duties, but shall not be compensated for more than 40 days in any one fiscal year, except that the chairperson of the commission may be compensated for up to 60 days for performance of those duties. In addition to that compensation, each member shall be reimbursed for necessary traveling and other expenses incurred in the performance of official duties.~~

158. ~~The California Water Commission shall maintain its headquarters at Sacramento and shall hold meetings at such times and at such places as shall be determined by it. All meetings of the commission shall be open and public.~~

159. ~~Special meetings may be called at any time by the chairman or by the executive officer at the request of any four members, upon notice specifying the matters to be acted upon at such meeting, but no other matters shall be acted upon at special meetings which were not so noticed, unless all members are present and consent thereto.~~

160. ~~The members of the California Water Commission shall select one of the members to serve as chairman, who shall hold office as chairman at the pleasure of the commission.~~

161. ~~The California Water Commission shall confer with, advise, and make recommendations to the director with respect to any matters and subjects under his jurisdiction. The rulemaking power of the department shall be exercised in the following manner. All rules and regulations of the department, other than those relating exclusively to the internal administration and~~

~~management of the department, shall be first presented by the director to the commission and shall become effective only upon approval thereof by the commission.~~

~~163. The commission may employ an executive officer, exempt from civil service, under subdivision (e) of Section 4 of Article XXIV of the Constitution, and a staff engineer from the staff of the department who shall be responsible to the commission. The commission may also employ such clerical assistants as may be necessary for the proper discharge of its duties and may purchase or rent necessary supplies, instruments, tools, equipment and conveniences.~~

8521. "Board" means the ~~Reclamation Board~~ Department of Water Resources.

8550. ~~The Reclamation Board is continued in existence within the department, but the board shall continue to exercise and have all of its powers, duties, purposes, responsibilities, and jurisdiction.~~Any reference to the Reclamation Board shall refer to the Department of Water Resources.

~~8551. The board consists of seven members who are appointed by and serve at the pleasure of the Governor.~~

~~8552. Each member of the board shall receive the necessary expenses incurred by the member in the performance of official duties, and each member of the board that is neither eligible for nor receives any salary or other compensation for time spent attending meetings of the board shall receive one hundred dollars ($100) for each day attending the meetings of the board, except that no member shall be compensated for more than 40 days in any one fiscal year.~~
~~In addition to the amounts above provided, any member of the board traveling outside the state pursuant to authorization of the board, and the approval of the Governor and Director of Finance as provided by Section 11032 of the Government Code, while so engaged shall receive that per diem and necessary expenses.~~

~~8554. The board shall elect one of its members as president.~~

~~8555. The board may elect one of its members other than the president as vice president.~~

~~8556. The vice president shall have the powers and perform the duties of the president under the following circumstances:~~
~~(a) During the president's absence or inability to act.~~
~~(b) At the request of the president.~~
~~(c) When authorized by the board.~~

~~8557. The board shall have its office in the County of Sacramento. The office is the principal place of business and legal residence of the board and of the drainage district.~~

~~8558. The regular meetings of the board shall be held at times fixed by the board.~~

~~8559. A majority of the board constitutes a quorum.~~

~~8560. No action of the board shall be effective unless it is concurred in by a majority of the members of the board.~~

~~8561. Special meetings of the board may be called at any time by the president or by a majority of the members upon notice given by mail or telegraph to each member at his place of residence or business, and there received at least 12 hours before the hour fixed for the meeting.~~

~~8562. Any meeting of the board, at its office, when all of the members are present, is a legal meeting at which any business may be transacted.~~

~~8563. The board shall keep full and correct minutes of all proceedings and transactions of all meetings of the board.~~

~~8564. The minutes shall be open for public inspection during office hours.~~

~~8572. The rules may be suspended or compliance therewith may be waived by the board at any meeting to such extent as may be deemed proper.~~

~~8575. A member of the board having an interest in lands within the drainage district is not disqualified from voting to execute any part of the plans of flood control or from carrying out the objects of this part.~~

~~8580. The board shall appoint a secretary, who may be a member of the board.~~

12501. "Board" means the ~~Colorado River Board of California~~ Department of Water Resouces.

12502. "Commissioner" means the ~~Colorado River Commissioner~~ Department of Water Resources.

12510. ~~There is in the state government, in the Resources Agency, the Colorado River Board of California.~~ Any reference to the Colorado River Board shall refer to the Department of Water Resources.

~~12511. The board consists of eight members appointed by the Governor as provided in this chapter, two of whom shall be public members appointed by the Governor, and the Director of Water Resources and the Director of Fish and Game or their designees.~~

~~12512. The governing bodies of the San Diego County Water Authority, Palo Verde Irrigation District, Imperial Irrigation District, Coachella Valley Water District, the Metropolitan Water District of Southern California, and the Department of Water and Power of the City of Los Angeles shall each submit to the Governor two lists of not less than three persons on each with a recommendation as to whom should be appointed from one list as its member on the board and from the other list as its alternate on the board. The Governor shall appoint each agency's member and alternate from the designated lists. If, after 60 days following submission of the initial or any new list, the Governor has not made an appointment, the person recommended by~~

the governing body shall be deemed appointed. Each governing body if it desires to have a new member or alternate, or both, may submit new lists at any time. A member of the governing body of an agency may be appointed as a member of the board or as an alternate. Each alternate shall, in the absence of the appointed member for any cause, including vacancy in the office of the appointed member, have all the authority and rights of the member to which he or she is an alternate.

12513. Each member of the board, except as otherwise provided in this section, shall serve without compensation but shall be reimbursed for traveling and other expenses actually and necessarily incurred in the performance of his duties. In addition, each member of the board that is neither eligible for nor receives any salary or other compensation for time spent attending meetings of the board shall receive fifty dollars ($50) for each day attending the meetings of the board.

12514. (a) The board shall determine, by majority vote, where to maintain its office and shall hold meetings at that office or elsewhere upon call of the chairman or three members of the board. The board shall not relocate its office more than once within each gubernatorial term.

(b) The local agencies that are represented on the board may reimburse employees of the board for relocation or net commuting expenses, or both, incurred by those employees as the result of a change in the location of the office pursuant to subdivision (a). The costs shall be divided equally among the local agencies. Any commuting expenses shall not exceed the state's reimbursement rate for state employees. Any relocation benefits shall be approved by each local agency prior to those benefits being offered to board staff.

(c) Any payments made pursuant to subdivision (b) do not constitute income for the purposes of subdivision (a) of Section 82030 of the Government Code, in accordance with paragraph (2) of subdivision (b) of that section.

12516. The board shall be subject to the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

12519. Notwithstanding any other provision of the law to the contrary, the board may hold executive sessions in conjunction with any regular or special meeting and maintain confidential information and records limited to matters concerning interstate claims to the use of Colorado River system waters in judicial proceedings, administrative proceedings, and negotiations with representatives from other states or the federal government. Whenever the board holds an executive session in conjunction with any regular or special meeting or maintains as confidential any information or records hereunder, the board shall make an affirmative finding in its public minutes that the holding of an open meeting or the disclosure of the information or records to the public would substantially impair the performance by the board of its statutory duties. At the end of the minutes of each meeting of the board shall appear the certificate of its executive secretary that the meeting was held in accordance with the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code and Sections 12516 and 12519 of the Water Code.

~~12525. The board shall elect from among its members, other than the Director of Water Resources or the Director of Fish and Game or their designees, a chairman who is ex officio the "Colorado River Commissioner." The chairman shall serve at the pleasure of the board.~~

~~12526. The commissioner shall serve without compensation, but he shall be reimbursed for traveling and other expenses actually and necessarily incurred in the performance of his duties.~~

~~12527. The commissioner shall perform the duties imposed upon him by this chapter under the direction of the board.~~

12528. The ~~commissioner shall consult and advise with the board in exercising the powers and performing the duties enumerated in this chapter and make such reports and recommendations as he~~ or she ~~deems proper or as the board requests, to the end that the rights and interests of the State, its agencies and citizens, in, to, and in respect of, the water of the Colorado River System and the use thereof may be properly safeguarded and protected.~~

~~12540. From a list of not less than two persons submitted to it by the commissioner, the board shall appoint an executive secretary, whose duties shall be such as are required of him by the commissioner and by the board.~~

~~12541. The board may fix the compensation of the executive secretary.~~