

AMENDED IN SENATE JUNE 26, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1756

Introduced by Committee on Budget (Oropeza (Chair), Bermudez, Chan, Chu, Diaz, Dutra, Dymally, Goldberg, Hancock, Jackson, Liu, Montanez, Nakano, Pavley, Reyes, Simitian, and Wolk)

March 11, 2003

An act ~~relating to the Budget Act of 2003~~ to amend Sections 5081, 5082, 5082.2, and 5131 of, and to repeal and add Section 5082.1 of, the Business and Professions Code, to amend Sections 1532, 1540, 1541, and 1542 of the Code of Civil Procedure, to amend Sections 12012.85, 13400, 13401, 13402, 13403, 13405, 13406, 14612, 15372.86, 17526, and 22825.01 of, to add Sections 12012.80, 12406, 13332.06, and 15312.5 to, to add Article 9.5 (commencing with Section 16428.1) to Chapter 2 of Part 2 of Division 4 of Title 2 of, to add and repeal Section 14612.2 of, and to repeal Sections 29145, 29550.4, and 43402 of, the Government Code, to amend Sections 25192, 25249.12, 50513, and 50710.1 of, and to add Section 53534 to, the Health and Safety Code, to amend Sections 62.5, 139.2, 3716, 3716.1, 3728, 4753.5, 4755, and 1777.5 of, to add Sections 4350 and 4355 to, to repeal Section 3729 of, to repeal the heading of Article 1 (commencing with Section 4351) of Chapter 10 of Part 1 of Division 4 of, and to repeal Article 3 (commencing with Section 4381) of Chapter 10 of Part 1 of Division 4 of, the Labor Code, to add Section 1033.2 to the Military and Veterans Code, to amend Sections 40433, 42873, 42885.5, and 71040 of the Public Resources Code, to amend Section 280 of, and to add Section 321.1 to, the Public Utilities Code, to amend Section 18409 of, and to add Sections 18621.9 and 19170 to, the Revenue and Taxation Code,

to add Section 104.19 to the Streets and Highways Code, and to amend Section 6 of Chapter 213 of the Statutes of 2000, relating to state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1756, as amended, Committee on Budget. ~~Budget Act of 2003~~
State government.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2003.~~

(1) Existing law provides for the licensing and regulation of accountants by the California Board of Accountancy. Existing law specifies certain requirements in order for persons to be admitted to the examination held by the board for a certified public accountant license, and requires the board to charge the applicant an examination fee.

This bill would authorize the board to require an applicant for a certified public accountant license to pass an examination conducted by a public or private organization as an alternative to a board-conducted examination. The bill would authorize the board to charge the applicant an application fee, and in the case of an examination conducted by a public or private organization, would authorize the board to require the applicant to pay the examination fee directly to that organization. The bill would enact other related provisions.

(2) Existing law, the Unclaimed Property Law, governs the disposition of unclaimed property, including the escheat of certain property to the state. These provisions set forth procedures whereby a person may file a claim to the property or to the net proceeds from its sale. These provisions also specify the procedures for transferring the property from the holder of the property to the state and for administering the property. The Controller administers property that has escheated to the state. Property may be transferred to the Controller by Federal Reserve Wire Transfer, as defined, only if prior approval is obtained from the Controller and the holder is unable to make payment by either of 2 specified means. The Controller is required to consider each claim to unclaimed property by any person, excluding another state, within 90 days after it is filed. In addition, a person aggrieved by a decision of the Controller, or as to whose claim the Controller has failed to make a decision within 90 days after the filing of the claim, may



commence an action to establish his or her claim within 90 days after the decision or 180 days from the filing of the claim if the Controller failed to make a decision. The Controller is required to consider the claim of another state to recover escheated property, as specified, within 90 days after the claim is presented. In addition, the Controller is generally prohibited from excluding, withholding, or deducting, service, handling, maintenance, or other charges or fees from the escheated property if the holder would not have excluded, withheld, or deducted those charges or fees if the property had been claimed by the owner prior to being reported or remitted to the Controller.

The Controller is also required to add interest at the rate of 5% or the bond equivalent rate of 13-week United States treasury bills, as specified, whichever is lower, to the amount of any claim paid the owner for the period the property was on deposit in the Unclaimed Property Fund.

This bill would delete the provision requiring prior approval of the Controller in order to make an electronic funds transfer by Federal Reserve Wire Transfer.

The bill would also require the Controller to consider each claim to unclaimed property by any person, excluding another state, within 180 days, rather than 90 days, after it is filed. The bill would authorize a person aggrieved by a decision of the Controller, or as to whose claim the Controller has failed to make a decision within 180 days, rather than 90 days, after the filing of the claim, to commence an action to establish his or her claim within 90 days after the decision, or within 270 days, rather than 180 days, from the filing of the claim if the Controller failed to make a decision. The bill would require the Controller to consider the claim of another state to recover escheated property, as specified, within 180 days, rather than 90 days, after it is presented. The bill would provide that these changes would apply to any claims for which the Controller has not made a decision by the earliest of July 1, 2003, or the effective date of the bill.

In addition, the bill would eliminate the requirement that the Controller pay interest on unclaimed property when it is returned to owners.

(3) Existing law authorizes the Department of Housing and Community Development to provide comprehensive technical assistance to tribal housing authorities, housing sponsors, and governmental agencies on reservations, rancherias, and on public domain to facilitate the planning and orderly development of suitable,



decent, safe, and sanitary housing for American Indians residing in these areas.

This bill would revise this provision to authorize the department to provide specified comprehensive technical assistance to California Indian tribes and Native American groups, tribal housing authorities, housing sponsors, and the above described governmental agencies to facilitate the orderly development and preservation of decent, safe, and affordable housing and the promotion of strong California Native American communities subject to the availability of funds.

(4) Existing law establishes the Indian Gaming Special Distribution Fund from which moneys are available, upon appropriation, for specified grants and regulatory costs related to gambling and any other purpose specified by law.

This bill would establish the California Indian Assistance Fund. Upon appropriation, moneys in the fund would be available to the department to provide the technical assistance described in (3) above.

This bill would provide for the annual transfer, after January 1, 2004, of up to \$1,000,000 from the Indian Gaming Special Distribution Fund to the California Indian Assistance Fund.

(5) Existing law authorizes the Controller to organize his or her office into divisions and, in conformity with the State Civil Service Act and the California Constitution, appoint deputy controllers, chiefs of divisions, and other subordinate officers and employees as necessary for the proper conduct of the office. The California Constitution provides that the state civil service includes every officer and employee of the state except as otherwise provided in the California Constitution. Among the officers and employees who may be exempted from state civil service in accordance with the California Constitution are officers elected by the people, a deputy and an employee selected by each elected officer, including the Controller, and state officers directly appointed by the Governor, with or without the consent or confirmation of the Senate.

This bill, in addition to a deputy and an employee selected by the Controller, would also exempt from the state civil service 3 deputies of the Controller's office, appointed by the Governor, with the recommendation of the Controller. The bill would provide that the appointments to these exempt positions shall not result in any net increase in the expenditures of the Controller.

(6) Existing law requires any state agency that collects funds from the federal government to include in the collections amounts to offset



federally allowed statewide indirect costs, as determined by the Department of Finance, except where prohibited by federal statutes. Existing law requires all funds recovered from the federal government to offset statewide indirect costs to be transferred to the unappropriated surplus of the General Fund in a manner prescribed by the department, unless expenditure of the funds is authorized by the department. To identify costs associated with those requirements, the department administratively annually prepares the Statewide Cost Allocation Plan.

This bill would exempt the California Coastal Commission from that plan.

(7) Existing law generally sets forth requirements for a system or systems of internal accounting and administrative controls by state agencies. The head of each agency that the Director of Finance determines is covered by these provisions is required to prepare and submit a report on the adequacy of the agency's systems of internal accounting and administrative controls by December 31 following the end of each odd-numbered fiscal year, and the director is required to forward copies of the reports to the Legislature, among others.

This bill would include within these requirements a system of information security controls by state agencies, subject to specified conditions. The bill would also require the report prepared by the head of each covered agency to be submitted by January 31, 2004, and by December 31 of every odd-numbered calendar year thereafter. It would delete the requirement that the director submit copies of the reports to the Legislature and instead require that they be submitted to the chair of the Joint Legislative Audit Committee. It would require the head of each agency the director determines is covered by these provisions to prepare and submit a report to the director on the adequacy of the agency's system of information security controls by January 31, 2004, and by December 31 of every odd-numbered calendar year thereafter, subject to specified conditions. It would also make technical, clarifying changes.

(8) Existing law authorizes the Department of General Services and the Director of General Services to perform specified activities for the purpose of achieving improved levels of performance. These provisions become inoperative on the effective date of the Budget Act of 2003, or June 30, 2003, whichever occurs later, and are repealed as of January 1, 2004.

This bill would delete the inoperative date and the repeal date of these provisions.



(9) Existing law specifies that no agency is required to use the Office of State Publishing for its printing needs, but that the Office of State Publishing may offer printing services to both state and other public agencies and agencies of the United States government. When soliciting bids for printing services from the private sector, state agencies are required to also solicit a bid from the Office of State Publishing when the project is anticipated to cost more than \$5,000. The Office of State Publishing is authorized to accept paid advertisements under specified conditions. These provisions become inoperative on the effective date of the Budget Act of 2003, or June 30, 2003, whichever occurs later, and are repealed as of January 1, 2004.

This bill would eliminate these provisions, but would, except for the authorization for the Office of State Publishing to accept paid advertisements, reenact these provisions. These provisions would become inoperative on the effective date of the Budget Act of 2004, or July 1, 2004, whichever is later, and would be repealed on January 1, 2005.

(10) Existing law requires the Technology, Trade, and Commerce Agency created by the Holmdahl-Rains-Lockyer Economic Development Act of 1977 to coordinate, among other things, federal, state, and local relationships in economic development and to assist state agencies, offices, and departments to implement state economic policy, and to administer various state economic programs.

This bill would provide that the functions and duties of the agency, notwithstanding any other provision of law, may be performed only to the extent that funding is available or is specifically appropriated for purposes of the performance of those duties.

(11) The California Tourism Marketing Act requires the Office of Tourism within the Technology, Trade, and Commerce Agency to establish, upon approval of an initial tourism industry referendum, a nonprofit mutual benefit corporation named the California Travel and Tourism Commission under the direction of a specified board of commissioners.

The act also prescribes certain duties of the commission, including preparing or causing to be prepared an annual marketing plan and providing assessed business with specified information.

The act also prescribes the powers of the Secretary of Technology, Trade, and Commerce relative to tourism, including collecting and depositing assessments, exercising police powers, exercising veto power over actions of the commission in specified circumstances, and



calling a referendum every 2 years to, among other things, elect new commissioners.

This bill would provide that these powers of the secretary and any others provided in the act, with the exception of police powers and exercising veto power over actions of the commission, when not exercised by the secretary, may be exercised by the commission.

(12) Existing law authorized the Department of Water Resources, until January 2, 2003, to enter into contracts for the purchase of electricity and to sell that electricity to retail end-use customers and, with specified exceptions, to local publicly owned electric utilities at not more than the department's acquisition costs. The department is authorized, for these purposes, to issue revenue bonds not to exceed a certain amount upon authorization by written determination of the department and with the approval of the Director of Finance and the Treasurer. Existing law establishes in the State Treasury the Department of Water Resources Electric Power Fund, the funds in which are continuously appropriated to the department. Existing law requires all revenues payable to the department under those electricity purchase provisions to be deposited in the department's Electric Power Fund.

Under existing law, there is established in the State Treasury the Litigation Deposits Fund, which is appropriated to, and under the control of, the Department of Justice. Existing law provides that the fund consists of all money received as litigation deposits where the State of California is a party to the litigation and no other state statutes provide for the handling and investing of the money and crediting interest accrued to the deposits.

This bill would establish the Ratepayer Relief Fund in the State Treasury to benefit electricity and natural gas ratepayers and to fund investigation and litigation costs of the state in pursuing allegations of overcharges and unfair business practices against generators, suppliers, or marketers of electricity or natural gas. The bill would require that any energy settlement agreement, as defined, entered into by the Attorney General, after reimbursing the Attorney General's litigation and investigation expenses, direct settlement funds to the following purposes in priority order: (1) to reduce ratepayer costs of those utility ratepayers harmed by the actions of the settling parties; and (2) for deposit in the fund. All funds recovered on behalf of the Department of Water Resources, after deduction of litigation and investigation expenses, would be required to be deposited in the department's continuously appropriated Electric Power Fund, thereby



making an appropriation. The bill would provide that moneys deposited in the Ratepayer Relief Fund may be appropriated for certain purposes for the benefit of ratepayers. The bill would require the Attorney General to promptly notify the Director of Finance, the Senate President pro Tempore and the Speaker of the Assembly upon agreeing on behalf of the state, to an energy settlement agreement, and would require the Attorney General to report semiannually to the appropriate policy and fiscal committees of the Legislature, and to the Director of Finance, on energy settlement agreements, litigation and investigation expenses, and funds expended.

(13) Existing law requires the Commission on State Mandates to meet at least once every month.

This bill would instead require the commission to meet once every 2 months.

(14) Until January 1, 2005, or earlier, as specified, the Rural Health Care Equity Program, as administered by the Department of Personnel Administration, provides subsidies and reimbursements for certain health care premiums and health care costs incurred by state employees and annuitants in rural areas in which there is no board-approved health maintenance organization plan available for enrollment. Existing law specifies that reimbursement to an annuitant may not exceed \$500 per year, or \$75 per month, if a Medicare participant.

This bill would provide that annuitants who become residents of another state on or after July 1, 2003, are not eligible to receive the specified benefits of this program. The bill would also provide that an annuitant who cannot be located within a specified time and whose disbursement is returned to the Controller as unclaimed is ineligible to participate in the program.

(15) The Vehicle License Fee (VLF) Law establishes, in lieu of any ad valorem property tax upon vehicles, an annual license fee for any vehicle subject to registration in this state in the amount of 2% of the market value of that vehicle, as specified.

Existing law requires the Controller, as specified, to reimburse local governments for losses resulting from the exclusion of specified commercial vehicles from the vehicle license fees imposed under the VLF Law.

This bill would, effective July 1, 2003, repeal the provisions providing reimbursement to local governments for the losses resulting from the exclusion of specified commercial vehicles from the fees imposed under the VLF Law.



(16) Existing law authorizes a county to impose, among other fees with respect to criminal justice services, a booking fee upon other local agencies and colleges and universities for county costs incurred in processing or booking persons arrested by employees of those entities and brought to county facilities for booking or detention. Existing law continuously appropriates up to \$50,000,000 annually from the General Fund to the Controller for allocation to cities and qualifying special districts for reimbursement for actual booking and processing costs paid to counties.

This bill would repeal this continuous appropriation provision.

(17) The existing Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) prohibits any person, in the course of doing business, from knowingly and intentionally exposing any individual to a chemical known to the state to cause cancer or reproductive toxicity without giving a specified warning, or from discharging or releasing such a chemical into any source of drinking water, except as specified. The act imposes civil penalties upon persons who violate those prohibitions, and provides for the enforcement of those prohibitions by the Attorney General, a district attorney, or specified city attorneys or prosecutors, and by any person in the public interest.

Under the Safe Drinking Water and Toxic Enforcement Act of 1986, 50% of the penalties collected pursuant to that act are required to be deposited in the Hazardous Substance Account, 25% are to be paid to the prosecuting office or the person who brought the action in the public interest, and 25% are required to be used to fund the activities of certain local health officers.

This bill would establish the Safe Drinking Water and Toxic Enforcement Fund in the State Treasury and would authorize the director of the lead agency, who is designated by the Governor to implement the act, to expend the funds in the Safe Drinking water and Toxic Enforcement Fund upon appropriation by the Legislature, to implement and administer the act.

The bill would require 75% of all civil and criminal penalties collected pursuant to the act be deposited in the fund and would also require any interest earned upon the money deposited into the fund be deposited in the fund. The bill would require 25% of all civil and criminal penalties collected pursuant to the act be paid to the prosecuting office or the person who brought the action in the public interest.



The bill, in conformance with the requirements of Proposition 65, would make a legislative finding and declaration that these changes would further the purposes of the act.

(18) Existing law authorizes the Department of Housing and Community Development to approve rents for specified migrant farm labor centers that are in excess of rents charged in other centers assisted by the Office of Migrant Services.

This bill would prohibit the department from increasing the rent during the 2003–04 fiscal year.

(19) The existing Housing and Emergency Shelter Trust Fund Act of 2002 provides for the allocation of funds from the sale of bonds to, among other programs, the Joe Serna, Jr. Farmworker Housing Grant Program and the CalHome Program.

This bill would require the Department of Housing and Community Development to disencumber funding commitments, and provide replacement funding under that bond act, for projects selected for funding through those programs where funds have not been disbursed, as specified, in order to return those moneys to the General Fund.

(20) Existing law provides that a disaster service worker duly registered by a disaster council while performing services under the general direction of the disaster council or a person impressed into performing service as a disaster service worker is entitled to all the same workers' compensations benefits as any other injured employee. Existing law provides that liability for the payment or furnishing of this compensation is dependent upon and limited to the availability of moneys specifically appropriated for that purpose.

This bill would require the Office of Emergency Services to administer workers' compensation benefits for volunteer disaster service workers.

Existing law requires the California Emergency Council and the State Compensation Insurance Fund to enter into an agreement requiring the state fund to adjust and dispose of claims and furnish compensation to disaster service workers and their dependents. Existing law contains related provisions.

This bill would delete these provisions.

(21) Existing law establishes the Workers' Compensation Administration Revolving Fund in the State Treasury, from which money may be expended by the Department of Industrial Relations, upon appropriation by the Legislature, for the administration of the workers' compensation program. Existing law requires that the costs of



the program be shared on a proportional basis with 80% of the funds derived from the General Fund and 20% derived from employer assessments.

This bill would instead require that the fund be supported 100% by employer assessments.

(22) Existing law establishes the Uninsured Employers Fund as a continuously appropriated fund in the State Treasury, from which payments are made to injured workers when their employer is illegally uninsured for workers' compensation purposes. Moneys on the fund are derived from General Fund appropriations and from penalties assessed against uninsured employers by the Director of Industrial Relations.

Existing law requires an employer, whenever any fatal injury is suffered by an employee that entitles the employee to compensation benefits but the employee leaves no surviving dependent or heir, to pay a sum to the department in an amount equal to the amount of the death benefit that would have been payable had the deceased employee had surviving dependents or heirs. These moneys are paid to the General Fund and are contained in the Subsequent Injuries Moneys Account from which payment is continuously appropriated, as specified, for purposes of providing additional benefits to employees who suffer an industrial injury that, in combination with a previously existing disability or impairment, creates a combined permanent disability rating of 70% or more.

This bill would change the name of this fund and account to the Uninsured Employers Benefits Trust Fund and the Subsequent Injuries Benefits Trust Fund, respectively, and would impose a trust on moneys in these funds to be used only to pay the nonadministrative expenses of the worker's compensation program in connection with their respective purposes. The bill would require that the administrative expenses of administering both of these funds be paid by the Workers' Compensation Administration Revolving Fund. It would impose additional assessments on employers to be deposited in these continuously appropriated funds, thereby making an appropriation.

(23) Existing law requires that expenses incident to representation of the Director of Industrial Relations and the state by the Attorney General or attorneys of the Department of Industrial Relations before certain tribunals and administrative costs associated with investigative and claims' adjustment services concerning uninsured employers injury cases be reimbursed from the Uninsured Employers Fund.



This bill instead would make those expenses and costs payable from the Workers' Compensation Administration Revolving Fund. The bill would require the director to assign claims adjustment services and legal representation services respecting matters concerning subsequent injuries in accordance with specified procedures and would also make administrative costs incurred by this requirement payable from the Workers' Compensation Administration Revolving Fund. It would require the State Compensation Insurance Fund and the director, commencing November 1, 2004, to report annually to the fiscal committees of both houses of the Legislature and the Director of Finance regarding specified information relating to uninsured employers and subsequent injuries claims and costs.

(24) Existing law requires the Director of Industrial Relations to report to the Governor and the Legislature, not later than January 1 of each year, the amount necessary to maintain the solvency of the Uninsured Employers Fund.

This bill would delete this requirement.

(25) Existing law establishes the Industrial Medicine Fund, created for the administration of the Industrial Medical Council, from fees imposed on each qualified workers' compensation qualified medical evaluator in connection with the evaluator's appointment or reappointment as a qualified medical evaluator. Existing law prohibits funds provided to the council from the Industrial Medicine Fund from supplanting any funds appropriated to the council from the Workers' Compensation Administration Revolving Fund, the General Fund, or any other governmental source.

This bill would delete this prohibition and would make conforming changes.

(26) Existing law provides that a contractor to whom a public works contract is awarded, who, in performing any of the work under the contract employs journeymen or apprentices in any apprenticeable craft or trade, shall contribute to the California Apprenticeship Council the same amount that the Director of Industrial Relations determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. Existing law requires that all contributions received be deposited in the Apprenticeship Training Contribution Fund, a continuously appropriated fund, and requires the council, at the conclusion of the 2003–04 fiscal year and each fiscal year thereafter, to distribute these funds, less administrative expenses, by making grants to approved apprenticeship programs for the purpose of training



apprentices. Money in the fund is also available for the expenses of the Division of Apprenticeship Standards.

This bill instead would require the council to commence distribution of the contributions by making grants as described above at the conclusion of the 2002–03 fiscal year. By extending the time period that continuously appropriated funds are available for distribution for this purpose, this bill would make an appropriation.

(27) Existing law provides for the establishment and operation of the various veterans' homes in California for aged and disabled veterans who are eligible for hospitalization or domiciliary care in a veterans' facility in accordance with the rules and regulations of the United States Department of Veterans Affairs, and who are bona fide residents of this state at the time of application. Under existing state and federal law, a veterans' home is entitled to reimbursement for Medi-Cal and Medicare services it provides to its residents.

This bill would, if the amount collected for those reimbursements for services provided in any fiscal year by a veterans' home exceeds the budgeted reimbursements for that home, require that the additional funds collected by the home be used to repay any unpaid General Fund loans provided in prior fiscal years for the operation of that home.

(28) Existing law, the California Integrated Waste Management Act of 1989, establishes an integrated solid waste management program that is administered by the California Integrated Waste Management Board. Existing law requires the Governor to appoint one advisor for each member of the board upon the recommendation of the board member.

This bill would provide that the advisor serving the chairperson of the board is to be known as the principal advisor. The bill would prohibit an appointed advisor from selecting an additional deputy or employee. The bill would prohibit the board from expending any funds to pay for the salary of a deputy or employee of an advisor.

(29) The existing California Tire Recycling Act requires the California Integrated Waste Management Board to administer a tire recycling program that promotes and develops alternatives to the landfill disposal of used whole tires. The board is authorized to implement various grant, subsidy, and loan programs to encourage the recycling of waste tires. The board is required to adopt and biennially update a 5-year plan to establish goals and priorities for the waste tire program, including specified program elements. The budget for



implementation of the act and the funding of the tire recycling program are based upon the 5-year plan.

This bill would prohibit the board from expending funds for an activity that provides support or research for the incineration of tires, as described, and would provide a similar prohibition as to the inclusion of the incineration of tires in the 5-year plan updates. The bill would delete related obsolete language.

(30) Existing law requires a business or entity to obtain various environmental permits prior to undertaking any project that may have an impact on the environment.

Existing law requires the Secretary for Environmental Protection to establish permit assistance centers throughout the state to provide businesses and other entities with assistance in complying with the laws and regulations implemented by the boards, departments, and offices within the agency. Existing law also requires the secretary to establish an electronic online permit assistance center and to report annually on the number of permits issued or handled by each center.

This bill would delete the requirements that the Secretary for Environmental Protection establish permit assistance centers throughout the state and report annually on the number of permits issued or handled by each center.

(31) Existing law establishes the California Teleconnect Fund Administrative Committee as an advisory board to advise the Public Utilities Commission regarding the development, implementation, and administration of a program to advance universal service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations. Existing law requires all revenues collected by telephone corporations in rates authorized by the commission to fund this universal service program to be submitted to the commission pursuant to a schedule established by the commission and requires the commission to transfer the moneys received to the Controller for deposit in the California Teleconnect Fund Administrative Committee Fund for use by the commission exclusively for this universal service program.

This bill would provide that moneys loaned from the California Teleconnect Fund Administrative Committee Fund in the Budget Act of 2003 are subject to provisions governing the loan and repayment of moneys loaned from one state fund to another to address the 2003–04 fiscal year budgetary shortfall. The bill would prohibit the commission from increasing the rates authorized by the commission to fund the



universal service program for schools, libraries, hospitals, health clinics, and community organizations while moneys loaned from the California Teleconnect Fund Administrative Committee Fund in the Budget Act of 2003 are outstanding unless certain conditions are satisfied. The bill would make these provisions inoperative upon full repayment or discharge of all moneys loaned from the California Teleconnect Fund Administrative Committee Fund in the Budget Act of 2003.

(32) Under existing law, the Public Utilities Commission has regulatory authority over public utilities and authorizes the commission to establish rules and to fix just and reasonable rates and charges for public utilities.

This bill would state the intent of the Legislature that the commission assess the economic effects or consequences of its decisions as part of each ratemaking, rulemaking, or other proceeding, and that this assessment is to be accomplished using existing resources and within existing structures. The bill would prohibit the commission from establishing a separate office or department for the purpose of evaluating economic development consequences of commission activities.

(33) Under existing law, California personal income tax returns may be filed electronically.

This bill would require all individual income tax returns prepared by specified income tax preparers that, during the prior calendar year, prepared more than 100 personal income tax forms, to be electronically filed in the subsequent calendar year, and each calendar year thereafter. This bill would impose a penalty on a subject income tax preparer in the amount of \$50 for each personal income tax return that is not electronically filed, as provided.

(34) Existing law provides that the Department of Transportation shall have full possession and control of all state highways and all associated property and rights in property acquired for state highway purposes. Existing law authorizes the department to lease certain properties for various community service purposes.

This bill would require the department to extend, until June 30, 2028, at the existing rent, a lease for certain excess property owned by the department in an unincorporated area of Los Angeles County that is to expire on June 30, 2005.

(35) Existing law appropriates \$5,000,000 to the California Commission on Improving Life Through Service, on an annual basis, for



the purpose of funding grants to local and state operated Americorps and Conservation Corps programs.

This bill would instead specify that this appropriation is to the Governor’s Office on Service and Volunteerism, and would suspend the appropriation from July 1, 2003, to June 30, 2006, inclusive.

(36) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~ ^{2/3}. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

1 ~~SECTION 1. It is the intent of the Legislature to enact~~
2 ~~statutory changes relating to the Budget Act of 2003.~~

3 *SECTION 1. Section 5081 of the Business and Professions*
4 *Code is amended to read:*

5 5081. An applicant for ~~admission~~ *an authorization to be*
6 *admitted* to the examination for a certified public accountant
7 license shall:

8 (a) Not have committed acts or crimes constituting grounds for
9 denial of a license under Section 480.

10 (b) File the application ~~for the examination~~ *prescribed by the*
11 *board.* ~~An~~ *This application for the examination* shall not be
12 considered filed unless all required supporting documents, fees,
13 and the fully completed board-approved application form are
14 received in the board office or filed by mail in accordance with
15 Section 11003 of the Government Code on or before the specified
16 final filing date.

17 (c) Meet one of the educational requirements specified in this
18 article.

19 *SEC. 2. Section 5082 of the Business and Professions Code is*
20 *amended to read:*

21 5082. An applicant for a certified public accountant license
22 shall have successfully passed examinations in subjects the board
23 deems appropriate, *and in the form and manner the board deems*
24 *appropriate. The board may, by regulation, prescribe the methods*
25 *for applying for and conducting the examination, including*
26 *methods for grading and determining a passing grade.*

27 *SEC. 3. Section 5082.1 of the Business and Professions Code*
28 *is repealed.*



1 ~~5082.1. All examinations provided for herein shall be held by~~
2 ~~the board at places circumstances may warrant, and as often as may~~
3 ~~be necessary in the opinion of the board. The board may contract~~
4 ~~with any organization, governmental or private, for examination~~
5 ~~material or services. Within 90 days after the examination the~~
6 ~~board shall notify each candidate of his or her score. All~~
7 ~~examination records shall be preserved for a period of at least six~~
8 ~~months after the notification of scoring and any candidate shall~~
9 ~~upon request to the board have access to his or her records.~~

10 *SEC. 4. Section 5082.1 is added to the Business and*
11 *Professions Code, to read:*

12 *5082.1. (a) The examination required by the board for the*
13 *granting of a license as a certified public accountant may be*
14 *conducted by the board or by a public or private organization*
15 *specified by the board. The examination may be conducted under*
16 *a uniform examination system.*

17 *(b) The board may make arrangements with public or private*
18 *organizations for the conduct of the examination, as deemed*
19 *necessary by the board. The board may contract with a public or*
20 *private organization for materials or services related to the*
21 *examination.*

22 *SEC. 5. Section 5082.2 of the Business and Professions Code*
23 *is amended to read:*

24 *5082.2. For candidates seeking to be reexamined pursuant to*
25 *subdivision (b) of Section 5090, a candidate who fails an*
26 *examination provided for ~~herein~~ in this article shall have the right*
27 *to any number of reexaminations at subsequent examinations ~~held~~*
28 *by the board. A candidate who passes an examination in two or*
29 *more subjects shall have the right to be reexamined in the*
30 *remaining subject or subjects only, at subsequent examinations*
31 *~~held by the board~~, and if he or she passes in the remaining subject*
32 *or subjects within a period of time specified in the rules of the*
33 *board, he or she shall be considered to have passed the*
34 *examination.*

35 *This section shall remain in effect only until January 1, 2006,*
36 *and as of that date is repealed, unless a later enacted statute, that*
37 *is enacted before January 1, 2006, deletes or extends that date.*

38 *SEC. 6. Section 5131 of the Business and Professions Code is*
39 *amended to read:*



1 5131. (a) The board ~~shall~~ may charge and collect an
2 application fee and an examination fee from each applicant. The
3 ~~fee applicable fees~~ shall accompany the application which ~~must~~
4 shall be made on a form provided by the board.

5 (b) Notwithstanding any other provision of this chapter, the
6 board may authorize an organization specified by the board
7 pursuant to Section 5082.1 to receive directly from applicants
8 payment of the examination fees charged by that organization as
9 payment for examination materials and services.

10 SEC. 7. Section 1532 of the Code of Civil Procedure is
11 amended to read:

12 1532. (a) Every person filing a report as provided by Section
13 1530 shall pay or deliver to the Controller all escheated property
14 specified in the report at the same time the report is filed. On and
15 after January 1, 1997, a payment of unclaimed cash in an amount
16 of at least twenty thousand dollars (\$20,000) shall be made by
17 electronic funds transfer pursuant to regulations adopted by the
18 Controller.

19 (b) The holder of any interest under subdivision (b) of Section
20 1516 shall deliver a duplicate certificate to the Controller. Upon
21 delivery of a duplicate certificate to the Controller, the holder and
22 any transfer agent, registrar or other person acting for or on behalf
23 of the holder in executing or delivering the duplicate certificate
24 shall be relieved from all liability of every kind to any person
25 including, but not limited to, any person acquiring the original
26 certificate or the duplicate of the certificate issued to the Controller
27 for any losses or damages resulting to that person by the issuance
28 and delivery to the Controller of such duplicate certificate.

29 (c) Payment of any intangible property to the Controller shall
30 be made at the office of the Controller in Sacramento or at such
31 other location as the Controller by regulation may designate.
32 Except as otherwise agreed by the Controller and the holder,
33 tangible personal property shall be delivered to the Controller at
34 the place where it is held.

35 (d) Payment is deemed complete on the date the electronic
36 funds transfer is initiated if the settlement to the state's demand
37 account occurs on or before the banking day following the date the
38 transfer is initiated. If the settlement to the state's demand account
39 does not occur on or before the banking day following the date the



1 transfer is initiated, payment is deemed to occur on the date
2 settlement occurs.

3 (e) Any person required to pay cash by electronic funds transfer
4 who makes the payment by means other than an authorized
5 electronic funds transfer shall be liable for a civil penalty of 2
6 percent of the amount of the payment that is due pursuant to this
7 section, in addition to any other penalty provided by law. Penalties
8 are due at the time of payment. If the Controller finds that a
9 holder's failure to make payment by an appropriate electronic
10 funds transfer in accordance with the Controller's procedures is
11 due to reasonable cause and circumstances beyond the holder's
12 control, and occurred notwithstanding the exercise of ordinary
13 care and in the absence of willful neglect, that holder shall be
14 relieved of the penalties.

15 (f) An electronic funds transfer shall be accomplished by an
16 automated clearinghouse debit, an automated clearinghouse
17 credit, a Federal Reserve Wire Transfer (Fedwire), or by an
18 international funds transfer. Banking costs incurred for the
19 automated clearinghouse debit transaction by the holder shall be
20 paid by the state. Banking costs incurred by the state for the
21 automated clearinghouse credit transaction may be paid by the
22 holder originating the credit. Banking costs incurred for the
23 Fedwire transaction charged to the holder and the state shall be
24 paid by the person originating the transaction. Banking costs
25 charged to the holder and to the state for an international funds
26 transfer may be charged to the holder.

27 (g) For purposes of this section:

28 (1) "Electronic funds transfer" means any transfer of funds,
29 other than a transaction originated by check, draft, or similar paper
30 instrument, that is initiated through an electronic terminal,
31 telephonic instrument, modem, computer, or magnetic tape, so as
32 to order, instruct, or authorize a financial institution to credit or
33 debit an account.

34 (2) "Automated clearinghouse" means any federal reserve
35 bank, or an organization established by agreement with the
36 National Automated Clearing House Association, that operates as
37 a clearinghouse for transmitting or receiving entries between
38 banks or bank accounts and that authorizes an electronic transfer
39 of funds between those banks or bank accounts.



1 (3) “Automated clearinghouse debit” means a transaction in
2 which the state, through its designated depository bank, originates
3 an automated clearinghouse transaction debiting the holder’s bank
4 account and crediting the state’s bank account for the amount of
5 payment.

6 (4) “Automated clearinghouse credit” means an automated
7 clearinghouse transaction in which the holder, through its own
8 bank, originates an entry crediting the state’s bank account and
9 debiting the holder’s bank account.

10 (5) “Fedwire” means any transaction originated by the holder
11 and utilizing the national electronic payment system to transfer
12 funds through federal reserve banks, pursuant to which the holder
13 debits its own bank account and credits the state’s bank account.
14 ~~Electronic funds transfer may be made by Fedwire only if prior~~
15 ~~approval is obtained from the Controller and the holder is unable,~~
16 ~~for reasonable cause, to make payment pursuant to paragraph (2)~~
17 ~~or (3).~~

18 (6) “International funds transfer” means any transaction
19 originated by the holder and utilizing the international electronic
20 payment system to transfer funds, pursuant to which the holder
21 debits its own bank account, and credits the funds to a United
22 States bank that credits the Unclaimed Property Fund.

23 *SEC. 8. Section 1540 of the Code of Civil Procedure is*
24 *amended to read:*

25 1540. (a) Any person, excluding another state, who claims an
26 interest in property paid or delivered to the Controller under this
27 chapter may file a claim to the property or to the net proceeds from
28 its sale. The claim shall be on a form prescribed by the Controller
29 and shall be verified by the claimant.

30 (b) The Controller shall consider each claim within ~~90~~ 180
31 days after it is filed and may hold a hearing and receive evidence.
32 The Controller shall give written notice to the claimant if he or she
33 denies the claim in whole or in part. The notice may be given by
34 mailing it to the address, if any, stated in the claim as the address
35 to which notices are to be sent. If no address is stated in the claim,
36 the notice may be mailed to the address, if any, of the claimant as
37 stated in the claim. No notice of denial need be given if the claim
38 fails to state either an address to which notices are to be sent or an
39 address of the claimant.



1 ~~(c) The Controller shall add interest at the rate of 5 percent or~~
2 ~~the bond equivalent rate of 13-week United States Treasury bills,~~
3 ~~whichever is lower, to the amount of any claim paid the owner~~
4 ~~under this section for the period the property was on deposit in the~~
5 ~~Unclaimed Property Fund. No interest shall be payable for any~~
6 ~~period prior to January 1, 1977 on any claim paid under this~~
7 ~~chapter. Any interest required to be paid by the state pursuant to~~
8 ~~this section shall be computed as simple interest, not compound~~
9 ~~interest. For purposes of this section, the bond equivalent rate of~~
10 ~~13-week United States Treasury bills shall be defined in~~
11 ~~accordance with the following criteria:~~

12 ~~(1) The bond equivalent rate of 13-week United States~~
13 ~~Treasury bills established at the first auction held during the month~~
14 ~~of January shall apply for the following July 1 to December 31,~~
15 ~~inclusive.~~

16 ~~(2) The bond equivalent rate of 13-week United States~~
17 ~~Treasury bills established at the first auction held during the month~~
18 ~~of July shall apply for the following January 1 to June 30,~~
19 ~~inclusive.~~

20 ~~(d) Any holder who pays to the owner, property that has~~
21 ~~escheated to the state and that, if claimed from the Controller,~~
22 ~~would be subject to subdivision (c) may add interest as provided~~
23 ~~in subdivision (c). This added interest shall be repaid to the holder~~
24 ~~by the Controller in the same manner as the principal.~~

25 ~~(e)–~~

26 ~~(d) For the purposes of this section, “owner” means the person~~
27 ~~who had legal right to the property prior to its escheat, his or her~~
28 ~~heirs, or his or her legal representative.~~

29 ~~(f)–~~

30 ~~(e) Following a public hearing, the Controller shall adopt~~
31 ~~guidelines and forms that shall provide specific instructions to~~
32 ~~assist owners in filing claims pursuant to this article.~~

33 ~~SEC. 9. Section 1541 of the Code of Civil Procedure is~~
34 ~~amended to read:~~

35 1541. Any person aggrieved by a decision of the ~~State~~
36 ~~Controller or as to whose claim the Controller has failed to make~~
37 ~~a decision within 90-180 days after the filing of the claim, may~~
38 ~~commence an action, naming the State Controller as a defendant,~~
39 ~~to establish his or her claim in the superior court in any county or~~
40 ~~city and county in which the Attorney General has an office. The~~



1 action shall be brought within 90 days after the decision of the
2 State Controller or within ~~180-270~~ days from the filing of the claim
3 if the State Controller fails to make a decision. The summons and
4 a copy of the complaint shall be served upon the State Controller
5 and the Attorney General and the ~~State~~ Controller shall have 60
6 days within which to respond by answer. The action shall be tried
7 without a jury.

8 *SEC. 10. Section 1542 of the Code of Civil Procedure is*
9 *amended to read:*

10 1542. (a) At any time after property has been paid or
11 delivered to the State Controller under this chapter, another state
12 is entitled to recover the property if:

13 (1) The property escheated to this state under subdivision (b)
14 of Section 1510 because no address of the apparent owner of the
15 property appeared on the records of the holder when the property
16 was escheated under this chapter, the last known address of the
17 apparent owner was in fact in such other state, and, under the laws
18 of that state, the property escheated to that state;.

19 (2) The last known address of the apparent owner of the
20 property appearing on the records of the holder is in such other
21 state and, under the laws of that state, the property has escheated
22 to that state;.

23 (3) The property is the sum payable on a travelers check,
24 money order, or other similar instrument that escheated to this state
25 under Section 1511, the travelers check, money order, or other
26 similar instrument was in fact purchased in such other state, and,
27 under the laws of that state, the property escheated to that state; ~~or~~.

28 (4) The property is funds held or owing by a life insurance
29 corporation that escheated to this state by application of the
30 presumption provided by subdivision (b) of Section 1515, the last
31 known address of the person entitled to the funds was in fact in
32 such other state, and, under the laws of that state, the property
33 escheated to that state.

34 (b) The claim of another state to recover escheated property
35 under this section shall be presented in writing to the State
36 Controller, who shall consider the claim within ~~90-180~~ days after
37 it is presented. He may hold a hearing and receive evidence. He
38 shall allow the claim if he determines that the other state is entitled
39 to the escheated property.



1 (c) Paragraphs (1) and (2) of subdivision (a) do not apply to
2 property described in paragraph (3) or (4) of that subdivision.

3 SEC. 11. Section 12012.80 is added to the Government Code,
4 to read:

5 *12012.80. The Legislature finds and declares all of the*
6 *following:*

7 (a) *Revenues derived from Indian gaming are expected to*
8 *provide significant resources both to gaming and nongaming*
9 *tribes. However, many tribes are in need of technical assistance to*
10 *ensure the most effective use of those funds toward serving the*
11 *housing, infrastructure, and economic development of these tribes.*

12 (b) *California's state assistance to Native Americans is*
13 *fragmented and uncoordinated. Since 1971, the Department of*
14 *Housing and Community Development has operated the*
15 *California Indian Assistance Program which has served as the*
16 *lead agency in offering technical and local assistance to tribes,*
17 *assisting in areas that include, but are not limited to, economic*
18 *development and construction/infrastructure development. Due to*
19 *recessionary cutbacks, resources available to the Department of*
20 *Housing and Community Development to perform these functions*
21 *have been significantly reduced since 1975.*

22 (c) *Paragraph 5.0 of the Tribal State Gaming Compact*
23 *executed between the gaming tribes and the state provides for a*
24 *share of gaming revenues to be distributed to the state. Paragraph*
25 *5.2(e) permits the Legislature to allocate funds for any purpose it*
26 *deems appropriate for the purposes of addressing the effects of*
27 *Indian gaming.*

28 (d) *The uses of funds, as specified in Section 50513 of the*
29 *Health and Safety Code, are directly related to addressing the*
30 *needs of the Native American communities, ameliorating the direct*
31 *effects of Native American gaming, and ensuring that revenues*
32 *derived from gaming and distributed to Indian communities is used*
33 *to achieve the greatest beneficial impact on Indian communities.*
34 *It is the intent that funds transferred to the department pursuant to*
35 *Section 12012.85 be used to reduce the jobs-housing imbalances*
36 *caused by the operations of Indian gaming facilities on the*
37 *surrounding communities, to ensure the long-term economic*
38 *viability of Indian communities, and to serve the cultural and*
39 *community development needs of Native American Indian tribes.*

1 SEC. 12. Section 12012.85 of the Government Code is
2 amended to read:

3 12012.85. There is hereby created in the State Treasury a fund
4 called the “Indian Gaming Special Distribution Fund” for the
5 receipt and deposit of moneys received by the state from Indian
6 tribes pursuant to the terms of tribal-state gaming compacts. These
7 moneys shall be available for appropriation by the Legislature for
8 the following purposes:

9 (a) Grants, including any administrative costs, for programs
10 designed to address gambling addiction.

11 (b) Grants, including any administrative costs, for the support
12 of state and local government agencies impacted by tribal
13 government gaming.

14 (c) Compensation for regulatory costs incurred by the State
15 Gaming Agency and the Department of Justice in connection with
16 the implementation and administration of tribal-state gaming
17 compacts.

18 (d) Disbursements for the purpose of implementing the terms
19 of tribal labor relations ordinances promulgated in accordance
20 with the terms of tribal-state gaming compacts ratified pursuant to
21 Chapter 874 of the Statutes of 1999. No more than 10 percent of
22 the funds appropriated in the Budget Act of 2000 for
23 implementation of tribal labor relations ordinances promulgated
24 in accordance with those compacts shall be expended in the
25 selection of the Tribal Labor Panel. The Department of Personnel
26 Administration shall consult with and seek input from the parties
27 prior to any expenditure for purposes of selecting the Tribal Labor
28 Panel. Other than the cost of selecting the Tribal Labor Panel, there
29 shall be no further disbursements until the Tribal Labor Panel,
30 which is selected by mutual agreement of the parties, is in place.

31 (e) *Subject to the availability of funds, after January 1, 2004,*
32 *up to one million dollars (\$1,000,000) of the funds deposited in the*
33 *Indian Gaming Special Distribution Fund shall be transferred,*
34 *annually, to the California Indian Assistance Fund and used for*
35 *the purposes specified in Section 50513 of the Health and Safety*
36 *Code that are directly related to providing technical assistance or*
37 *seed money to ensure the most effective use of Indian gaming*
38 *revenues toward serving the housing, infrastructure, cultural, and*
39 *economic development of these tribes.*

40 (f) Any other purpose specified by law.



1 SEC. 13. Section 12406 is added to the Government Code, to
2 read:

3 12406. In addition to the positions authorized by subdivision
4 (c) of Section 4 of Article VII of the California Constitution for the
5 Controller, the Governor, with the recommendation of the
6 Controller, shall appoint three deputies of the Controller's office
7 who shall be exempt from state civil service. Appointments to these
8 exempt positions shall not result in any net increase in the
9 expenditures of the Controller.

10 SEC. 14. Section 13332.06 is added to the Government Code,
11 to read:

12 13332.06. The California Coastal Commission, without
13 regard to fiscal year, shall not be subject to the Statewide Cost
14 Allocation Plan for statewide indirect costs established pursuant
15 to Sections 13332.01 and 13332.02.

16 SEC. 15. Section 13400 of the Government Code is amended
17 to read:

18 13400. This ~~act~~ chapter shall be known and may be cited as
19 the Financial Integrity and State Manager's Accountability Act of
20 1983.

21 SEC. 16. Section 13401 of the Government Code is amended
22 to read:

23 13401. (a) The Legislature hereby finds ~~that~~ as follows:

24 (1) Fraud and errors in state programs are more likely to occur
25 from a lack of effective systems of internal accounting ~~and~~
26 ~~controls~~, administrative ~~control~~ ~~controls~~, and information
27 security controls in the state agencies.

28 (2) Effective systems of internal accounting ~~and~~ ~~controls~~,
29 administrative ~~control~~ ~~controls~~, and information security controls
30 provide the basic foundation upon which a structure of public
31 accountability must be built.

32 (3) Effective systems of internal accounting ~~and~~ ~~controls~~,
33 administrative ~~control~~ ~~controls~~, and information security controls
34 are necessary to ~~assure~~ ~~ensure~~ that state assets and funds are
35 adequately safeguarded, as well as to produce reliable financial
36 information for the agency.

37 (4) Systems of internal accounting ~~and~~ ~~controls~~,
38 administrative ~~control~~ ~~controls~~, and information security controls
39 are necessarily dynamic and must be continuously evaluated and,
40 where necessary, improved.



1 (5) Reports regarding the adequacy of the systems of internal
 2 accounting ~~and controls~~, administrative ~~control controls~~, and
 3 information security controls of each state agency are necessary to
 4 enable the executive branch, the Legislature, and the public to
 5 evaluate the agency’s performance of its public responsibilities
 6 and accountability.

7 (b) The Legislature declares ~~it the following~~ to be the policy of
 8 the ~~State of California that state~~:

9 (1) Each state agency ~~must shall~~ maintain effective systems of
 10 internal accounting ~~and controls~~, administrative ~~control controls~~,
 11 and information security controls as an integral part of its
 12 management practices.

13 (2) The systems of internal accounting ~~and controls~~,
 14 administrative ~~control controls~~, and information security controls
 15 of each state agency shall be evaluated on an ongoing basis and,
 16 when detected, weaknesses ~~must shall~~ be promptly corrected.

17 (3) All levels of management of the state agencies ~~must shall~~
 18 be involved in assessing and strengthening the systems of internal
 19 accounting ~~and controls~~, administrative ~~control controls~~, and
 20 information security controls to minimize fraud, errors, abuse, and
 21 waste of government funds.

22 SEC. 17. Section 13402 of the Government Code is amended
 23 to read:

24 13402. State agency heads are responsible for the
 25 establishment and maintenance of a system or systems of internal
 26 accounting ~~and controls~~, administrative ~~control controls~~, and
 27 information security controls within their agencies. This
 28 responsibility includes documenting the system, communicating
 29 system requirements to employees, and ~~assuring ensuring~~ that the
 30 system is functioning as prescribed and is modified, as
 31 appropriate, for changes in conditions.

32 SEC. 18. Section 13403 of the Government Code is amended
 33 to read:

34 13403. (a) ~~Internal~~—Systems of internal accounting ~~and~~
 35 controls, administrative controls, and information security
 36 controls are the methods through which reasonable assurances can
 37 be given that measures adopted by state agency heads to safeguard
 38 assets, check the accuracy and reliability of accounting and other
 39 data, promote operational efficiency, and encourage adherence to
 40 prescribed managerial policies are being followed. The elements



1 of a satisfactory system of internal accounting ~~and controls,~~
2 administrative ~~control,~~ *controls, or information security controls,*
3 shall include, but are not limited to, *all of the following:*

4 (1) A plan of organization that provides segregation of duties
5 appropriate for proper safeguarding of state agency assets.

6 (2) A plan that limits access to state agency assets to authorized
7 personnel who require these assets in the performance of their
8 assigned duties.

9 (3) A system of authorization and recordkeeping procedures
10 adequate to provide effective accounting control over assets,
11 liabilities, revenues, and expenditures.

12 (4) An established system of practices to be followed in
13 performance of duties and functions in each of the state agencies.

14 (5) Personnel of a quality commensurate with their
15 responsibilities.

16 (6) An effective system of internal review.

17 (7) *Information security risk management policies,*
18 *procedures, and practices that ensure the reliability of information*
19 *systems and the protection of information assets.*

20 (b) State agency heads shall follow these standards of internal
21 accounting ~~and controls,~~ administrative ~~control~~ *controls, and*
22 *information security controls* in carrying out the requirements of
23 Section 13402.

24 *SEC. 19. Section 13405 of the Government Code is amended*
25 *to read:*

26 13405. (a) To ensure that the requirements of this ~~section~~
27 *chapter* are fully complied with, the head of each agency ~~which~~
28 *that* the director determines is covered by this ~~section~~ *chapter*
29 shall prepare and submit a report on the adequacy of the agency's
30 systems of internal accounting *controls* and administrative ~~control~~
31 *controls* by ~~December 31, 1983, and by December 31 following~~
32 ~~the end of each odd-numbered fiscal year thereafter~~ *January 31,*
33 *2004, and December 31 of every odd-numbered calendar year*
34 *thereafter.*

35 (b) The report, including the state agency's response to report
36 recommendations, shall be signed by the head of the agency and
37 addressed to the agency secretary or the director ~~of finance~~ for
38 agencies without an agency secretary. Copies of the reports shall
39 be forwarded to the ~~Legislature~~ *chair of the Joint Legislative Audit*
40 *Committee, the State Auditor-General, the Governor, and the*



1 ~~Director of Finance~~ *director*. Copies of these reports shall also be
 2 forwarded to the State Library where they shall be available for
 3 public inspection.

4 ~~(e) By January 1, 1983, the director, in consultation with the~~
 5 ~~Auditor General and the Controller, shall establish a system of~~
 6 ~~reporting and a general framework to guide the agencies in~~
 7 ~~performing evaluations on their systems of internal accounting~~
 8 ~~and administrative control. The director, in consultation with the~~
 9 ~~Auditor General and the Controller, may modify the format for the~~
 10 ~~report or the framework for conducting the evaluations from time~~
 11 ~~to time as deemed necessary.~~

12 ~~(d) Any~~

13 ~~(c) Any~~ material inadequacy or material weakness in an
 14 agency's systems of internal accounting ~~and controls and~~
 15 ~~administrative control which controls that~~ prevents the head of the
 16 agency from stating that the agency's systems of internal
 17 accounting ~~and controls and administrative control controls~~
 18 provided reasonable assurances that each of the objectives
 19 specified above was achieved, shall be identified and the plans and
 20 schedule for correcting any such inadequacy described in detail.

21 ~~(d) To ensure that the requirements of this chapter are fully~~
 22 ~~complied with, the head of each agency that the director~~
 23 ~~determines is covered by this chapter shall prepare and submit a~~
 24 ~~report to the director on the adequacy of the agency's system of~~
 25 ~~information security controls by January 31, 2004, and by~~
 26 ~~December 31 of every odd-numbered calendar year thereafter. Any~~
 27 ~~material inadequacy or material weakness in an agency's system~~
 28 ~~of information security controls that prevents the head of the~~
 29 ~~agency from stating that the agency's system of information~~
 30 ~~security controls provided reasonable assurances that each of the~~
 31 ~~objectives specified above was achieved, shall be identified and~~
 32 ~~the plans and schedule for correcting any inadequacy described in~~
 33 ~~detail. The confidentiality of the information submitted to the~~
 34 ~~director pursuant to this subdivision shall be maintained and the~~
 35 ~~information shall not be disclosed to the public.~~

36 *SEC. 20. Section 13406 of the Government Code is amended*
 37 *to read:*

38 13406. (a) The head of the internal audit staff of a state
 39 agency or a division, as specified by the director, or, ~~in the event~~
 40 ~~if~~ there is no internal audit function, a professional accountant, if



1 available on the staff, designated as the internal control person by
2 the head of the state agency or a division, shall receive and
3 investigate any allegation that an employee of the agency provided
4 false or misleading information in connection with the evaluation
5 of the agency's systems of internal accounting ~~and controls,~~
6 administrative ~~control controls,~~ and information security controls
7 or in connection with the preparation of the ~~annual~~ biennial report
8 on the systems of internal accounting ~~and controls,~~ administrative
9 ~~control controls,~~ and information security controls.

10 (b) If, in connection with any investigation under subdivision
11 (a), the head of the internal audit staff or the designated internal
12 control person determines that there is reasonable cause to believe
13 that false or misleading information was provided, he or she shall
14 report in writing that determination to the head of the agency or the
15 division.

16 (c) The head of the agency or division shall review any matter
17 referred to him *or her* under subdivision (b), shall take ~~such any~~
18 disciplinary or corrective action as he *or she* deems necessary, and
19 shall forward a copy of the report, indicating therein the action
20 taken, to the director within 90 days of the date of the report.

21 *SEC. 21. Section 14612 of the Government Code is amended*
22 *to read:*

23 14612. (a) The department shall commit itself to achieve
24 improved levels of performance, as specified in this section, by
25 focusing its efforts on enhancing the value of the services it
26 delivers.

27 (b) The department shall commit itself to ~~providing (1)~~
28 ~~services providing both of the following:~~

29 (1) *Services* that the Legislature or Governor requires state
30 agencies to purchase from the ~~department, and (2) services~~
31 ~~department.~~

32 (2) *Services* that state agencies are not required to purchase
33 from the department, but that the department can provide on a
34 cost-competitive basis.

35 (c) Notwithstanding any other provision of law, the director ~~of~~
36 ~~the department~~ or his or her designee, in lieu of the Director of
37 Finance, may approve DGS Form 22 and DGS Form 220,
38 including the extension of time to expend transferred funds, the
39 transfer of funds from one work order to another, and the Return
40 of Funds Document.



1 (d) Notwithstanding Chapter 3 (commencing with Section
2 13940) of Part 4, the director ~~of the department~~ or his or her
3 designee may approve “relief from accountability” for debts
4 owed to the department up to five thousand dollars (\$5,000) when
5 the department determines it cannot collect the debts or when the
6 cost of collection exceeds the amount of the debt.

7 (e) Notwithstanding Section 2807 of the Penal Code, the
8 director ~~of the department~~ or his or her designee may procure
9 goods from the private sector even though the goods may be
10 available from the Prison Industry Authority, when in his or her
11 discretion, it is cost beneficial to do so and if the director or his or
12 her designee continues to include the authority in soliciting
13 quotations for goods.

14 (f) Notwithstanding subdivision (a) of Section 948 and Section
15 965, the director ~~of the department~~ or his or her designee, in lieu
16 of the Director of Finance, may certify funds for payment of all
17 legal settlements and tort claims for which the department already
18 has sufficient expenditure authority and funds without the need for
19 augmentation.

20 ~~(g) Notwithstanding Chapter 7 (commencing with Section~~
21 ~~14850) or Section 14901, no agency is required to use the Office~~
22 ~~of State Publishing for its printing needs and the Office of State~~
23 ~~Publishing may offer printing services to both state and other~~
24 ~~public agencies, including cities, counties, special districts,~~
25 ~~community college districts, the California State University, the~~
26 ~~University of California, and agencies of the United States~~
27 ~~government. When soliciting bids for printing services from the~~
28 ~~private sector, all state agencies shall also solicit a bid from the~~
29 ~~Office of State Publishing when the project is anticipated to cost~~
30 ~~more than five thousand dollars (\$5,000).~~

31 ~~(h) Notwithstanding Section 14851, the Office of State~~
32 ~~Publishing may accept paid advertisements in state publications or~~
33 ~~in publications promoting an Office of State Publishing supported~~
34 ~~project or program, except that the Office of State Publishing may~~
35 ~~not accept or publish any paid political advertising.~~

36 ~~(i) Notwithstanding Section 965.2, the director of the~~
37 ~~department~~ or his or her designee, in lieu of the Director of
38 Finance, may certify funds for payment for all legal court
39 settlements for projects funded from the Architecture Revolving
40 Fund, if a sufficient fund balance exists in the work order to pay



1 the claim and the payment does not require a budget augmentation
2 to complete the project.

3 ~~(j)~~

4 (h) Notwithstanding Section 14957, the director ~~of the~~
5 ~~department~~ or his or her designee, in lieu of the Director of
6 Finance, may approve the deposit of checks directly into the
7 Architecture Revolving Fund. The department shall notify the
8 Department of Finance within 30 days of the date that the
9 department makes such a deposit.

10 ~~(k) This section shall remain operative only until the effective~~
11 ~~date of the Budget Act of 2003 or June 30, 2003, whichever occurs~~
12 ~~later, and, as of January 1, 2004, is repealed, unless a later enacted~~
13 ~~statute that is enacted before January 1, 2004, deletes or extends~~
14 ~~the dates on which it becomes inoperative and is repealed.~~

15 SEC. 22. Section 14612.2 is added to the Government Code,
16 to read:

17 14612.2. (a) Notwithstanding Chapter 7 (commencing with
18 Section 14850) of Part 5.5 of Division 3 of Title 2 of, or Section
19 14901 of, the Government Code, no agency is required to use the
20 Office of State Publishing for its printing needs and the Office of
21 State Publishing may offer printing services to both state and other
22 public agencies, including cities, counties, special districts,
23 community college districts, the California State University, the
24 University of California, and agencies of the United States
25 government. When soliciting bids for printing services from the
26 private sector, all state agencies shall also solicit a bid from the
27 Office of State Publishing when the project is anticipated to cost
28 more than five thousand dollars (\$5,000).

29 (b) This section shall remain operative only until the effective
30 date of the Budget Act of 2004 or July 1, 2004, whichever is later,
31 and as of January 1, 2005, is repealed, unless a later enacted
32 statute that is enacted before January 1, 2005, deletes or extends
33 the dates on which it becomes inoperative and is repealed.

34 SEC. 23. Section 15312.5 is added to the Government Code,
35 to read:

36 15312.5. Notwithstanding any other provision of law, the
37 functions and duties of the Technology, Trade, and Commerce
38 Agency established pursuant to Part 6.7 (commencing with
39 Section 15310) of Division 3 of Title 2, and any other provisions
40 of law, may be performed only to the extent that funding is



1 available or is specifically appropriated for purposes of the
2 performance of those duties.

3 SEC. 24. Section 15372.86 of the Government Code is
4 amended to read:

5 15372.86. (a) The following powers, and any other powers
6 provided in this act, with the exception of the exercising of police
7 powers and of that power enumerated in subdivision (b), shall be
8 the responsibility of the secretary and, when not exercised by the
9 secretary, may be exercised by the commission:

10 (1) Call referenda in accordance with the procedures set forth
11 in Article 6 (commencing with Section 15372.100) and certify the
12 results.

13 (2) Collect and deposit assessments.

14 (3) Exercise police powers.

15 (4) Pursue actions and penalties connected with assessments.

16 (b) Except as otherwise specified in this chapter, the secretary
17 shall have veto power over the actions of the commission,
18 following consultation with the commission, only under the
19 following circumstances:

20 (1) Travel and expense costs.

21 (2) Situations where the secretary determines a conflict of
22 interest exists, as defined by the Fair Political Practices
23 Commission.

24 (3) The use of any state funds.

25 (4) Any contracts entered into between the commission and a
26 commissioner.

27 SEC. 25. Article 9.5 (commencing with Section 16428.1) is
28 added to Chapter 2 of Part 2 of Division 4 of Title 2 of the
29 Government Code, to read:

30

31 Article 9.5. Ratepayer Relief Fund

32

33 16428.1. The Legislature finds and declares all of the
34 following:

35 (a) Ratepayers and the state's economy have been harmed by
36 improper and unfair energy market manipulation that has resulted
37 in overcharging for electricity and natural gas.

38 (b) The purpose of the act adding this section is to ensure that
39 any funds paid to the state as a result of energy litigation are used
40 for the following purposes:



1 (1) To reimburse state funds for, or to finance, litigation and
2 investigation expenses.

3 (2) To reduce ratepayer costs of those utility ratepayers harmed
4 by the actions of the defendants.

5 (3) To reduce or pay debt service on the bonds issued pursuant
6 to Division 27 (commencing with Section 80000) of the Water
7 Code.

8 (4) Any other purpose determined by the Legislature to benefit
9 ratepayers.

10 16428.15. The Ratepayer Relief Fund is hereby established in
11 the State Treasury. The purpose of the fund is to benefit electricity
12 and natural gas ratepayers and to fund investigation and litigation
13 costs of the state in pursuing allegations of overcharges and unfair
14 business practices against generators, suppliers, or marketers of
15 electricity or natural gas.

16 16428.2. As used in this article, the following terms have the
17 following meanings:

18 (a) "Fund" means the Ratepayer Relief Fund established in
19 Section 16428.1.

20 (b) "Energy settlement agreement" means any agreement
21 arising from the energy crisis of 2000–2002, where the State of
22 California or a division of the State of California, is a party in a
23 complaint or any action relating to the operation and management
24 of any generation facilities, any sale or purchase or transmission
25 of natural gas, any sale or purchase or transmission of electricity
26 or other utility or energy goods and services, or a violation of the
27 Federal Power Act (16 U.S.C. Sec. 791a et seq.), state law, or
28 Public Utilities Commission orders or regulations relating to
29 electricity generation, transmission, or distribution, electrical
30 corporations, gas generation, storage, transmission, or
31 distribution, gas corporations, energy generation facilities, or
32 publicly owned utilities.

33 16428.3. (a) Any energy settlement agreement entered into
34 by the Attorney General, after reimbursing the Attorney General's
35 litigation and investigation expenses, to the maximum extent
36 possible, shall direct settlement funds to the following purposes in
37 priority order:

38 (1) To reduce ratepayer costs of those utility ratepayers harmed
39 by the actions of the settling parties. To the extent the ratepayers
40 of the investor-owned utilities were harmed, the settlement funds



1 shall be directed to the Department of Water Resources Electric
2 Power Fund to reduce the debt service on bonds issued pursuant
3 to Division 27 (commencing with Section 80000) of the Water
4 Code.

5 (2) For deposit in the fund.

6 (b) Nothing in this article shall preclude nonmonetary
7 compensation to the state through an energy settlement agreement,
8 provided that the allocation of benefits from any nonmonetary
9 compensation is consistent with the intent of this article.

10 16428.4. All funds recovered on behalf of the Department of
11 Water Resources, after deduction of litigation and investigation
12 expenses, shall be deposited in the Department of Water Resources
13 Electric Power Fund and applied pursuant to Division 27
14 (commencing with Section 80000) of the Water Code.

15 16428.5. Moneys in the fund shall be expended upon
16 appropriation by the Legislature, for the benefit of ratepayers.
17 Moneys in the fund may be appropriated for the following
18 purposes:

19 (a) To finance energy litigation and investigation expenses of
20 state entities.

21 (b) To reduce rates for customers in the affected service areas
22 of electrical utilities and gas utilities.

23 (c) To reduce the debt service on bonds issued pursuant to
24 Division 27 (commencing with Section 80000) of the Water Code.

25 16428.6. (a) The Attorney General shall promptly notify the
26 Director of Finance, Senate President pro Tempore, and the
27 Speaker of the Assembly upon agreeing on behalf of the state to an
28 energy settlement agreement. Notification shall include a
29 description of how the terms of the settlement agreement, as they
30 pertain to the state, are consistent with the purposes of this article.

31 (b) The Attorney General shall report semiannually to the
32 appropriate policy and fiscal committees of the Legislature and the
33 Director of Finance on energy settlement agreements, litigation
34 and investigation expenses, and funds expended pursuant to this
35 article.

36 16428.7. Nothing in this article affects the allocation of funds
37 from settlements entered into before the effective date of this
38 article.

39 SEC. 26. Section 17526 of the Government Code is amended
40 to read:



1 17526. (a) All meetings of the commission shall be open to
2 the public, except that the commission may meet in executive
3 session to consider the appointment or dismissal of officers or
4 employees of the commission or to hear complaints or charges
5 brought against a member, officer, or employee of the
6 commission.

7 (b) The commission shall meet at least once every ~~month~~ *two*
8 *months*.

9 (c) The time and place of meetings may be set by resolution of
10 the commission, by written petition of a majority of the members,
11 or by written call of the chairperson. The chairperson may, for
12 good cause, change the starting time or place, reschedule, or cancel
13 any meeting.

14 (d) This section shall become operative on July 1, 1996.

15 *SEC. 27. Section 22825.01 of the Government Code is*
16 *amended to read:*

17 22825.01. (a) As used in this section, the following
18 definitions shall apply:

19 (1) A “rural area” means an area in which there is no
20 board-approved health maintenance organization plan available
21 for enrollment by state employees or annuitants who live in the
22 area.

23 (2) “Coinsurance” means the provision of a medical plan
24 design in which the plan or insurer and state employee or annuitant
25 share the cost of hospital or medical expenses at a specified ratio.

26 (3) A “deductible” means the annual amount of out-of-pocket
27 medical expenses that state employees or annuitants must pay
28 before the insurer or self-funded plan begins paying for expenses.

29 (4) “Department” means the Department of Personnel
30 Administration.

31 (5) “Program” means the Rural Health Care Equity Program.

32 (b) (1) The Rural Health Care Equity Program is hereby
33 established for the purpose of funding the subsidization and
34 reimbursement of premium costs, deductibles, coinsurance, and
35 other out-of-pocket health care costs, which would otherwise be
36 covered if the state employee or annuitant was enrolled in a
37 board-approved health maintenance organization plan, paid by
38 employees and annuitants living in rural areas, as authorized by
39 this section. The program shall be administered by the department
40 or by a third-party administrator approved by the department in a



1 manner consistent with all applicable state and federal laws. The
2 board shall determine the rural area for each subsequent fiscal year
3 at the same meeting when the board approves premiums for health
4 maintenance organizations.

5 (2) Separate accounts shall be maintained within the program
6 for (A) employees, as defined in subdivision (c) of Section 3513;
7 (B) excluded employees, as defined in subdivision (b) of Section
8 3527; and (C) annuitants as defined in subdivision (e) of Section
9 22754.

10 (c) Moneys in the Rural Health Care Equity Program shall be
11 allocated to the separate accounts as follows:

12 (1) As the employer's contribution with respect to each
13 employee, as defined in subdivision (c) of Section 3513, who lives
14 in a rural area and who is otherwise eligible, an amount to be
15 determined through the collective bargaining process.

16 (2) As the employer's contribution with respect to each
17 excluded employee, as defined in subdivision (b) of Section 3527,
18 who lives in a rural area and who is otherwise eligible, an amount
19 equal to, but not to exceed, the amount given to eligible state
20 employees, as defined in subdivision (c) of Section 3513, who live
21 in a rural area.

22 (3) As the employer's contribution with respect to each
23 annuitant, as defined in subdivision (e) of Section 22754, who
24 lives in a rural area, is not a Medicare participant, and who is
25 otherwise eligible, an amount not to exceed five hundred dollars
26 (\$500) per year. *Annuitants who become residents of a state other*
27 *than California on or after July 1, 2003, are ineligible for the*
28 *program.*

29 (4) As to the state's contribution with respect to each state
30 annuitant, as defined in subdivision (e) of Section 22754 who lives
31 in a rural area, participates in a board-approved,
32 Medicare-coordinated health plan, participates in a
33 board-approved health plan, and is otherwise eligible, an amount
34 equal to the Medicare Part B premiums incurred by the annuitant,
35 not to exceed seventy-five dollars (\$75) per month. The state shall
36 not reimburse for penalty amounts. *Annuitants who become*
37 *residents of a state other than California on or after July 1, 2003,*
38 *are ineligible for the program.*

39 (5) As to an employee who enters state service or leaves state
40 service during a fiscal year, contributions for the employee shall



1 be made on a pro rata basis. A similar computation shall be used
2 for anyone entering or leaving the bargaining unit, including a
3 person who enters the bargaining unit by promotion in mid-fiscal
4 year.

5 (d) Each fund of the State Treasury, other than the General
6 Fund, shall reimburse the General Fund for any sums allocated
7 pursuant to subdivision (c) for employees whose compensation is
8 paid from that fund. That reimbursement shall be accomplished
9 using the following methodology:

10 (1) On or before December 1 of each year, the Department of
11 Personnel Administration shall provide a listing of active state
12 employees who participated in the Rural Health Care Equity
13 Program in the immediately preceding fiscal year to each
14 employing department.

15 (2) On or before January 15 of each year, every department that
16 employed an active state employee identified by the Department
17 of Personnel Administration as a participant in the Rural Health
18 Care Equity Program shall provide the Department of Personnel
19 Administration with a listing of the funds used to pay each
20 employee's salary, along with the proportion of each active state
21 employee's salary attributable to each fund.

22 (3) Using the information provided by the employing
23 departments, the Department of Personnel Administration shall
24 compile a listing of Rural Health Care Equity Program payments
25 attributable to each fund. On or before February 15 of each year,
26 the Department of Personnel Administration shall transmit this list
27 to the Department of Finance.

28 (4) The Department of Finance shall certify to the Controller
29 the amount to be transferred from the unencumbered balance of
30 each fund to the General Fund.

31 (5) The Controller shall transfer to the General Fund from the
32 unencumbered fund balance of each impacted fund the amount
33 specified by the Department of Finance.

34 (6) To ensure the equitable allocation of costs, the Director of
35 the Department of Personnel Administration or the Director of
36 Finance may require an audit of departmental reports.

37 (e) For any sums allocated pursuant to subdivision (c) for
38 annuitants, funds, other than the General Fund, shall be charged a
39 fair share of the state's contribution in accordance with the
40 provisions of Article 2 (commencing with Section 11270) of



1 Chapter 3 of Part 1 of Division 3 of Title 2. On or before July 31
2 of each year, the Department of Personnel Administration shall
3 provide the Department of Finance with the total costs allocated
4 pursuant to subdivision (c) for annuitants in the immediately
5 preceding fiscal year. The reported costs shall not include expenses
6 that have been incurred but not claimed as of July 31.

7 (f) Notwithstanding any other provision of law and subject to
8 the availability of funds, moneys within the Rural Health Care
9 Equity Program shall be disbursed for the benefit of an employee
10 who lives in a rural area and who is otherwise eligible. The
11 disbursements shall, where there is no board-approved health
12 maintenance organization plan available in an area that is open for
13 enrollment for the employee, (1) subsidize the preferred provider
14 plan premiums for the employee, by an amount equal to the
15 difference between the weighted average of board-approved
16 health maintenance organization premiums and the lowest
17 board-approved preferred provider plan premium available under
18 this part and (2) reimburse the employee for a portion or all of his
19 or her incurred deductibles, coinsurances, and other out-of-pocket
20 health-related expenses, that would otherwise be covered if the
21 employee were enrolled in a board-approved health maintenance
22 organization plan.

23 These subsidies and reimbursements shall be provided
24 according to a plan determined by the department, which may
25 include, but is not limited to, a supplemental insurance plan, a
26 medical reimbursement account, or a medical spending account
27 plan.

28 (g) Notwithstanding any other provision of law and subject to
29 the availability of funds, moneys within the Rural Health Care
30 Equity Program shall be disbursed for the benefit of eligible
31 annuitants, as defined in subdivision (e) of Section 22754, who
32 live in rural areas and who are otherwise eligible. The
33 disbursements shall, where there is no board-approved health
34 maintenance organization plan available and open to enrollment
35 by the annuitant, either (1) reimburse the annuitant if he or she is
36 not a Medicare participant, for some or all of his or her deductibles,
37 not to exceed five hundred dollars (\$500) per fiscal year, or (2)
38 reimburse Medicare Part B premiums incurred by the annuitant,
39 not to exceed seventy-five dollars (\$75) per month, exclusive of
40 penalties. These reimbursements shall be provided by the



1 department. *Notwithstanding any other provision of law, any*
2 *annuitant who cannot be located within a period of three months*
3 *and whose disbursement is returned to the Controller as unclaimed*
4 *is ineligible to participate in the program.*

5 The state shall not reimburse for penalty amounts.

6 (h) Any moneys remaining in any account of the program at the
7 end of any fiscal year shall remain in the account for use in
8 subsequent fiscal years until the account is terminated. Moneys
9 remaining in any account of the program upon termination, after
10 payment of all outstanding expenses and claims incurred prior to
11 the date of termination, shall be deposited in the General Fund.

12 (i) The Legislature finds and declares that the Rural Health
13 Care Equity Program is established for the exclusive benefit of
14 employees, annuitants, and family members.

15 (j) This section shall cease to be operative on January 1, 2005,
16 or on such earlier date as the board makes a formal determination
17 that HMOs are no longer the most cost-effective health care plans
18 offered by the board.

19 *SEC. 28. Section 29145 of the Government Code is repealed.*

20 ~~29145. — (a) Commencing on December 31, 2001, the County~~
21 ~~Successor to Vehicle License Fee Resulting From IRP Conformity~~
22 ~~Account is hereby created as a special fund in the General Fund.~~
23 ~~All money in the County Successor to Vehicle License Fee~~
24 ~~Resulting From IRP Conformity Account is hereby continuously~~
25 ~~appropriated, without regard to fiscal years, to the Controller for~~
26 ~~allocation in accordance with subdivision (c).~~

27 ~~(b) All of the following shall occur on a quarterly basis:~~

28 ~~(1) The Department of Motor Vehicles, in consultation with the~~
29 ~~Department of Finance, shall estimate the revenues that represent~~
30 ~~the amount of vehicle license fees which would be paid by trailers~~
31 ~~and semitrailers pursuant to the Vehicle License Fee Law (Part 5~~
32 ~~(commencing with Section 10701) of Division 2 of the Revenue~~
33 ~~and Taxation Code) had Sections 5014.1 and 9400.1 of the Vehicle~~
34 ~~Code not been enacted, which would be allocated to a county or~~
35 ~~city and county pursuant to subdivision (d) of Section 11005 of the~~
36 ~~Revenue and Taxation Code.~~

37 ~~(2) The Department of Motor Vehicles shall inform the~~
38 ~~Controller, in writing, of the amount estimated under paragraph~~
39 ~~(1).~~



1 ~~(c) The Controller shall then transfer from the General Fund,~~
2 ~~on a quarterly basis to each county, including a city and county,~~
3 ~~from the total sums computed pursuant to subdivision (b) an~~
4 ~~amount which represents the total population of that county bears~~
5 ~~to the total population of all the counties in the state, as determined~~
6 ~~pursuant to subdivision (d) of Section 11005 of the Revenue and~~
7 ~~Taxation Code.~~

8 ~~(d) Funds received by any county, or city and county pursuant~~
9 ~~to this section may be used by that county, or city and county in the~~
10 ~~same manner as if those funds were received pursuant to the~~
11 ~~provisions of subdivision (e) of Section 11005 of the Revenue and~~
12 ~~Taxation Code.~~

13 *SEC. 28.5. Section 29550.4 of the Government Code is*
14 *repealed.*

15 ~~29550.4. (a) Notwithstanding Section 13340, the sum of up~~
16 ~~to fifty million dollars (\$50,000,000) is hereby continuously~~
17 ~~appropriated annually from the General Fund to the Controller~~
18 ~~commencing with the 1999-2000 fiscal year for allocation to cities~~
19 ~~and qualified special districts for reimbursement for actual costs~~
20 ~~incurred by cities and qualified special districts in the payment of~~
21 ~~booking and processing fees pursuant to this article. For the~~
22 ~~1999-2000 fiscal year, this appropriation shall be allocated to~~
23 ~~cities and qualified special districts for reimbursement for actual~~
24 ~~costs incurred by them during the period July 1, 1997, to July 1,~~
25 ~~1998. If the actual costs incurred by cities and qualified special~~
26 ~~districts during the period of July 1, 1997, to July 1, 1998, in the~~
27 ~~payment to counties of booking and processing fees is greater than~~
28 ~~fifty million dollars (\$50,000,000), then the Controller shall~~
29 ~~prorate the reimbursement to each city and qualified special~~
30 ~~district accordingly.~~

31 ~~(b) Not later than December 1, 1999, the Controller shall~~
32 ~~allocate the funds appropriated pursuant to subdivision (a) to all~~
33 ~~qualified cities and qualified special districts and shall certify to~~
34 ~~the Director of Finance the actual amount of money allocated to~~
35 ~~cities and qualified special districts for the payment of booking and~~
36 ~~processing fees pursuant to subdivision (a).~~

37 ~~(c) Notwithstanding any other provision of this article, any city~~
38 ~~that pays booking and processing fees to another city is eligible for~~
39 ~~reimbursement pursuant to this section on the same basis as a city~~
40 ~~that pays booking and processing fees to a county. The amount of~~



1 reimbursement for a city shall be based on the processing fees
2 charged by the county in which that city is located. This
3 subdivision shall apply to reimbursements beginning in the
4 2000-01 fiscal year based on costs incurred in the 1997-98 fiscal
5 year.

6 (d) Any city or qualified special district that applies for
7 reimbursement pursuant to this section shall comply with all
8 requests made by the Controller. Any city or qualified special
9 district that contracts with a county for the payment of those fees
10 shall be ineligible for reimbursement pursuant to this section. A
11 city that has entered into a memorandum of understanding with its
12 county effective May 17, 1994, which agreement allows for the
13 payment of prepaid annual rent to satisfy the city's booking fee
14 obligation, shall be eligible to receive reimbursement pursuant to
15 this section.

16 (e) Any qualified city that did not apply for reimbursement
17 pursuant to this section at the time required to receive funds
18 allocated by the Controller not later than December 1, 1999, in the
19 1999-2000 fiscal year may apply for that reimbursement by
20 October 1, 2000. Any qualified special district may apply to the
21 Controller for reimbursement pursuant to this section for the
22 1999-2000 fiscal year by October 1, 2000.

23 (f) For the purposes of this section, "qualified special district"
24 means both of the following:

25 (1) A district that supplants the law enforcement functions of
26 the county within the jurisdiction of that district.

27 (2) A district that employs peace officers, as described in
28 Section 830.1 of the Penal Code, who are certified as meeting
29 those standards and requirements established pursuant to Article
30 2 (commencing with Section 13510) of Chapter 1 of Title 4 of Part
31 4 of the Penal Code.

32 *SEC. 29. Section 43402 of the Government Code is repealed.*

33 43402. (a) Commencing on December 31, 2001, the City
34 Successor to Vehicle License Fee Resulting From IRP Conformity
35 Account is hereby created as a special fund in the General Fund.
36 All money in the City Successor to Vehicle License Fee Resulting
37 From IRP Conformity Account is hereby continuously
38 appropriated, without regard to fiscal years, to the Controller for
39 allocation in accordance with subdivision (c).

40 (b) All of the following shall occur on a quarterly basis:



1 ~~(1) The Department of Motor Vehicles, in consultation with the~~
 2 ~~Department of Finance, shall estimate the revenues that represent~~
 3 ~~the amount of vehicle license fees which would be paid by trailers~~
 4 ~~and semitrailers pursuant to the Vehicle License Fee Law (Part 5~~
 5 ~~(commencing with Section 10701) of Division 2 of the Revenue~~
 6 ~~and Taxation Code) had Sections 5014.1 and 9400.1 of the Vehicle~~
 7 ~~Code not been enacted, which would be allocated to a city or city~~
 8 ~~and county pursuant to subdivision (c) of Section 11005 of the~~
 9 ~~Revenue and Taxation Code.~~

10 ~~(2) The Department of Motor Vehicles shall inform the~~
 11 ~~Controller, in writing, of the amount estimated under paragraph~~
 12 ~~(1).~~

13 ~~(c) The Controller shall then transfer from the General Fund,~~
 14 ~~on a quarterly basis to each city, including a city and county, from~~
 15 ~~the total sums computed pursuant to subdivision (b) an amount that~~
 16 ~~represents the total population of that city bears to the total~~
 17 ~~population of all the cities in the state, as determined pursuant to~~
 18 ~~subdivision (e) of Section 11005 of the Revenue and Taxation~~
 19 ~~Code.~~

20 ~~(d) Funds received by any city pursuant to this section may be~~
 21 ~~used by that city, or city and county in the same manner as if those~~
 22 ~~funds were received pursuant to the provisions of subdivision (e)~~
 23 ~~of Section 11005 of the Revenue and Taxation Code.~~

24 *SEC. 30. Section 25192 of the Health and Safety Code is*
 25 *amended to read:*

26 25192. (a) All civil and criminal penalties collected pursuant
 27 to this chapter or Chapter 6.6 (commencing with Section 25249.5)
 28 shall be apportioned in the following manner:

29 (1) Fifty percent shall be deposited in the Hazardous
 30 Substances Account in the General Fund.

31 (2) Twenty-five percent shall be paid to the office of the city
 32 attorney, city prosecutor, district attorney, or Attorney General,
 33 whichever office brought the action, or in the case of an action
 34 brought by a person under subdivision (d) of Section 25249.7 to
 35 that person.

36 (3) Twenty-five percent shall be paid to the department and
 37 used to fund the activity of the CUPA, the local health officer, or
 38 other local public officer or agency authorized to enforce the
 39 provisions of this chapter pursuant to Section 25180, whichever
 40 entity investigated the matter that led to the bringing of the action.



1 If investigation by the local police department or sheriff's office
2 or California Highway Patrol led to the bringing of the action, the
3 CUPA, the local health officer, or the authorized officer or agency,
4 shall pay a total of 40 percent of its portion under this subdivision
5 to that investigating agency or agencies to be used for the same
6 purpose. If more than one agency is eligible for payment under this
7 paragraph, division of payment among the eligible agencies shall
8 be in the discretion of the CUPA, the local health officer, or the
9 authorized officer or agency.

10 (b) If a reward is paid to a person pursuant to Section 25191.7,
11 the amount of the reward shall be deducted from the amount of the
12 civil penalty before the amount is apportioned pursuant to
13 subdivision (a).

14 *SEC. 31. Section 25249.12 of the Health and Safety Code is*
15 *amended to read:*

16 25249.12. ~~Implementation.~~—(a) The Governor shall
17 designate a lead agency and ~~such~~ other agencies ~~as that~~ may be
18 required to implement ~~the provisions of~~ this chapter, including
19 this section. Each agency so designated may adopt and modify
20 regulations, standards, and permits as necessary to conform with
21 and implement ~~the provisions of~~ this chapter and to further its
22 purposes.

23 (b) *The Safe Drinking Water and Toxic Enforcement Fund is*
24 *hereby established in the State Treasury. The director of the lead*
25 *agency designated by the Governor to implement this chapter may*
26 *expend the funds in the Safe Drinking Water and Toxic*
27 *Enforcement Fund, upon appropriation by the Legislature, to*
28 *implement and administer this chapter.*

29 (c) *In addition to any other money that may be deposited in the*
30 *Safe Drinking Water and Toxic Enforcement Fund, all of the*
31 *following amounts shall be deposited in the fund:*

32 (1) *Seventy-five percent of all civil and criminal penalties*
33 *collected pursuant to this chapter.*

34 (2) *Any interest earned upon the money deposited into the Safe*
35 *Drinking Water and Toxic Enforcement Fund.*

36 (d) *Twenty-five percent of all civil and criminal penalties*
37 *collected pursuant to this chapter shall be paid to the office of the*
38 *city attorney, city prosecutor, district attorney, or Attorney*
39 *General, whichever office brought the action, or in the case of an*



1 *action brought by a person under subdivision (d) of Section*
2 *25249.7, to that person.*

3 *SEC. 32. Section 50513 of the Health and Safety Code is*
4 *amended to read:*

5 50513. (a) The department may provide comprehensive
6 technical assistance to *California Indian tribes and Native*
7 *American groups*, tribal housing authorities, housing sponsors,
8 and governmental agencies on reservations, rancherias, and on
9 public domain to facilitate the planning and orderly development
10 ~~of suitable, decent, safe, and sanitary housing for American~~
11 ~~Indians residing in such areas. Such assistance may and~~
12 ~~preservation of decent, safe, and affordable housing and the~~
13 ~~promotion of strong California Native American communities.~~
14 *This assistance shall include technical assistance in land use*
15 *planning, natural and environmental resource planning, and*
16 ~~economic resource planning—economic development planning,~~
17 *grant application preparation for federal, state, local, or private*
18 *funds or other assistance made available for the purposes of this*
19 *section, project implementation, as required or requested by the*
20 *granting agency and funded by that agency, comprehensive*
21 *housing and community development planning, and cultural*
22 *preservation and enhancement. Upon request of the governing*
23 *body of a reservation or rancheria, the department may act on*
24 *behalf of the tribal housing authority and perform the functions*
25 *thereof and for such this purpose shall have all the powers granted*
26 *to housing authorities by Part 2 (commencing with Section 34200)*
27 *of Division 13-24. The department shall provide this assistance*
28 *subject to the availability of funds.*

29 (b) *The California Indian Assistance Fund is hereby*
30 *established in the State Treasury. Upon appropriation by the*
31 *Legislature, moneys in this fund shall be available to the*
32 *department for the purposes described in subdivision (a).*

33 *SEC. 33. Section 50710.1 of the Health and Safety Code is*
34 *amended to read:*

35 50710.1. (a) If all the development costs of any migrant farm
36 labor center assisted pursuant to this chapter are provided by
37 federal, state, or local grants, and if inadequate funds are available
38 from any federal, state, or local service to write-down operating
39 costs, the department may approve rents for that center which are
40 in excess of rents charged in other centers assisted by the Office of



1 Migrant Services. However, prior to approving these rents, the
2 department shall consider the adequacy of evidence presented by
3 the entity operating the center that the rents reimburse actual,
4 reasonable, and necessary costs of operation. *The department may*
5 *not increase any rent charged at a migrant farm labor center*
6 *during the 2003–04 fiscal year.*

7 (b) At the end of each fiscal year, any entity operating a migrant
8 farm labor center pursuant to this chapter may establish a reserve
9 account comprised of the excess funds provided through the
10 annual operating contract received from the department, if the
11 department certifies there is no need to address reasonable general
12 maintenance requirements or repairs, rehabilitation, and
13 replacement needs of the requesting migrant farm labor center
14 which affect the immediate health and safety of residents. The
15 cumulative balance of the reserve account shall not exceed 10
16 percent of the annual operating funds annually committed to the
17 entity by the department. Funds in the reserve account shall be
18 used only for capital improvements such as replacing or repairing
19 structural elements, furniture, fixtures, or equipment of the
20 migrant farm labor center, the replacement or repair of which are
21 reasonably required to preserve the migrant farm labor center.
22 Withdrawals from the reserve account shall be made only upon the
23 written approval of the department of the amount and nature of
24 expenditures.

25 (c) A migrant farm labor center governed by this chapter may
26 be operated for an extended period beyond 180 days after approval
27 by the department, provided that all of the following conditions are
28 satisfied:

29 (1) No additional subsidies provided by the department are
30 used for the operation or administration of the migrant farm center
31 during the extended occupancy period except to the extent that
32 state funds are appropriated or authorized for the purpose of
33 funding all or part of the cost of subsidizing extended occupancy
34 periods during the first 14 days only.

35 (2) Rents are not to be increased above the rents charged during
36 the period immediately prior to the extended occupancy period
37 unless the department finds that an increase is necessary to cover
38 the difference between reasonable operating costs necessary to
39 keep the center open during the extended occupancy period and the
40 amount of state funds available pursuant to paragraph (1) and any



1 contributions from agricultural employers or other federal, local,
2 or private sources. These contributions shall not be used to reduce
3 the amount of state funds that otherwise would be made available
4 to the center to subsidize rents during an extended occupancy
5 period.

6 (3) In no event shall the rent during the extended occupancy
7 period exceed the average daily operating cost of the center, less
8 any subsidy funds available pursuant to paragraph (1) or (2).
9 Households representing at least 25 percent of the units in the
10 center shall have indicated their desire and intention to remain in
11 residency during an extended occupancy period by signing a
12 petition to the local entity to keep the center open for an extended
13 period at rents that are the same or higher than rents during the
14 regular period of occupancy. Each household shall receive a clear
15 bilingual notice describing the extended occupancy options
16 attached to the lease.

17 The Legislature finds and declares that because the number of
18 residents may be substantially reduced during the extended
19 occupancy period, a rent increase may be necessary to cover
20 operating costs. It is the intent of the Legislature that the public
21 sector, private sector, and farmworkers should each play an
22 important role in ensuring the financial viability of this important
23 source of needed housing.

24 (4) An extended occupancy period is requested by an entity
25 operating the migrant farm labor center and received by the
26 department no earlier than 30 days and no later than 15 days prior
27 to the center's scheduled closing date. The department shall notify
28 the entity and petitioning residents of the final decision no later
29 than seven days prior to the center's scheduled closing date.
30 During the extended occupancy period, occupancy shall be limited
31 to migrant farmworkers and their families who resided at a migrant
32 center during the regular period of occupancy.

33 (5) Before approving or denying an extension and establishing
34 the rents for the extended occupancy period, both of which shall
35 be within the sole discretion of the department, the department
36 shall take into consideration all of the following factors:

37 (A) The structural and physical condition of the center,
38 including water and sewer pond capacity and the capacity and
39 willingness of the local entity to operate the center during the
40 extended occupancy period.



1 (B) Whether local approvals are required, and whether there
2 are competing demands for the use of the center’s facilities.

3 (C) Whether there is adequate documentation that there is a
4 need for residents of the migrant center to continue work in the
5 area, as confirmed by the local entity.

6 (D) The climate during the extended occupancy period.

7 (E) The amount of subsidy funds available that can be allocated
8 to each center to subsidize rents below the operating costs and the
9 cost of operating each center during the extended occupancy
10 period.

11 (F) The extended occupancy period is deemed necessary for
12 the health and safety of the migrant farmworkers and their
13 families.

14 (G) Other relevant factors affecting the migrant farmworkers
15 and their families and the operation of the centers.

16 (6) The rents collected during the extended occupancy period
17 shall be remitted to the department. However, based on financial
18 records to the satisfaction of the department, the department may
19 reduce the amount to be remitted by an amount it determines the
20 local entity has expended during the extended occupancy period
21 that is not being reimbursed by department funds.

22 (7) The occupancy during the extended occupancy period
23 represents a new tenancy and is not subject to existing and
24 statutory and regulatory limitations governing rents. Prior to the
25 beginning of the extended occupancy period, residents shall be
26 provided at least two days’ advance written notice of any rent
27 increase and of the expected length of the extended occupancy
28 period, including the scheduled date of closure of the center, and
29 prior to being eligible for residency during the extended
30 occupancy period, residents shall sign rental documents deemed
31 necessary by the department.

32 (d) The Legislature finds and declares that variable annual
33 climates and changing agricultural techniques create an inability
34 to accurately predict the end of a harvest season for the purposes
35 of housing migrant farmworkers and their families. Because of
36 these factors, in any part of this state, and in any specific year, one
37 or more migrant farmworker housing centers governed by this
38 chapter need to remain open for up to two additional weeks to
39 allow the residents to provide critical assistance to growers in
40 harvesting crops while also fulfilling work expectations that



1 encouraged them to migrate to the areas of the centers. In addition,
2 if the centers close prematurely, the migrant farmworkers often
3 must remain in the areas to work for up to two weeks. During this
4 time they will not be able to obtain decent, safe, and affordable
5 housing and the health and safety of their families and the
6 surrounding community will be threatened.

7 The Legislature therefore finds and declares that, for the
8 purposes of any public or private right, obligation, or authorization
9 related to the use of property and improvements thereon as a
10 180-day migrant center, an extended use of any housing center
11 governed by this chapter pursuant to this section is deemed to be
12 the same as the 180-day use generally authorized by this chapter.

13 *SEC. 34. Section 53534 is added to the Health and Safety*
14 *Code, to read:*

15 *53534. (a) The Legislature finds and declares all of the*
16 *following:*

17 *(1) The projected budget deficit for the 2003–04 fiscal year*
18 *represents the largest fiscal imbalance in California history. This*
19 *imbalance necessitates drastic actions not ordinarily*
20 *contemplated in usual budget years.*

21 *(2) In order to address the budgetary imbalance it is necessary*
22 *to find and cancel General Fund commitments where possible so*
23 *as to reduce General Fund obligations.*

24 *(3) The creation of affordable housing is extraordinarily*
25 *difficult, necessitating, among other things, the acquisition of*
26 *suitable sites, the design and engineering of the facility and*
27 *securing multiple sources of private and public financing. In*
28 *addition, affordable housing development also frequently*
29 *encounters difficulties in obtaining local governmental approvals.*
30 *Because of these difficulties there are typically long lead-times*
31 *between the commitment of funds through the state’s housing*
32 *programs and the actual final approval of the project, completion*
33 *of construction, and disbursement of state funds. Because of the*
34 *gap in time between the award of state funds and final fund*
35 *disbursement, there is an opportunity to disencumber fund*
36 *commitments to ease the state’s present fiscal emergency.*

37 *(4) While these housing projects present an opportunity to*
38 *recoup General Fund moneys, the Legislature recognizes that the*
39 *withdrawal of state funds may mean the cancellation of projects,*
40 *the loss of affordable housing, and the creation of potential*



1 liabilities to the state where costs have been incurred in reliance
2 on the state funding commitment. The need to find revenue sources
3 does not supersede the need for public assistance to facilitate the
4 creation of new housing opportunities particularly for persons and
5 households of low to moderate income.

6 (5) By definition, housing projects that have already received
7 a commitment of state funds are further advanced towards
8 completion than projects that have yet to start the process of
9 seeking or receiving state housing funds. The enactment of this
10 part, therefore, provides an opportunity to meet the multiple goals
11 of relieving existing financial obligations of the General Fund,
12 continuing the state support of worthy projects, and avoiding the
13 potential liabilities where costs have been incurred in reliance on
14 the state's commitment of funds. The Legislature finds and declares
15 that it is appropriate, where possible, to disencumber General
16 Fund obligations in those areas where the state's need to recoup
17 General Fund revenues can be balanced by the substitution of
18 other funds through legal mechanism.

19 (6) The Legislature's ability to modify a general obligation
20 bond program approved by the voters is restricted by the
21 California Constitution and interpretative case law to those
22 situations where the modification is consistent with the underlying
23 purpose of the program and not inconsistent with the express
24 language of the measure placed before the voters. For the purposes
25 of this part and the programs administered by the department
26 thereunder, the Legislature finds and declares that the project
27 selection criteria for many of the existing programs have been
28 modified by the bond measure contained in this part, as approved
29 by the voters. However the project selection criteria for the Joe
30 Serna, Jr. Farmworker Housing Grant Program (Chapter 3.2
31 (commencing with Section 50517.5) of Part 2) and the CalHome
32 Program (Chapter 6 (commencing with Section 50650) of Part 2)
33 have been unmodified by this part. Therefore, projects funded
34 through these programs that have previously been determined
35 eligible and have met the selection criteria would similarly be
36 eligible and meet the selection criteria for these programs as
37 funded under this part.

38 (7) If the funding for projects previously funded under the Joe
39 Serna, Jr. Farmworker Housing Grant Program and the CalHome
40 Program were disencumbered, these projects would be eligible to



1 *compete for funds under the same programs as funded through this*
2 *part. However, the time delays and costs associated by the*
3 *resubmittal of applications would render a hardship to the project*
4 *sponsors and cause unnecessary delays in project implementation.*

5 *(8) The use of funds approved by the voters through the*
6 *enactment of this part to ensure successful completion of projects*
7 *eligible and fundable through the Joe Serna, Jr. Farmworker*
8 *Housing Grant Program and the CalHome Program that would*
9 *otherwise be delayed or lost if the general funding was*
10 *disencumbered is both necessary and appropriate, and will*
11 *facilitate the efficient and effective implementation of the projects*
12 *funded through this part and will further the goals of the respective*
13 *programs.*

14 *(b) In order to return moneys appropriated in the Budget Acts*
15 *of 2000 and 2001 to the General Fund to assist in easing the*
16 *current fiscal emergency, and to ensure the expeditious completion*
17 *of projects that have successfully applied for, and were selected for,*
18 *funding during the 2000–01 and 2001–02 fiscal years through the*
19 *Joe Serna, Jr. Farmworker Housing Grant Program and CalHome*
20 *Program, the department shall do both of the following:*

21 *(1) Disencumber funding commitments for all projects funded*
22 *through appropriations in the Budget Acts of 2000 and 2001 for*
23 *which funds have not been disbursed as of the effective date of this*
24 *section.*

25 *(2) Provide replacement funding to these projects, subject to*
26 *the terms and conditions of the prior commitment, through*
27 *paragraph (4) and paragraph (5), respectively, of subdivision (a)*
28 *of Section 53533. No additional application shall be required to*
29 *the affected project sponsors.*

30 *(c) Because it is the Legislature's intent to avoid the disruption*
31 *of existing projects, only those portions of a project's budget that*
32 *is eligible for replacement as the construction or acquisition of a*
33 *capital asset pursuant to the General Obligation Bond Law*
34 *(Chapter 4 (commencing with Section 16720) of Part 3 of Division*
35 *4 of Title 2 of the Government Code) shall be disencumbered.*

36 *SEC. 35. Section 62.5 of the Labor Code is amended to read:*

37 *62.5. (a) The Workers' Compensation Administration*
38 *Revolving Fund is hereby created as a special account in the State*
39 *Treasury. Money in the fund may be expended by the department,*
40 *upon appropriation by the Legislature, for the administration of*



1 the workers' compensation program set forth in this division and
2 Division 4 (commencing with Section 3200), other than the
3 activities financed pursuant to Section 3702.5, and may not be
4 used for any other purpose, ~~except as determined by the~~
5 ~~Legislature.~~

6 (b) The fund shall consist of assessments made pursuant to ~~this~~
7 ~~section subdivision (e). Costs of the program shall be shared on a~~
8 ~~proportional basis between the General Fund and One hundred~~
9 ~~percent of program costs shall be supported by employer~~
10 ~~assessments. The General Fund appropriation shall account for 80~~
11 ~~percent, and employer assessments shall account for 20 percent, of~~
12 ~~the total costs of the program.~~

13 (c) (1) *The Uninsured Employers Benefits Trust Fund is*
14 *hereby created as a special trust fund account in the State Treasury,*
15 *of which the director is trustee, and its sources of funds are as*
16 *provided in subdivision (e). Notwithstanding Section 13340 of the*
17 *Government Code, the fund is continuously appropriated for the*
18 *payment of nonadministrative expenses of the workers'*
19 *compensation program for workers injured while employed by*
20 *uninsured employers in accordance with Article 2 (commencing*
21 *with Section 3710) of Chapter 4 of Part 1 of Division 4, and shall*
22 *not be used for any other purpose. All moneys collected shall be*
23 *retained in the trust fund until paid as benefits to workers injured*
24 *while employed by uninsured employers. Nonadministrative*
25 *expenses include audits and reports of services prepared pursuant*
26 *to subdivision (b) of Section 3716.1. The assessment amount for*
27 *this fund shall be stated separately.*

28 (2) *Notwithstanding any other provision of law, commencing*
29 *January 1, 2004, all references to the Uninsured Employers Fund*
30 *shall mean the Uninsured Employers Benefits Trust Fund.*

31 (3) *Notwithstanding paragraph (1), in the event that budgetary*
32 *restrictions or impasse prevent the timely payment of*
33 *administrative expenses from the Workers' Compensation*
34 *Administration Revolving Fund, those expenses shall be advanced*
35 *from the Uninsured Employers Benefits Trust Fund. Expense*
36 *advances made pursuant to this paragraph shall be reimbursed in*
37 *full to the Uninsured Employers Benefits Trust Fund upon*
38 *enactment of the annual Budget Act.*

39 (d) (1) *The Subsequent Injuries Benefits Trust Fund is hereby*
40 *created as a special trust fund account in the State Treasury, of*



1 *which the director is trustee, and its sources of funds are as*
2 *provided in subdivision (e). Notwithstanding Section 13340 of the*
3 *Government Code, the fund is continuously appropriated for the*
4 *nonadministrative expenses of the workers' compensation*
5 *program for workers who have suffered serious injury and who are*
6 *suffering from previous and serious permanent disabilities or*
7 *physical impairments, in accordance with Article 5 (commencing*
8 *with Section 4750) of Chapter 2 of Part 2 of Division 4, and Section*
9 *4 of Article XIV of the California Constitution, and shall not be*
10 *used for any other purpose. All moneys collected shall be retained*
11 *in the trust fund until paid as benefits to workers who have suffered*
12 *serious injury and who are suffering from previous and serious*
13 *permanent disabilities or physical impairments.*
14 *Nonadministrative expenses include audits and reports of services*
15 *pursuant to subdivision (c) of Section 4755. The assessment*
16 *amount for this fund shall be stated separately.*

17 (2) *Notwithstanding any other provision of law, commencing*
18 *with January 1, 2004, all references to the Subsequent Injuries*
19 *Fund shall mean the Subsequent Injuries Benefits Trust Fund.*

20 (3) *Notwithstanding paragraph (1), in the event that budgetary*
21 *restrictions or impasse prevent the timely payment of*
22 *administrative expenses from the Workers' Compensation*
23 *Administration Revolving Fund, those expenses shall be advanced*
24 *from the Subsequent Injuries Benefits Trust Fund. Expense*
25 *advances made pursuant to this paragraph shall be reimbursed in*
26 *full to the Subsequent Injuries Benefits Trust Fund upon enactment*
27 *of the annual Budget Act.*

28 (e) (1) ~~Assessments~~ *Separate assessments shall be levied by*
29 *the director upon all employers as defined in Section 3300 for*
30 *purposes of deposit in the Workers' Compensation Administration*
31 *Revolving Fund, the Uninsured Employers Benefits Trust Fund,*
32 *and the Subsequent Injuries Benefits Trust Fund. The total amount*
33 *of the ~~assessment~~—assessments shall be allocated between*
34 *self-insured employers and insured employers in proportion to*
35 *payroll respectively paid in the most recent year for which payroll*
36 *information is available. The director shall ~~promulgate~~—adopt*
37 *reasonable—rules—and regulations governing the manner of*
38 *collection of the ~~assessment~~—assessments. The ~~rules~~—regulations*
39 *shall require the ~~assessment~~—assessments to be paid by*
40 *self-insurers to be expressed as a percentage of indemnity paid*



1 during the most recent year for which information is available, and
2 the ~~assessment~~ *assessments* to be paid by insured employers to be
3 expressed as a percentage of premium. In no event shall the
4 ~~assessment~~ *assessments* paid by insured employers be considered
5 a premium for computation of a gross premium tax or agents'
6 commission.

7 (2) *The regulations adopted pursuant to paragraph (1) shall be*
8 *exempt from the rulemaking provisions of the Administrative*
9 *Procedure Act (Chapter 3.5 (commencing with Section 11340) of*
10 *Part 1 of Division 3 of Title 2 of the Government Code).*

11 SEC. 36. *Section 139.2 of the Labor Code is amended to read:*

12 139.2. (a) The Industrial Medical Council shall appoint
13 qualified medical evaluators in each of the respective specialties
14 as required for the evaluation of medical-legal issues. The
15 appointments shall be for two-year terms.

16 (b) The council shall appoint or reappoint as a qualified
17 medical evaluator a physician, as defined in Section 3209.3, who
18 is licensed to practice in this state and who demonstrates that he or
19 she meets the requirements in paragraphs (1), (2), (6), and (7), and,
20 if the physician is a medical doctor, doctor of osteopathy, doctor
21 of chiropractic, or a psychologist, that he or she also meets the
22 applicable requirements in paragraph (3), (4), or (5).

23 (1) Prior to his or her appointment as a qualified medical
24 evaluator, passes an examination written and administered by the
25 Industrial Medical Council for the purpose of demonstrating
26 competence in evaluating medical-legal issues in the workers'
27 compensation system. Physicians shall not be required to pass an
28 additional examination as a condition of reappointment. A
29 physician seeking appointment as a qualified medical evaluator on
30 or after January 1, 2001, shall also complete prior to appointment,
31 a course on disability evaluation report writing approved by the
32 Industrial Medical Council. The Industrial Medical Council shall
33 specify the curriculum to be covered by disability evaluation
34 report writing courses, which shall include, but is not limited to,
35 12 or more hours of instruction.

36 (2) Devotes at least one-third of total practice time to providing
37 direct medical treatment, or has served as an agreed medical
38 evaluator on eight or more occasions in the 12 months prior to
39 applying to be appointed as a qualified medical evaluator.



- 1 (3) Is a medical doctor or doctor of osteopathy and meets one
2 of the following requirements:
- 3 (A) Is board certified in a specialty by a board recognized by
4 the council and either the Medical Board of California or the
5 Osteopathic Medical Board of California.
- 6 (B) Has successfully completed a residency training program
7 accredited by the American College of Graduate Medical
8 Education or the osteopathic equivalent.
- 9 (C) Was an active qualified medical evaluator on June 30,
10 2000.
- 11 (D) Has qualifications that the council and either the Medical
12 Board of California or the Osteopathic Medical Board of
13 California, as appropriate, both deem to be equivalent to board
14 certification in a specialty.
- 15 (4) Is a doctor of chiropractic and meets either of the following
16 requirements:
- 17 (A) Has completed a chiropractic postgraduate specialty
18 program of a minimum of 300 hours taught by a school or college
19 recognized by the council, the Board of Chiropractic Examiners
20 and the Council on Chiropractic Education.
- 21 (B) Has been certified in California workers' compensation
22 evaluation by a provider recognized by the council. The
23 certification program shall include instruction on disability
24 evaluation report writing that meets the standards set forth in
25 paragraph (1).
- 26 (5) Is a psychologist and meets one of the following
27 requirements:
- 28 (A) Is board certified in clinical psychology by a board
29 recognized by the council.
- 30 (B) Holds a doctoral degree in psychology, or a doctoral degree
31 deemed equivalent for licensure by the Board of Psychology
32 pursuant to Section 2914 of the Business and Professions Code,
33 from a university or professional school recognized by the council
34 and has not less than five years' postdoctoral experience in the
35 diagnosis and treatment of emotional and mental disorders.
- 36 (C) Has not less than five years' postdoctoral experience in the
37 diagnosis and treatment of emotional and mental disorders, and
38 has served as an agreed medical evaluator on eight or more
39 occasions prior to January 1, 1990.



1 (6) Does not have a conflict of interest as determined under the
2 regulations ~~promulgated~~*adopted* by the administrative director
3 pursuant to subdivision (o).

4 (7) Meets any additional medical or professional standards
5 adopted pursuant to paragraph (6) of subdivision (j).

6 (c) The council shall ~~promulgate~~*adopt* standards for
7 appointment of physicians who are retired or who hold teaching
8 positions who are exceptionally well qualified to serve as a
9 qualified medical evaluator even though they do not otherwise
10 qualify under paragraph (2) of subdivision (b). In no event shall
11 a physician whose full-time practice is limited to the forensic
12 evaluation of disability be appointed as a qualified medical
13 evaluator under this subdivision.

14 (d) The qualified medical evaluator, upon request, shall be
15 reappointed if he or she meets the qualifications of subdivision (b)
16 and meets all of the following criteria:

17 (1) Is in compliance with all applicable regulations and
18 evaluation guidelines adopted by the council.

19 (2) Has not had more than five of his or her evaluations ~~which~~
20 *that* were considered by a workers' compensation judge at a
21 contested hearing rejected by the judge or the appeals board
22 pursuant to this section during the most recent two-year period
23 during which the physician served as a qualified medical
24 evaluator. If the judge or the appeals board rejects the qualified
25 medical evaluator's report on the basis that it fails to meet the
26 minimum standards for those reports established by the Industrial
27 Medical Council or the appeals board, the judge or the appeals
28 board, as the case may be, shall make a specific finding to that
29 effect, and shall give notice to the medical evaluator and to the
30 Industrial Medical Council. Any rejection shall not be counted as
31 one of the five qualifying rejections until the specific finding has
32 become final and time for appeal has expired.

33 (3) Has completed within the previous 24 months at least 12
34 hours of continuing education in impairment evaluation or
35 workers' compensation-related medical dispute evaluation
36 approved by the Industrial Medical Council.

37 (4) Has not been terminated, suspended, placed on probation,
38 or otherwise disciplined by the council during his or her most
39 recent term as a qualified medical evaluator.



1 If the evaluator does not meet any one of these criteria, the
2 Industrial Medical Council may in its discretion reappoint or deny
3 reappointment according to regulations ~~promulgated~~ *adopted* by
4 the council. In no event may a physician who does not currently
5 meet the requirements for initial appointment or who has been
6 terminated under subdivision (e) because his or her license has
7 been revoked or terminated by the licensing authority be
8 reappointed.

9 (e) The council may, in its discretion, suspend or terminate a
10 qualified medical evaluator during his or her term of appointment
11 without a hearing as provided under subdivision (k) or ~~(l)~~ *(l)*,
12 whenever: ~~(1) the~~ *either of the following conditions occurs:*

13 (1) *The evaluator's license to practice in California has been*
14 *suspended by the relevant licensing authority so as to preclude*
15 *practice, or has been revoked or terminated by the licensing*
16 *authority; or, (2) the.*

17 (2) *The evaluator has failed to timely pay the fee required by*
18 *the council pursuant to subdivision (n).*

19 (f) The Industrial Medical Council shall furnish a physician,
20 upon request, *with* a written statement of its reasons for
21 termination of, or for denying appointment or reappointment as,
22 a qualified medical evaluator. Upon receipt of a specific response
23 to the statement of reasons, the Industrial Medical Council shall
24 review its decision not to appoint or reappoint the physician or to
25 terminate the physician and shall notify the physician of its final
26 decision within 60 days after receipt of the physician's response.

27 (g) The council shall establish agreements with qualified
28 medical evaluators to assure the expeditious evaluation of cases
29 assigned to them for comprehensive medical evaluations.

30 (h) (1) When the injured worker is not represented by an
31 attorney, the medical director appointed pursuant to Section 122,
32 shall assign three-member panels of qualified medical evaluators
33 within five working days after receiving a request for a panel. If
34 a panel is not assigned within 15 working days, the employee shall
35 have the right to obtain a medical evaluation from any qualified
36 medical evaluator of his or her choice. The medical director shall
37 use a random selection method for assigning panels of qualified
38 medical evaluators. The medical director shall select evaluators
39 who are specialists of the type selected by the employee. The
40 medical director shall advise the employee that he or she should



1 consult with his or her treating physician prior to deciding which
2 type of specialist to request. ~~The~~

3 (2) *The Industrial Medical Council shall promulgate a form*
4 ~~which that~~ shall notify the employee of the physicians selected for
5 his or her panel. The form shall include, for each physician on the
6 panel, the physician's name, address, telephone number, specialty,
7 number of years in practice, and a brief description of his or her
8 education and training, and shall advise the employee that he or she
9 is entitled to receive transportation expenses and temporary
10 disability for each day necessary for the examination. The form
11 shall also state in a clear and conspicuous location and type: "You
12 have the right to consult with an information and assistance officer
13 at no cost to you prior to selecting the doctor to prepare your
14 evaluation, or you may consult with an attorney. If your claim
15 eventually goes to court, the judge will consider the evaluation
16 prepared by the doctor you select to decide your claim." ~~When~~

17 (3) *When* compiling the list of evaluators from which to select
18 randomly, the medical director shall include all qualified medical
19 evaluators who: ~~(1) do meet all of the following criteria:~~

20 (A) *He or she does* not have a conflict of interest in the case, as
21 defined by regulations adopted pursuant to subdivision (o); ~~(2)~~
22 ~~are.~~

23 (B) *He or she is* certified by the council to evaluate in an
24 appropriate specialty and at locations within the general
25 geographic area of the employee's residence; ~~and, (3) have.~~

26 (C) *He or she has* not been suspended or terminated as a
27 qualified medical evaluator for failure to pay the fee required by
28 the council pursuant to subdivision (n) or for any other reason.
29 ~~When~~

30 (4) *When* the medical director determines that an employee has
31 requested an evaluation by a type of specialist ~~which that~~ is
32 appropriate for the employee's injury, but there are not enough
33 qualified medical evaluators of that type within the general
34 geographic area of the employee's residence to establish a
35 three-member panel, the medical director shall include sufficient
36 qualified medical evaluators from other geographic areas and the
37 employer shall pay all necessary travel costs incurred in the event
38 the employee selects an evaluator from another geographic area.

39 (i) The medical director appointed pursuant to Section 122,
40 shall continuously review the quality of comprehensive medical



1 evaluations and reports prepared by agreed and qualified medical
2 evaluators and the timeliness with which evaluation reports are
3 prepared and submitted. The review shall include, but not be
4 limited to, a review of a random sample of reports submitted to the
5 division, and a review of all reports alleged to be inaccurate or
6 incomplete by a party to a case for which the evaluation was
7 prepared. The medical director shall submit to the administrative
8 director an annual report summarizing the results of the
9 continuous review of medical evaluations and reports prepared by
10 agreed and qualified medical evaluators and make
11 recommendations for the improvement of the system of medical
12 evaluations and determinations.

13 (j) After public hearing pursuant to Section 5307.4, the council
14 shall ~~promulgate rules and~~ *adopt* regulations concerning the
15 following medical issues:

16 (1) Standards governing the timeframes within which medical
17 evaluations shall be prepared and submitted by agreed and
18 qualified medical evaluators. Except as provided in this
19 subdivision, the timeframe for initial medical evaluations to be
20 prepared and submitted shall be no more than 30 days after the
21 evaluator has seen the employee or otherwise commenced the
22 medical evaluation procedure. The council shall develop
23 regulations governing the provision of extensions of the 30-day
24 period in cases: (A) where the evaluator has not received test
25 results or consulting physician's evaluations in time to meet the
26 30-day deadline; and, (B) to extend the 30-day period by not more
27 than 15 days when the failure to meet the 30-day deadline was for
28 good cause. For purposes of this subdivision, "good cause"
29 means: (i) medical emergencies of the evaluator or evaluator's
30 family; (ii) death in the evaluator's family; or, (iii) natural disasters
31 or other community catastrophes that interrupt the operation of the
32 evaluator's business. The council shall develop timeframes
33 governing availability of qualified medical evaluators for
34 unrepresented employees under Sections 4061 and 4062. These
35 timeframes shall give the employee the right to the addition of a
36 new evaluator to his or her panel, selected at random, for each
37 evaluator not available to see the employee within a specified
38 period of time, but shall also permit the employee to waive this
39 right for a specified period of time thereafter.



1 (2) Procedures to be followed by all physicians in evaluating
2 the existence and extent of permanent impairment and limitations
3 resulting from an injury. In order to produce complete, accurate,
4 uniform, and replicable evaluations, the procedures shall require
5 that an evaluation of anatomical loss, functional loss, and the
6 presence of physical complaints be supported, to the extent
7 feasible, by medical findings based on standardized examinations
8 and testing techniques generally accepted by the medical
9 community.

10 (3) Procedures governing the determination of any disputed
11 medical issues.

12 (4) Procedures to be used in determining the compensability of
13 psychiatric injury. The procedures shall be in accordance with
14 Section 3208.3 and shall require that the diagnosis of a mental
15 disorder be expressed using the terminology and criteria of the
16 American Psychiatric Association's Diagnostic and Statistical
17 Manual of Mental Disorders, Third Edition-Revised, or the
18 terminology and diagnostic criteria of other psychiatric diagnostic
19 manuals generally approved and accepted nationally by
20 practitioners in the field of psychiatric medicine.

21 (5) Guidelines for the range of time normally required to
22 perform the following:

23 (A) A medical-legal evaluation that has not been defined and
24 valued pursuant to Section 5307.6. However, the council may
25 recommend guidelines for evaluations that have been defined and
26 valued pursuant to Section 5307.6 for the purpose of governing the
27 appointment, reappointment, and discipline of qualified medical
28 evaluators. The guidelines shall establish minimum times for
29 patient contact in the conduct of the evaluations, and shall be
30 consistent with regulations adopted pursuant to Section 5307.6.

31 (B) Any treatment procedures that have not been defined and
32 valued pursuant to Section 5307.1.

33 (C) Any other evaluation procedure requested by the
34 administrative director, the Insurance Commissioner, or the
35 council itself.

36 If, without good cause, the council fails to adopt the guidelines
37 required by subparagraph (A) or (B) by March 31, 1994, or fails,
38 without good cause, to adopt a guideline pursuant to subparagraph
39 (C) within six months after a request by the administrative director



1 or the Insurance Commissioner, then the administrative director
 2 shall have the authority to adopt the guideline.

3 (6) Any additional medical or professional standards ~~which~~
 4 *that* a medical evaluator shall meet as a condition of appointment,
 5 reappointment, or maintenance in the status of a medical evaluator.

6 (k) Except as provided in this subdivision, the Industrial
 7 Medical Council may, in its discretion, suspend or terminate the
 8 privilege of a physician to serve as a qualified medical evaluator
 9 if the council, after hearing pursuant to subdivision (l), determines,
 10 based on substantial evidence, that a qualified medical evaluator:

11 (1) Has violated any material statutory or administrative duty.

12 (2) Has failed to follow the medical procedures or
 13 qualifications established by the council pursuant to paragraph (2),
 14 (3), (4), or (5) of subdivision (j).

15 (3) Has failed to comply with the timeframe standards
 16 established by the council pursuant to subdivision (j).

17 (4) Has failed to meet the requirements of subdivision (b) or
 18 (c).

19 (5) Has prepared medical-legal evaluations that fail to meet the
 20 minimum standards for those reports established by the Industrial
 21 Medical Council or the appeals board.

22 (6) Has made material misrepresentations or false statements in
 23 an application for appointment or reappointment as a qualified
 24 medical evaluator.

25 No hearing shall be required prior to the suspension or
 26 termination of a physician's privilege to serve as a qualified
 27 medical evaluator when the physician has: ~~(A) failed~~ *done either*
 28 *of the following:*

29 (A) *Failed* to timely pay the fee required by the council
 30 pursuant to subdivision (n); ~~or, (B) had~~.

31 (B) *Had* his or her license to practice in California suspended
 32 by the relevant licensing authority so as to preclude practice, or had
 33 the license revoked or terminated by the licensing authority.

34 (l) The council shall cite the qualified medical evaluator for a
 35 violation listed in subdivision (k) and shall set a hearing on the
 36 alleged violation within 30 days of service of the citation on the
 37 qualified medical evaluator. In addition to the authority to
 38 terminate or suspend the qualified medical evaluator upon finding
 39 a violation listed in subdivision (k), the council may, in its
 40 discretion, place a qualified medical evaluator on probation



1 subject to appropriate conditions, including ordering continuing
2 education or training. The council shall report to the appropriate
3 licensing board the name of any qualified medical evaluator who
4 is disciplined pursuant to this subdivision.

5 (m) The council shall terminate from the list of medical
6 evaluators any physician where licensure has been terminated by
7 the relevant licensing board, or who has been convicted of a
8 misdemeanor or felony related to the conduct of his or her medical
9 practice, or of a crime of moral turpitude. The council shall
10 suspend or terminate as a medical evaluator any physician who has
11 been suspended or placed on probation by the relevant licensing
12 board. If a physician is suspended or terminated as a qualified
13 medical evaluator under this subdivision, a report prepared by the
14 physician that is not complete, signed, and furnished to one or
15 more of the parties prior to the date of conviction or action of the
16 licensing board, whichever is earlier, shall not be admissible in any
17 proceeding before the appeals board nor shall there be any liability
18 for payment for the report and any expense incurred by the
19 physician in connection with the report.

20 (n) Each qualified medical evaluator shall pay a fee, as
21 determined by the Industrial Medical Council, for appointment or
22 reappointment. Any qualified medical evaluator appointed prior
23 to January 1, 1993, shall also pay the same fee as specified ~~herein~~
24 *in accordance with this subdivision*. These fees shall be based on
25 a sliding scale as established by the council. All revenues from fees
26 paid under this subdivision shall be deposited into the Industrial
27 Medicine Fund, which is hereby created for the administration of
28 the Industrial Medical Council. Moneys paid into the Industrial
29 Medicine Fund for the activities of the Industrial Medical Council
30 *are available for expenditure upon appropriation by the*
31 *Legislature and shall not be used by any other department or*
32 *agency or for any purpose other than administration of the council.*
33 ~~The funds provided to the council from the Industrial Medicine~~
34 ~~Fund shall not supplant any funds appropriated to the council from~~
35 ~~the Workers' Compensation Administration Revolving Fund, the~~
36 ~~General Fund, or any other governmental source. Any future~~
37 ~~annual appropriation to the council from the Workers'~~
38 ~~Compensation Administration Revolving Fund, the General Fund,~~
39 ~~or any other governmental source shall not be less than the amount~~
40 ~~appropriated or provided during the 1991-92 fiscal year.~~



1 (o) An evaluator may not request or accept any compensation
2 or other thing of value from any source that does or could create
3 a conflict with his or her duties as an evaluator under this code. The
4 administrative director, after consultation with the council and the
5 Commission on Health and Safety and Workers' Compensation,
6 shall adopt regulations to implement this subdivision on or before
7 July 1, 1994.

8 *SEC. 37. Section 3716 of the Labor Code is amended to read:*

9 3716. (a) If the employer fails to pay the compensation
10 required by Section 3715 to the person entitled thereto, or fails to
11 furnish the bond required by Section 3715 within a period of 10
12 days after notification of the award, the award, upon application
13 by the person entitled thereto, shall be paid by the director from the
14 Uninsured Employers *Benefits Trust* Fund, ~~which fund is hereby~~
15 ~~created in the State Treasury. Notwithstanding Section 13340 of~~
16 ~~the Government Code, all money in the Uninsured Employers~~
17 ~~Fund is hereby continuously appropriated for this purpose and to~~
18 ~~pay the. The expenses of the director in administering these~~
19 ~~provisions, directly or by contract pursuant to Section 3716.1,~~
20 ~~shall be paid from the Workers' Compensation Administration~~
21 ~~Revolving Fund. Refunds may be paid from the Uninsured~~
22 ~~Employers *Benefits Trust* Fund for amounts remitted erroneously~~
23 ~~to the fund, or the director may authorize offsetting subsequent~~
24 ~~remittances to the fund.~~

25 (b) It is the intent of the Legislature that the Uninsured
26 Employers *Benefits Trust* Fund is created to ensure that workers
27 who happen to be employed by illegally uninsured employers are
28 not deprived of workers' compensation benefits, and is not created
29 as a source of contribution to insurance carriers, or self-insured, or
30 legally insured employers. The Uninsured Employers *Benefits*
31 *Trust* Fund has no liability for claims of occupational disease or
32 cumulative injury unless no employer during the period of the
33 occupational disease or cumulative injury during which liability is
34 imposed under Section 5500.5 was insured for workers'
35 compensation, was permissibly self-insured, or was legally
36 uninsured. No employer has a right of contribution against the
37 Uninsured Employers *Benefits Trust* Fund for the liability of an
38 illegally uninsured employer under an award of benefits for
39 occupational disease or cumulative injury, nor may an employee



1 in a claim of occupational disease or cumulative injury elect to
2 proceed against an illegally uninsured employer.

3 (c) The Uninsured Employers *Benefits Trust* Fund has no
4 liability to pay for medical, surgical, chiropractic, hospital, or
5 other treatment, the liability for which treatment is imposed upon
6 the employer pursuant to Section 4600, and which treatment has
7 been provided or paid for by the State Department of Health
8 Services pursuant to the California Medical Assistance Program.

9 (d) The Uninsured Employers *Benefits Trust* Fund shall have
10 no liability to pay compensation, nor shall it be joined in any
11 appeals board proceeding, unless the employer alleged to be
12 illegally uninsured shall first either have made a general
13 appearance or have been served with the application specified in
14 Section 3715 and with a special notice of lawsuit issued by the
15 appeals board. The special notice of lawsuit shall be in a form to
16 be prescribed by the appeals board, and it shall contain at least the
17 information and warnings required by the Code of Civil Procedure
18 to be contained in the summons issued in a civil action. The special
19 notice of lawsuit shall also contain a notice that if the appeals board
20 makes an award against the defendant that his or her house or other
21 dwelling and other property may be taken to satisfy the award in
22 a nonjudicial sale, with no exemptions from execution. The special
23 notice of lawsuit shall, in addition, contain a notice that a lien may
24 be imposed upon the defendant's property without further hearing
25 and before the issuance of an award. The applicant shall identify
26 a legal person or entity as the employer named in the special notice
27 of lawsuit. The reasonable expense of serving the application and
28 special notice of lawsuit, when incurred by the employee, shall be
29 awarded as a cost. Proof of service of the special notice of lawsuit
30 and application shall be filed with the appeals board.

31 (1) The application and special notice of lawsuit may be served,
32 within or without this state, in the manner provided for service of
33 summons in the Code of Civil Procedure. Thereafter, an employer,
34 alleged to be illegally uninsured, shall notify the appeals board of
35 the address at which it may be served with official notices and
36 papers, and shall notify the appeals board of any changes in the
37 address. No findings, order, decision, award, or other notice or
38 paper need be served in this manner on an employer, alleged to be
39 illegally uninsured, who has been served as provided in this
40 section, and who has not filed an answer, otherwise made a general



1 appearance, or furnished the appeals board with its address. The
2 findings, orders, decisions, awards, or other notice or paper may
3 be mailed to the employer as the board, by regulation, may
4 provide.

5 (2) Notwithstanding paragraph (1), if the employer alleged to
6 be illegally uninsured has not filed an answer, otherwise made a
7 general appearance, or furnished the appeals board with its
8 address, the appeals board shall serve any findings, order,
9 decision, award, or other notice or paper on the employer by mail
10 at the address the appeals board has for the employer. The failure
11 of delivery at that address or the lack of personal service on an
12 employer who has been served as provided in this section, of these
13 findings, order, decision, award, or other notice or paper, shall not
14 constitute grounds for reopening or invalidating any appeals board
15 action pursuant to Section 5506, or for contesting the validity of
16 any judgment obtained under Section 3716 or 5806, a lien under
17 Section 3720, or a settlement under subdivision (e) of Section
18 3715.

19 (3) The board, by regulation, may provide for service
20 procedures in cases where a request for new and further benefits
21 is made after the issuance of any findings and award and a
22 substantial period of time has passed since the first service or
23 attempted service.

24 (4) The director, on behalf of the Uninsured Employers
25 *Benefits Trust* Fund, shall furnish information as to the identities,
26 legal capacities, and addresses of uninsured employers known to
27 the director upon request of the board or upon a showing of good
28 cause by the employee or the employee's representative. Good
29 cause shall include a declaration by the employee's representative,
30 filed under penalty of perjury, that the information is necessary to
31 represent the employee in proceedings under this division.

32 *SEC. 38. Section 3716.1 of the Labor Code is amended to*
33 *read:*

34 3716.1. (a) In any hearing, investigation, or proceeding, the
35 Attorney General, or attorneys of the Department of Industrial
36 Relations, shall represent the director and the state. Expenses
37 incident to representation of the director and the state, before the
38 appeals board and in civil court, by the Attorney General or
39 Department of Industrial Relations attorneys, shall be reimbursed
40 from ~~funds appropriated to the Uninsured Employers Fund;~~



1 ~~however, the injured claimant shall have first priority to be paid~~
2 ~~from such funds. Reimbursement of expenses the Workers'~~
3 ~~Compensation Administration Revolving Fund. Expenses incident~~
4 to representation by the Attorney General or attorneys of the
5 Department of Industrial Relations incurred in attempts to recover
6 moneys pursuant to Section 3717 of the Labor Code shall not
7 exceed the total amounts recovered by the director on behalf of the
8 Uninsured Employers *Benefits Trust* Fund pursuant to this chapter.

9 ~~The~~

10 (b) ~~The~~ director shall assign investigative and claims'
11 adjustment services respecting matters concerning uninsured
12 employers injury cases. The director or his *or her* representative
13 may make ~~such these~~ service assignments within the department,
14 or he *or she* may contract ~~therefor~~ *for these services* with the State
15 Compensation Insurance Fund, except insofar as ~~such these~~
16 matters might conflict with the interests of the State Compensation
17 Insurance Fund. The *administrative costs thereof associated with*
18 *these services* shall be reimbursed from ~~funds appropriated to the~~
19 ~~Uninsured Employers Fund the Workers' Compensation~~
20 *Administration Revolving Fund and the nonadministrative costs*
21 *from the Uninsured Employers Benefits Trust Fund, except when*
22 *a budget impasse requires advances as described in subdivision (c)*
23 *of Section 62.5. To the extent permitted by state law, the director*
24 *may contract for audits or reports of services under this section.*

25 (c) *Commencing November 1, 2004, the State Compensation*
26 *Insurance Fund and the director shall report annually to the fiscal*
27 *committees of both houses of the Legislature and the Director of*
28 *Finance, regarding any of the following:*

29 (1) *The number of uninsured employers claims paid in the*
30 *previous fiscal year, the total cost of those claims, and levels of*
31 *reserves for incurred claims.*

32 (2) *The administrative costs associated with claims payment*
33 *activities.*

34 (3) *Annual revenues to the Uninsured Employers Benefits Trust*
35 *Fund from all of the following:*

36 (A) *Assessments collected pursuant to subdivision (c) of*
37 *Section 62.5.*

38 (B) *Fines and penalties collected by the department.*

39 (C) *Revenues collected pursuant to Section 3717.*



1 (4) *Projected annual program and claims costs for the current*
 2 *and upcoming fiscal years.*

3 *SEC. 39. Section 3728 of the Labor Code is amended to read:*

4 3728. ~~The (a) The~~ director may draw from the State Treasury
 5 out of the ~~appropriation made to the~~ Uninsured Employers
 6 *Benefits Trust Fund* for the purposes of Sections 3716 and 3716.1,
 7 without at the time presenting vouchers and itemized statements,
 8 a sum not to exceed in the aggregate the level provided for pursuant
 9 to Section 16400 of the Government Code, to be used as a cash
 10 revolving fund. The revolving fund shall be deposited in ~~such any~~
 11 banks and under ~~such any~~ conditions as the Department of General
 12 Services determines. The Controller shall draw his *or her* warrants
 13 in favor of the Director of Industrial Relations for the amounts so
 14 withdrawn and the Treasurer shall pay ~~such these~~ warrants.

15 **Expenditures**

16 (b) *Expenditures* made from the revolving fund in payment of
 17 claims for compensation ~~and due from the Uninsured Employers~~
 18 *Benefits Trust Fund and from the Workers' Compensation*
 19 *Administration Revolving Fund* for administrative and adjusting
 20 services rendered ~~herein~~ are exempted from the operation of
 21 Section 925.6 of the Government Code. Reimbursement of the
 22 revolving fund ~~from the Uninsured Employers Benefits Trust Fund~~
 23 ~~or the Workers' Compensation Administration Revolving Fund~~ for
 24 ~~these~~ expenditures shall be made upon presentation to the
 25 Controller of an abstract or statement of the expenditures. The
 26 abstract or statement shall be in ~~such any~~ form as the Controller
 27 requires.

28 *SEC. 40. Section 3729 of the Labor Code is repealed.*

29 ~~3729. The Director of Industrial Relations shall report to the~~
 30 ~~Governor and the Legislature, not later than January 1 of each year,~~
 31 ~~the amount necessary to maintain the solvency of the Uninsured~~
 32 ~~Employers Fund.~~

33 *SEC. 41. Section 4350 is added to the Labor Code, to read:*

34 4350. The Office of Emergency Services shall administer this
 35 chapter as it relates to volunteer disaster service workers.

36 *SEC. 42. The heading of Article 1 (commencing with Section*
 37 *4351) of Chapter 10 of Part 1 of Division 4 of the Labor Code is*
 38 *repealed:*

39



1 ~~Article 1. — General~~

2
3 *SEC. 43. Section 4355 is added to the Labor Code, to read:*

4 *4355. (a) Should the United States Government or any agent*
5 *thereof, in accordance with any federal statute, rule, or regulation,*
6 *furnish monetary assistance, benefits, or other temporary or*
7 *permanent relief to disaster service workers or to disaster service*
8 *workers and their dependents for injuries arising out of and*
9 *occurring in the course of their activities as disaster service*
10 *workers, the amount of compensation that any disaster service*
11 *worker or his or her dependents are otherwise entitled to receive*
12 *from the State of California under this division for any injury shall*
13 *be reduced by the amount of monetary assistance, benefits, or*
14 *other temporary or permanent relief the disaster service worker or*
15 *his or her dependents have received and will receive from the*
16 *United States or any agent thereof as a result of the injury.*

17 *(b) If, in addition to monetary assistance, benefits, or other*
18 *temporary or permanent relief, the United States Government or*
19 *any agent thereof furnishes medical, surgical, or hospital*
20 *treatment, or any combination thereof, to an injured disaster*
21 *service worker, the disaster service worker has no right to receive*
22 *similar medical, surgical, or hospital treatment under this*
23 *division.*

24 *(c) If, in addition to monetary assistance, benefits, or other*
25 *temporary or permanent relief, the United States Government or*
26 *any agent thereof will reimburse a disaster service worker or his*
27 *or her dependents for medical, surgical, or hospital treatment, or*
28 *any combination thereof, furnished to the injured disaster service*
29 *worker, the disaster service worker has no right to receive similar*
30 *medical, surgical, or hospital treatment under this division.*

31 *(d) If the furnishing of compensation under this division to a*
32 *disaster service worker or his or her dependents prevents the*
33 *disaster service worker or his or her dependents from receiving*
34 *assistance, benefits, or other temporary or permanent relief under*
35 *a federal statute, rule, regulation, the disaster service worker and*
36 *his or her dependents shall have no right to, and may not receive,*
37 *any compensation from the State of California under this division*
38 *for any injury for which the United States Government or any*
39 *agent thereof will furnish assistance, benefits, or other temporary*

1 *or permanent relief in the absence of the furnishing of*
2 *compensation by the State of California.*

3 *SEC. 44. Article 3 (commencing with Section 4381) of*
4 *Chapter 10 of Part 1 of Division 4 of the Labor Code is repealed.*

5 *SEC. 45. Section 4753.5 of the Labor Code is amended to*
6 *read:*

7 4753.5. In any hearing, investigation, or proceeding, the state
8 shall be represented by the Attorney General, or the attorneys of
9 the ~~Division of Workers' Compensation appointed pursuant to~~
10 ~~Sections 117 and 119 Department of Industrial Relations, as~~
11 ~~appointed by the director.~~ Expenses incident to representation,
12 including costs for investigation, medical examinations, and other
13 expert reports, fees for witnesses, and other necessary and proper
14 expenses, but excluding the salary of any of the Attorney General's
15 deputies, shall be reimbursed from ~~appropriations for the~~
16 ~~payments of the special additional compensation specified in~~
17 ~~Section 4751 the Workers' Compensation Administration~~
18 ~~Revolving Fund.~~ No witness fees or fees for medical services shall
19 exceed those fees prescribed by the appeals board for the same
20 services in those cases where the appeals board, by rule, has
21 prescribed fees. Reimbursement pursuant to this section shall be
22 in addition to, and in augmentation of, any other appropriations
23 made or funds available for the use or support of the ~~Attorney~~
24 ~~General or the attorneys of the Division of Workers'~~
25 ~~Compensation the legal representation.~~

26 *SEC. 46. Section 4755 of the Labor Code is amended to read:*

27 4755. (a) The State Compensation Insurance Fund may draw
28 from the State Treasury out of the ~~appropriation made~~ *Subsequent*
29 *Injuries Benefits Trust Fund* for the purposes specified in Section
30 4751, without at the time presenting vouchers and itemized
31 statements, a sum not to exceed in the aggregate fifty thousand
32 dollars (\$50,000), to be used as a cash revolving fund. The
33 revolving fund shall be deposited in ~~such any~~ banks and under
34 ~~such any~~ conditions as the Department of Finance determines. The
35 Controller shall draw his *or her* warrants in favor of the State
36 Compensation Insurance Fund for the amounts so withdrawn and
37 the Treasurer shall pay ~~such these~~ warrants.

38 **Expenditures**

39 (b) *Expenditures* made from the revolving fund in payments on
40 claims for ~~such any~~ additional compensation and for adjusting



1 services are exempted from the operation of Section 16003 of the
2 Government Code. Reimbursement of the revolving fund for ~~such~~
3 *these* expenditures shall be made upon presentation to the
4 Controller of an abstract or statement of ~~such~~ *the* expenditures.
5 ~~Such~~ *The* abstract or statement shall be in ~~such~~ *ny* form as the
6 Controller requires.

7 *(c) The director shall assign claims adjustment services and*
8 *legal representation services respecting matters concerning*
9 *subsequent injuries. The director or his or her representative may*
10 *make these service assignments within the department, or he or she*
11 *may contract for these services with the State Compensation*
12 *Insurance Fund, for a fee in addition to that authorized by Section*
13 *4754, except insofar as these matters might conflict with the*
14 *interests of the State Compensation Insurance Fund. The*
15 *administrative costs associated with these services shall be*
16 *reimbursed from the Workers' Compensation Administration*
17 *Revolving Fund, except when a budget impasse requires advances*
18 *as provided in subdivision (d) of Section 62.5. To the extent*
19 *permitted by state law, the director may contract for audits or*
20 *reports of services under this section.*

21 *(d) Commencing November 1, 2004, the State Compensation*
22 *Insurance Fund and the director shall report annually to the fiscal*
23 *committees of both houses of the Legislature and the Director of*
24 *Finance, regarding all of the following:*

25 *(1) The number of subsequent injuries claims paid in the*
26 *previous fiscal year, the total costs of those claims, and the levels*
27 *of reserves on incurred claims.*

28 *(2) The administrative costs associated with claims payment*
29 *activities.*

30 *(3) Annual revenues to the Subsequent Injuries Benefits Trust*
31 *Fund from both of the following:*

32 *(A) Assessments collected pursuant to subdivision (d) of*
33 *Section 62.5.*

34 *(B) Other revenues collected by the department.*

35 *(4) Projected annual program and claims costs for the current*
36 *and upcoming fiscal years.*

37 *SEC. 47. Section 1777.5 of the Labor Code is amended to*
38 *read:*



1 1777.5. (a) Nothing in this chapter shall prevent the
2 employment of properly registered apprentices upon public
3 works.

4 (b) Every apprentice employed upon public works shall be paid
5 the prevailing rate of per diem wages for apprentices in the trade
6 to which he or she is registered and shall be employed only at the
7 work of the craft or trade to which he or she is registered.

8 (c) Only apprentices, as defined in Section 3077, who are in
9 training under apprenticeship standards that have been approved
10 by the Chief of the Division of Apprenticeship Standards and who
11 are parties to written apprentice agreements under Chapter 4
12 (commencing with Section 3070) of Division 3 are eligible to be
13 employed at the apprentice wage rate on public works. The
14 employment and training of each apprentice shall be in accordance
15 with either of the following:

16 (1) The apprenticeship standards and apprentice agreements
17 under which he or she is training.

18 (2) The rules and regulations of the California Apprenticeship
19 Council.

20 (d) When the contractor to whom the contract is awarded by the
21 state or any political subdivision, in performing any of the work
22 under the contract, employs workers in any apprenticeable craft or
23 trade, the contractor shall employ apprentices in at least the ratio
24 set forth in this section and may apply to any apprenticeship
25 program in the craft or trade that can provide apprentices to the site
26 of the public work for a certificate approving the contractor under
27 the apprenticeship standards for the employment and training of
28 apprentices in the area or industry affected. However, the decision
29 of the apprenticeship program to approve or deny a certificate shall
30 be subject to review by the Administrator of Apprenticeship. The
31 apprenticeship program or programs, upon approving the
32 contractor, shall arrange for the dispatch of apprentices to the
33 contractor. A contractor covered by an apprenticeship program's
34 standards shall not be required to submit any additional application
35 in order to include additional public works contracts under that
36 program. "Apprenticeable craft or trade," as used in this section,
37 means a craft or trade determined as an apprenticeable occupation
38 in accordance with rules and regulations prescribed by the
39 California Apprenticeship Council. As used in this section,



1 “contractor” includes any subcontractor under a contractor who
2 performs any public works not excluded by subdivision (o).

3 (e) Prior to commencing work on a contract for public works,
4 every contractor shall submit contract award information to an
5 applicable apprenticeship program that can supply apprentices to
6 the site of the public work. The information submitted shall
7 include an estimate of journeyman hours to be performed under the
8 contract, the number of apprentices proposed to be employed, and
9 the approximate dates the apprentices would be employed. A copy
10 of this information shall also be submitted to the awarding body
11 if requested by the awarding body. Within 60 days after concluding
12 work on the contract, each contractor and subcontractor shall
13 submit to the awarding body, if requested, and to the
14 apprenticeship program a verified statement of the journeyman
15 and apprentice hours performed on the contract. The information
16 under this subdivision shall be public. The apprenticeship
17 programs shall retain this information for 12 months.

18 (f) The apprenticeship program that can supply apprentices to
19 the area of the site of the public work shall ensure equal
20 employment and affirmative action in apprenticeship for women
21 and minorities.

22 (g) The ratio of work performed by apprentices to journeymen
23 employed in a particular craft or trade on the public work may be
24 no higher than the ratio stipulated in the apprenticeship standards
25 under which the apprenticeship program operates where the
26 contractor agrees to be bound by those standards, but, except as
27 otherwise provided in this section, in no case shall the ratio be less
28 than one hour of apprentice work for every five hours of
29 journeyman work.

30 (h) This ratio of apprentice work to journeyman work shall
31 apply during any day or portion of a day when any journeyman is
32 employed at the jobsite and shall be computed on the basis of the
33 hours worked during the day by journeymen so employed. Any
34 work performed by a journeyman in excess of eight hours per day
35 or 40 hours per week shall not be used to calculate the ratio. The
36 contractor shall employ apprentices for the number of hours
37 computed as above before the end of the contract or, in the case of
38 a subcontractor, before the end of the subcontract. However, the
39 contractor shall endeavor, to the greatest extent possible, to
40 employ apprentices during the same time period that the



1 journeymen in the same craft or trade are employed at the jobsite.
2 Where an hourly apprenticeship ratio is not feasible for a particular
3 craft or trade, the Chief of the Division of Apprenticeship
4 Standards, upon application of an apprenticeship program, may
5 order a minimum ratio of not less than one apprentice for each five
6 journeymen in a craft or trade classification.

7 (i) A contractor covered by this section that has agreed to be
8 covered by an apprenticeship program's standards upon the
9 issuance of the approval certificate, or that has been previously
10 approved for an apprenticeship program in the craft or trade, shall
11 employ the number of apprentices or the ratio of apprentices to
12 journeymen stipulated in the applicable apprenticeship standards,
13 but in no event less than the 1-to-5 ratio required by subdivision
14 (g).

15 (j) Upon proper showing by a contractor that he or she employs
16 apprentices in a particular craft or trade in the state on all of his or
17 her contracts on an annual average of not less than one hour of
18 apprentice work for every five hours of labor performed by
19 journeymen, the Chief of the Division of Apprenticeship
20 Standards may grant a certificate exempting the contractor from
21 the 1-to-5 hourly ratio, as set forth in this section for that craft or
22 trade.

23 (k) An apprenticeship program has the discretion to grant to a
24 participating contractor or contractor association a certificate,
25 which shall be subject to the approval of the Administrator of
26 Apprenticeship, exempting the contractor from the 1-to-5 ratio set
27 forth in this section when it finds that any one of the following
28 conditions is met:

29 (1) Unemployment for the previous three-month period in the
30 area exceeds an average of 15 percent.

31 (2) The number of apprentices in training in the area exceeds
32 a ratio of 1 to 5.

33 (3) There is a showing that the apprenticeable craft or trade is
34 replacing at least one-thirtieth of its journeymen annually through
35 apprenticeship training, either on a statewide basis or on a local
36 basis.

37 (4) Assignment of an apprentice to any work performed under
38 a public works contract would create a condition that would
39 jeopardize his or her life or the life, safety, or property of fellow
40 employees or the public at large, or the specific task to which the



1 apprentice is to be assigned is of a nature that training cannot be
2 provided by a journeyman.

3 (l) When an exemption is granted pursuant to subdivision (k)
4 to an organization that represents contractors in a specific trade
5 from the 1-to-5 ratio on a local or statewide basis, the member
6 contractors ~~will~~ shall not be required to submit individual
7 applications for approval to local joint apprenticeship committees,
8 if they are already covered by the local apprenticeship standards.

9 (m) (1) A contractor to whom a contract is awarded, who, in
10 performing any of the work under the contract, employs
11 journeymen or apprentices in any apprenticeable craft or trade
12 shall contribute to the California Apprenticeship Council the same
13 amount that the director determines is the prevailing amount of
14 apprenticeship training contributions in the area of the public
15 works site. A contractor may take as a credit for payments to the
16 council any amounts paid by the contractor to an approved
17 apprenticeship program that can supply apprentices to the site of
18 the public works project. The contractor may add the amount of the
19 contributions in computing his or her bid for the contract.

20 (2) At the conclusion of the ~~2003-04~~ 2002-03 fiscal year and
21 each fiscal year thereafter, the California Apprenticeship Council
22 shall distribute training contributions received by the council
23 under this subdivision, less the expenses of the Division of
24 Apprenticeship Standards for administering this subdivision, by
25 making grants to approved apprenticeship programs for the
26 purpose of training apprentices. The funds shall be distributed as
27 follows:

28 (A) If there is an approved multiemployer apprenticeship
29 program serving the same craft or trade and geographic area for
30 which the training contributions were made to the council, a grant
31 to that program shall be made.

32 (B) If there are two or more approved multiemployer
33 apprenticeship programs serving the same craft or trade and
34 geographic area for which the training contributions were made to
35 the council, the grant shall be divided among those programs based
36 on the number of apprentices registered in each program.

37 (C) All training contributions not distributed under
38 subparagraphs (A) and (B) shall be used to defray the future
39 expenses of the Division of Apprenticeship Standards.



1 (3) All training contributions received pursuant to this
2 subdivision shall be deposited in the Apprenticeship Training
3 Contribution Fund, which ~~fund~~ is hereby created in the State
4 Treasury. Notwithstanding Section 13340 of the Government
5 Code, all money in the Apprenticeship Training Contribution
6 Fund is hereby continuously appropriated for the purpose of
7 carrying out this subdivision and to pay the expenses of the
8 Division of Apprenticeship Standards.

9 (n) The body awarding the contract shall cause to be inserted
10 in the contract stipulations to effectuate this section. The
11 stipulations shall fix the responsibility of compliance with this
12 section for all apprenticeable occupations with the prime
13 contractor.

14 (o) This section does not apply to contracts of general
15 contractors or to contracts of specialty contractors not bidding for
16 work through a general or prime contractor when the contracts of
17 general contractors or those specialty contractors involve less than
18 thirty thousand dollars (\$30,000).

19 (p) All decisions of an apprenticeship program under this
20 section are subject to Section 3081.

21 *SEC. 48. Section 1033.2 is added to the Military and Veterans*
22 *Code, to read:*

23 *1033.2. If the total amount collected for reimbursements for*
24 *Medi-Cal and Medicare services provided in any fiscal year by a*
25 *veterans' home exceeds the budgeted reimbursements for that*
26 *home, the additional funds collected shall be used to repay any*
27 *unpaid General Fund loans provided to the veterans' home in*
28 *prior fiscal years for the operation of that home.*

29 *SEC. 49. Section 40433 of the Public Resources Code is*
30 *amended to read:*

31 40433. (a) The Governor shall appoint one adviser for each
32 member of the board upon the recommendation of the board
33 member. Each adviser shall receive a salary as shall be fixed by the
34 board with the approval of the Department of Personnel
35 Administration. *The advisor serving the chairperson of the board*
36 *shall be known as the principal advisor.*

37 (b) *An advisor appointed pursuant to subdivision (a) may not*
38 *select an additional deputy or employee. The board may not*
39 *expend any funds to pay for the salary of a deputy or employee of*
40 *an advisor.*



1 SEC. 50. Section 42873 of the Public Resources Code is
2 amended to read:

3 42873. (a) Activities eligible for funding under this article,
4 that reduce, or that are designed to reduce or promote the reduction
5 of, landfill disposal of used whole tires, may include the following:

- 6 (1) Polymer treatment.
- 7 (2) Rubber reclaiming and crumb rubber production.
- 8 (3) Retreading.
- 9 (4) Shredding.
- 10 (5) The manufacture of products made from used tires,
11 including, but not limited to, all of the following:
 - 12 (A) Artificial reefs.
 - 13 (B) Rubber asphalt.
 - 14 (C) Playground equipment.
 - 15 (D) Crash barriers.
 - 16 (E) Erosion control materials.
 - 17 (F) Nonslip floor and track surfacing.
 - 18 (G) Oil spill recovery equipment.
 - 19 (H) Roofing adhesives.

20 (6) Other environmentally safe applications or treatments
21 determined to be appropriate by the board. ~~The board shall delay~~
22 ~~any determination of whether the use of waste tires for fuel is~~
23 ~~appropriate until it has reviewed the report required pursuant to~~
24 ~~Section 42859.~~

25 (b) (1) *The board may not expend funds for an activity that*
26 *provides support or research for the incineration of tires. For the*
27 *purposes of this article, incineration of tires, includes, but is not*
28 *limited to, fuel feed system development, fuel sizing analysis, and*
29 *capacity and production optimization.*

30 (2) *Paragraph (1) does not affect the permitting or regulation*
31 *of facilities that engage in the incineration of tires.*

32 SEC. 51. Section 42885.5 of the Public Resources Code is
33 amended to read:

34 42885.5. (a) The board shall adopt a five-year plan, which
35 shall be updated every two years, to establish goals and priorities
36 for the waste tire program and each program element.

37 (b) On or before July 1, 2001, and every two years thereafter,
38 the board shall submit the adopted five-year plan to the appropriate
39 policy and fiscal committees of the Legislature. The board shall
40 include, in the plan, programmatic and fiscal issues including, but



1 not limited to, the hierarchy used by the board to maximize
2 productive uses of waste and used tires and the performance
3 objectives and measurement criteria used by the board to evaluate
4 the success of its waste and used tire recycling program.
5 Additionally, the plan shall describe each program element's
6 effectiveness, based upon performance measures developed by the
7 board, including, but not limited to, the following:

8 (1) Enforcement and regulations relating to the storage of
9 waste and used tires.

10 (2) Cleanup, abatement, or other remedial action related to
11 waste tire stockpiles throughout the state.

12 (3) Research directed at promoting and developing alternatives
13 to the landfill disposal of waste tires.

14 (4) Market development and new technology activities for used
15 tires and waste tires.

16 (5) The waste and used tire hauler program and manifest
17 system.

18 (6) Until June 30, 2006, the grant program authorized under
19 Section 42872.5 to encourage the use of rubberized asphalt
20 concrete technology in public works projects.

21 (c) The board shall base the budget for the California Tire
22 Recycling Act and program funding on the plan.

23 (d) *The plan may not propose financial or other support that*
24 *promotes, or provides for research for the incineration of tires.*

25 SEC. 52. *Section 71040 of the Public Resources Code is*
26 *amended to read:*

27 71040. ~~(a)–The Secretary for Environmental Protection shall~~
28 ~~establish permit assistance centers throughout the state to provide~~
29 ~~businesses and other entities with assistance in complying with~~
30 ~~laws and regulations implemented by every board, department,~~
31 ~~and office within the California Environmental Protection~~
32 ~~Agency. Each permit assistance center shall, to the extent feasible,~~
33 ~~incorporate permit assistance activities of local and federal entities~~
34 ~~and of other entities of the state into its operations.~~

35 (b) ~~In addition to the centers authorized pursuant to subdivision~~
36 ~~(a), the secretary shall establish~~ an electronic online permit
37 assistance center through the Internet. The electronic online
38 permit assistance center shall be available for use by any business
39 or other entity subject to a law or regulation implemented by a
40 board, department, or office within the California Environmental



1 Protection Agency, and shall provide a business or other entity
2 with assistance in complying with those laws and regulations. The
3 center, which shall be called the “California Government-On Line
4 to Desktops” or “CALGOLD” program, shall provide special
5 software, “hotlinks” and other online resources and tools that may
6 be used by a business or other entity to streamline and expedite
7 compliance with laws and regulations implemented by a board,
8 department, or office within the California Environmental
9 Protection Agency. The CALGOLD program shall, to the extent
10 feasible, incorporate permit assistance activities of local and
11 federal entities and of other entities of the state into its operations.

12 ~~(e) The Secretary for Environmental Protection shall report~~
13 ~~annually, no later than December 1 with respect to the previous~~
14 ~~fiscal year, to the Governor and the Legislature on the number of~~
15 ~~permits issued, expedited, or otherwise streamlined by each~~
16 ~~center; the number and types of businesses assisted by each center;~~
17 ~~and how the assistance provided to businesses has improved~~
18 ~~environmental protection. The secretary, in consultation with the~~
19 ~~Secretary of Technology, Trade and Commerce, shall report on the~~
20 ~~permit assistance activities of both agencies and shall make~~
21 ~~recommendations to ensure that these activities are coordinated~~
22 ~~and nonduplicative.~~

23 *SEC. 53. Section 280 of the Public Utilities Code is amended*
24 *to read:*

25 280. (a) There is hereby created the California Teleconnect
26 Fund Administrative Committee, which is an advisory board to
27 advise the commission regarding the development,
28 implementation, and administration of a program to advance
29 universal service by providing discounted rates to qualifying
30 schools, libraries, hospitals, health clinics, and community
31 organizations, consistent with Chapter 278 of the Statutes of 1994,
32 and to carry out the program pursuant to the commission’s
33 direction, control, and approval.

34 (b) All revenues collected by telephone corporations in rates
35 authorized by the commission to fund the program specified in
36 subdivision (a) shall be submitted to the commission pursuant to
37 a schedule established by the commission. Commencing on
38 October 1, 2001, and continuing thereafter, the commission shall
39 transfer the moneys received, and all unexpended revenues
40 collected prior to October 1, 2001, to the Controller for deposit in



1 the California Teleconnect Fund Administrative Committee Fund.
2 All interest earned by moneys in the fund shall be deposited in the
3 fund.

4 (c) Moneys appropriated from the California Teleconnect Fund
5 Administrative Committee Fund to the commission shall be
6 utilized exclusively by the commission for the program specified
7 in subdivision (a), including all costs of the board and the
8 commission associated with the administration and oversight of
9 the program and the fund.

10 (d) *Moneys loaned from the California Teleconnect Fund*
11 *Administrative Committee Fund in the Budget Act of 2003 are*
12 *subject to Section 16320 of the Government Code. If the*
13 *commission determines a need for moneys in the California*
14 *Teleconnect Fund Administrative Committee Fund, the*
15 *commission shall notify the Director of Finance of the need, as*
16 *specified in Section 16320 of the Government Code. The*
17 *commission may not increase the rates authorized by the*
18 *commission to fund the program specified in subdivision (a) while*
19 *moneys loaned from the California Teleconnect Fund*
20 *Administrative Committee Fund in the Budget Act of 2003 are*
21 *outstanding unless both of the following conditions are satisfied:*

22 (1) *The Director of Finance, after making a determination*
23 *pursuant to subdivision (b) of Section 16320 of the Government*
24 *Code, does not order repayment of all or a portion of any loan from*
25 *the California Teleconnect Fund Administrative Committee Fund*
26 *within 30 days of notification by the commission of the need for the*
27 *moneys.*

28 (2) *The commission notifies the Director of Finance and the*
29 *Chairperson of the Joint Legislative Budget Committee in writing*
30 *that it intends to increase the rates authorized by the commission*
31 *to fund the program specified in subdivision (a). The notification*
32 *required pursuant to this paragraph shall be made 30 days in*
33 *advance of the intended rate increase.*

34 (e) *Subdivision (d) shall become inoperative upon full*
35 *repayment or discharge of all moneys loaned from the California*
36 *Teleconnect Fund Administrative Committee Fund in the Budget*
37 *Act of 2003.*

38 SEC. 54. *Section 321.1 is added to the Public Utilities Code,*
39 *to read:*



1 321.1. *It is the intent of the Legislature that the commission*
2 *assess the economic effects or consequences of its decisions as part*
3 *of each ratemaking, rulemaking, or other proceeding, and that this*
4 *be accomplished using existing resources and within existing*
5 *commission structures. The commission shall not establish a*
6 *separate office or department for the purpose of evaluating*
7 *economic development consequences of commission activities.*

8 SEC. 55. *Section 18409 of the Revenue and Taxation Code is*
9 *amended to read:*

10 18409. (a) The Franchise Tax Board shall prescribe
11 regulations providing standards for determining which returns
12 shall be filed on magnetic media or in other machine-readable
13 form. The Franchise Tax Board ~~shall~~ may not require returns of
14 any tax imposed by Part 10 (commencing with Section 17001) on
15 ~~individuals~~, estates, and trusts to be other than on paper forms
16 supplied by the Franchise Tax Board. In prescribing those
17 regulations, the Franchise Tax Board shall take into account,
18 among other relevant factors, the ability of the taxpayer to comply
19 at a reasonable cost with that filing requirement.

20 (b) (1) Subdivision (a) is applicable only to taxpayers required
21 to file returns on magnetic media or in other machine-readable
22 form pursuant to Section 6011(e) of the Internal Revenue Code,
23 *relating to regulations requiring returns on magnetic media*, and
24 the regulations adopted thereto.

25 (2) For purposes of paragraph (1), the last sentence of Section
26 6011(e)(2) of the Internal Revenue Code, ~~shall~~ does not apply.

27 (3) In addition, the regulations under subdivision (a) shall not
28 require that returns filed on magnetic media or in other
29 machine-readable form contain more information than is required
30 to be included in similar returns filed with the Internal Revenue
31 Service under Section 6011(e) of the ~~United States~~ Internal
32 Revenue Code and the regulations adopted thereto.

33 (c) In lieu of the magnetic media or other machine-readable
34 form returns required by this section, a copy of the similar
35 magnetic media or other machine-readable form returns filed with
36 the Internal Revenue Service pursuant to Section 6011(e) of the
37 Internal Revenue Code, and the regulations adopted thereto, may
38 be filed with the Franchise Tax Board.

39 SEC. 56. *Section 18621.9 is added to the Revenue and*
40 *Taxation Code, to read:*



1 18621.9. (a) If an income tax return preparer prepared more
2 than 100 timely original individual income tax returns that were
3 filed during any calendar year that began on and after January 1,
4 2003, and if in the current calendar year that income tax preparer
5 prepares one or more acceptable individual income tax returns
6 using tax preparation software, then, for that calendar year and for
7 each subsequent calendar year thereafter, all acceptable
8 individual income tax returns prepared by that income tax preparer
9 shall be filed using electronic technology, as defined in Section
10 18621.5.

11 (b) For purposes of this section:

12 (1) "Income tax preparer" means a person that meets both of
13 the following:

14 (A) Any person that prepares, in exchange for compensation, or
15 who employs another person to prepare, in exchange for
16 compensation, any return for the tax imposed by Part 10
17 (commencing with Section 17001) (hereafter Part 10). A person
18 that only performs those acts described in clauses (i) through (iv)
19 of Section 7701(a)(36)(B) of the Internal Revenue Code, with
20 respect to the preparation of a return for the tax imposed by Part
21 10, is not an income tax preparer for purposes of this section or for
22 purposes of Section 19170.

23 (B) Any person that prepares returns for the tax imposed by
24 Part 10 that is also required, by this article, to include an
25 identification number on any return prepared by that tax preparer
26 for the tax imposed by Part 10.

27 (2) "Original individual income tax return" means any return
28 that is required, by Section 18501, to be made with respect to the
29 tax imposed by Part 10. For purposes of subdivision (a), a
30 "timely" original individual tax return means any original
31 individual tax return that is filed, without regard to extensions,
32 during the calendar year for which that tax return is required to be
33 filed.

34 (3) "Acceptable individual income tax return" means any
35 original individual tax return that is authorized by the Franchise
36 Tax Board to be filed using electronic technology, as defined in
37 Section 18621.5. For purposes of this section, Chapter 3.5
38 (commencing with Section 11340) of Part 1 of Division 3 of Title
39 2 of the Government Code does not apply to any rule, notice, or



1 guideline issued by the Franchise Tax Board that identifies a tax
2 return as an acceptable individual income tax return.

3 (4) ‘Tax preparation software’ means any computer software
4 program intended for accounting, tax return preparation, or tax
5 compliance.

6 (c) Subdivision (a) shall cease to apply to an income tax
7 preparer if, during the previous calendar year, that income tax
8 preparer prepared no more than 25 original individual income tax
9 returns.

10 (d) (1) This section applies to acceptable individual income
11 tax returns required to be filed for taxable years beginning on and
12 after January 1, 2004.

13 (2) This section may not be interpreted to require electronic
14 filing of acceptable individual income tax returns that are required
15 to be filed on or before January 1, 2004.

16 SEC. 57. Section 19170 is added to the Revenue and Taxation
17 Code, to read:

18 19170. (a) An income tax preparer that is subject to Section
19 18621.9 is liable for a penalty in the amount of fifty dollars (\$50)
20 for each acceptable individual income tax return prepared by that
21 income tax preparer that is not electronically filed, unless it is
22 shown that the failure to electronically file that acceptable
23 individual income tax return is due to reasonable cause and not
24 due to willful neglect.

25 (b) For purposes of this section, reasonable cause includes, but
26 is not limited to, a taxpayer’s election not to electronically file an
27 acceptable individual income tax return in compliance with
28 Section 18621.9.

29 SEC. 58. Section 104.19 is added to the Streets and Highways
30 Code, to read:

31 104.19. (a) The excess property owned by the department
32 described in subdivision (b) that is leased until June 30, 2005, to
33 the Century Housing Corporation, a nonprofit corporation, and
34 used for job training and placement purposes, shall continue to be
35 leased to that party until June 30, 2028, at the existing rent.

36 (b) The excess property consists of approximately 1.3 acres, is
37 referred to as excess parcels 6160, 6166, 6167, and 6168, and is
38 located adjacent to Lennox Boulevard and State Highway
39 (Interstate) Route 405 in an unincorporated area of Los Angeles
40 County.



1 SEC. 59. Section 6 of Chapter 213 of the Statutes of 2000 is
2 amended to read:

3 Sec. 6. The following sums are hereby appropriated from the
4 General Fund to be allocated according to the following schedule:

5 (a) (1) Five million dollars (\$5,000,000) to the ~~California~~
6 ~~Commission on Improving Life Through Service~~ Governor's
7 Office on Service and Volunteerism, on an annual basis, for the
8 purpose of funding grants to local and state operated Americorps
9 and Conservation Corps programs, up to 5 percent of which may
10 be used for state level administration costs.

11 (2) This subdivision shall be inoperative from July 1, 2003, to
12 June 30, 2006, inclusive.

13 (b) One million dollars (\$1,000,000) to the Superintendent of
14 Public Instruction for the purpose of developing or revising, as
15 needed, a model curriculum on the life and work of Cesar Chavez
16 and distributing that curriculum to each school.

17 SEC. 60. The changes made by this act to Sections 1540, 1541,
18 and 1542 of the Code of Civil Procedures shall apply to any claims
19 for which the Controller has not made a decision by the earlier of
20 July 1, 2003, or the effective date of this act.

21 SEC. 61. Sections 28 and 29 of this act, which repeal Sections
22 29145 and 43402 of the Government Code, respectively, shall
23 become operative on July 1, 2003.

24 SEC. 62. The Legislature finds and declares that the changes
25 made by this act to Sections 25192 and 25249.12 of the Health and
26 Safety Code further the purposes of the Safe Drinking Water and
27 Toxic Enforcement Act of 1986.

28 SEC. 63. This act is an urgency statute necessary for the
29 immediate preservation of the public peace, health, or safety
30 within the meaning of Article IV of the Constitution and shall go
31 into immediate effect. The facts constituting the necessity are:

32 In order to make the necessary changes to implement the Budget
33 Act of 2003 at the earliest possible time, it is necessary that this act
34 take effect immediately.

