

## Assembly Bill No. 1756

### CHAPTER 228

An act 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 935.7, 15372.86, 17526, and 22825.01 of, to add Sections 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, and to repeal Sections 29145, and 43402 of, the Government Code, to amend Sections 25192, 25249.12, 50710.1, and 53533 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 add Section 6611 to the Public Contract Code, to amend Sections 40433, 42873, 42885.5, and 71040 of, and to add Section 40409 to, 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.

[Approved by Governor August 9, 2003. Filed with  
Secretary of State August 11, 2003.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1756, Committee on Budget. State government.

(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 provides for the indemnification of victims of specified types of crimes by the California Victim Compensation and Government Claims Board. Existing law authorizes the Department of Transportation to adjust and pay any claim arising out of the activities of the department without the prior approval of the board if the amount paid is \$5,000 or less and either the Director of Finance or Director of Transportation certifies that a sufficient appropriation for the payment of the claim exists. Existing law requires the board, if the Department of Transportation elects not to pay the claim, to process the claim in the same manner as any other claim filed against the state.

This bill would authorize the department to deny, as well as adjust and pay, any such claim without the prior approval of the board if the amount claimed is \$5,000 or less. The bill would require the department to provide written notice of the rejection of the claim pursuant to existing law if the department elects not to pay any claim.

(4) 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.

(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 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.

(8) 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.

(9) 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.

(10) 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.

(11) 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.

(12) 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.



(13) 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.

(14) 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.

(15) 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.

(16) 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.

(17) 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.

(18) 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.

(19) 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 in 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 workers' 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.

(20) 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.

(21) 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.

(22) 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.

(23) 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.



(24) 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.

(25) Existing law requires any state agency or department that seeks to execute a contract for professional consulting services from a private architectural, engineering, land surveying, environmental, or construction project management firm to engage in negotiations with the selected firm before executing the contract.

This bill would authorize the Department of General Services to establish a negotiation process that may be used during various stages of the procurement process when the department procures goods, services, construction services, or information technology for itself or on behalf of another state agency. This bill would authorize the use of this negotiation process only when the department makes specified findings regarding the procurement.

(26) 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 adviser for each member of the board upon the recommendation of the board member.

This bill would provide that the adviser serving the chairperson of the board is to be known as the principal adviser. The bill would prohibit an appointed adviser 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 adviser.

(27) 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.

(28) 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.

(29) 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.

(30) 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.

(31) 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.

(32) 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.

(33) 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.

(34) Existing provisions of the 2000 Budget Act appropriated a specified amount to The Wall—Las Memorias Project.



This bill would reappropriate the balance of that appropriation and make it available for expenditure and encumbrance until June 30, 2004.

(35) Existing law, in the annual state Budget Act and otherwise, provides for appropriations for state agencies.

This bill would authorize the Director of Finance to reduce or reallocate appropriations within a state agency with respect to appropriations for the 2003–04 fiscal year, in certain circumstances, and would require the director to provide the chairs of specified committees of the Legislature with notice 30 days prior to any reduction or reallocation.

(36) The bill would make findings and declarations and state the intent of the Legislature that the Department of Finance, in assisting the Governor in preparing the 2004–05 State Budget, not include funding for specified purposes.

(37) Existing law establishes the California Public Employees' Retirement System and provides for the procedures by which the system is funded.

This bill would provide that the state's July 1, 2003, payment shall be considered an expenditure in the 2002–03 fiscal year.

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

Appropriation: yes.

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

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

5081. An applicant for an authorization to be admitted to the examination for a certified public accountant license shall:

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

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

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

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

5082. An applicant for a certified public accountant license shall have successfully passed examinations in subjects the board deems appropriate, and in the form and manner the board deems appropriate. The board may, by regulation, prescribe the methods for applying for and



conducting the examination, including methods for grading and determining a passing grade.

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

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

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

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

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

5082.2. For candidates seeking to be reexamined pursuant to subdivision (b) of Section 5090, a candidate who fails an examination provided for in this article shall have the right to any number of reexaminations at subsequent examinations. A candidate who passes an examination in two or more subjects shall have the right to be reexamined in the remaining subject or subjects only, at subsequent examinations, and if he or she passes in the remaining subject or subjects within a period of time specified in the rules of the board, he or she shall be considered to have passed the examination.

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

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

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

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

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

1532. (a) Every person filing a report as provided by Section 1530 shall pay or deliver to the Controller all escheated property specified in





the report at the same time the report is filed. On and after January 1, 1997, a payment of unclaimed cash in an amount of at least twenty thousand dollars (\$20,000) shall be made by electronic funds transfer pursuant to regulations adopted by the Controller.

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

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

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

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

(f) An electronic funds transfer shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, a Federal Reserve Wire Transfer (Fedwire), or by an international funds transfer. Banking costs incurred for the automated clearinghouse debit transaction by the holder shall be paid by the state. Banking costs incurred by the state for the automated clearinghouse credit transaction may be paid by the holder originating the credit. Banking costs incurred for the Fedwire transaction charged to the holder and the state shall be



paid by the person originating the transaction. Banking costs charged to the holder and to the state for an international funds transfer may be charged to the holder.

(g) For purposes of this section:

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

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

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

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

(5) “Fedwire” means any transaction originated by the holder and utilizing the national electronic payment system to transfer funds through federal reserve banks, pursuant to which the holder debits its own bank account and credits the state’s bank account.

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

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

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

(b) The Controller shall consider each claim within 180 days after it is filed and may hold a hearing and receive evidence. The Controller shall give written notice to the claimant if he or she denies the claim in whole or in part. The notice may be given by mailing it to the address,



if any, stated in the claim as the address to which notices are to be sent. If no address is stated in the claim, the notice may be mailed to the address, if any, of the claimant as stated in the claim. No notice of denial need be given if the claim fails to state either an address to which notices are to be sent or an address of the claimant.

(c) No interest shall be payable on any claim paid under this chapter.

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

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

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

1541. Any person aggrieved by a decision of the Controller or as to whose claim the Controller has failed to make a decision within 180 days after the filing of the claim, may commence an action, naming the Controller as a defendant, to establish his or her claim in the superior court in any county or city and county in which the Attorney General has an office. The action shall be brought within 90 days after the decision of the Controller or within 270 days from the filing of the claim if the Controller fails to make a decision. The summons and a copy of the complaint shall be served upon the Controller and the Attorney General and the Controller shall have 60 days within which to respond by answer. The action shall be tried without a jury.

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

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

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

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

(3) The property is the sum payable on a travelers check, money order, or other similar instrument that escheated to this state under Section 1511, the travelers check, money order, or other similar



instrument was in fact purchased in that other state, and, under the laws of that state, the property escheated to that state.

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

(b) The claim of another state to recover escheated property under this section shall be presented in writing to the Controller, who shall consider the claim within 180 days after it is presented. The Controller may hold a hearing and receive evidence. The Controller shall allow the claim upon determination that the other state is entitled to the escheated property.

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

SEC. 11. Section 935.7 of the Government Code is amended to read:

935.7. (a) Notwithstanding Section 935.6, the Department of Transportation may deny or adjust and pay any claim arising out of the activities of the department without the prior approval of the California Victim Compensation and Government Claims Board if both of the following conditions exist:

(1) The amount claimed is five thousand dollars (\$5,000) or less.

(2) The Director of Finance or the Director of Transportation certifies that a sufficient appropriation for the payment of the claim exists.

(b) If the department elects not to pay any claim, the department shall provide the notice required by Section 913.

(c) Any person who submits any claim arising out of any activity of the Department of Transportation shall comply with every other applicable provision of this part relating to claims against state agencies.

SEC. 11.5.

SEC. 12. Section 12406 is added to the Government Code, to read:

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

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

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



SEC. 14. Section 15312.5 is added to the Government Code, to read:

15312.5. Notwithstanding any other provision of law, the functions and duties of the Technology, Trade, and Commerce Agency established pursuant to Part 6.7 (commencing with Section 15310) of Division 3 of Title 2, and any other provisions 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.

SEC. 15. Section 15372.86 of the Government Code is amended to read:

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

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

(2) Collect and deposit assessments.

(3) Exercise police powers.

(4) Pursue actions and penalties connected with assessments.

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

(1) Travel and expense costs.

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

(3) The use of any state funds.

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

SEC. 16. Article 9.5 (commencing with Section 16428.1) is added to Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, to read:

#### Article 9.5. Ratepayer Relief Fund

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

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

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



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

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

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

16428.15. The Ratepayer Relief Fund is hereby established in the State Treasury. The purpose of the fund is 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.

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

(a) “Fund” means the Ratepayer Relief Fund established in Section 16428.1.

(b) “Energy settlement agreement” means any agreement arising from the energy crisis of 2000–02, where the State of California or a division of the State of California, is a party in a complaint or any action relating to the operation and management of any generation facilities, any sale or purchase or transmission of natural gas, any sale or purchase or transmission of electricity or other utility or energy goods and services, or a violation of the Federal Power Act (16 U.S.C. Sec. 791a et seq.), state law, or Public Utilities Commission orders or regulations relating to electricity generation, transmission, or distribution, electrical corporations, gas generation, storage, transmission, or distribution, gas corporations, energy generation facilities, or publicly owned utilities.

16428.3. (a) Any energy settlement agreement entered into by the Attorney General, after reimbursing the Attorney General’s litigation and investigation expenses, to the maximum extent possible, shall 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. To the extent the ratepayers of the investor-owned utilities were harmed, the settlement funds shall be directed to reduce their costs, to the maximum extent possible, through reduction of rates or the reduction of ratepayer debt obligations incurred as a result of the energy crisis.

(2) For deposit in the fund.

(b) Nothing in this article shall preclude nonmonetary compensation to the state through an energy settlement agreement, provided that the allocation of benefits from any nonmonetary compensation is consistent with paragraph (1) of subdivision (a).

16428.4. All funds recovered on behalf of the Department of Water Resources, after deduction of litigation and investigation expenses, shall



be deposited in the Department of Water Resources Electric Power Fund and applied pursuant to Division 27 (commencing with Section 80000) of the Water Code.

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

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

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

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

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

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

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

SEC. 17. Section 17526 of the Government Code is amended to read:

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

(b) The commission shall meet at least once every two months.

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

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

SEC. 18. Section 22825.01 of the Government Code is amended to read:

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





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

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

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

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

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

(b) (1) The Rural Health Care Equity Program is hereby established for the purpose of funding the subsidization and reimbursement of premium costs, deductibles, coinsurance, and other out-of-pocket health care costs, which would otherwise be covered if the state employee or annuitant was enrolled in a board-approved health maintenance organization plan, paid by employees and annuitants living in rural areas, as authorized by this section. The program shall be administered by the department or by a third-party administrator approved by the department in a manner consistent with all applicable state and federal laws. The board shall determine the rural area for each subsequent fiscal year at the same meeting when the board approves premiums for health maintenance organizations.

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

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

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

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

(3) As the employer’s contribution with respect to each annuitant, as defined in subdivision (e) of Section 22754, who lives in a rural area, is not a Medicare participant, resides in California, and who is otherwise eligible, an amount not to exceed five hundred dollars (\$500) per year.



Annuitants who become residents of a state other than California on or after July 1, 2003, are ineligible for the program.

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

(5) As to an employee who enters state service or leaves state service during a fiscal year, contributions for the employee shall be made on a pro rata basis. A similar computation shall be used for anyone entering or leaving the bargaining unit, including a person who enters the bargaining unit by promotion in mid-fiscal year.

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

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

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

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

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

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



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

(e) For any sums allocated pursuant to subdivision (c) for annuitants, funds, other than the General Fund, shall be charged a fair share of the state's contribution in accordance with the provisions of Article 2 (commencing with Section 11270) of Chapter 3 of Part 1 of Division 3 of Title 2. On or before July 31 of each year, the Department of Personnel Administration shall provide the Department of Finance with the total costs allocated pursuant to subdivision (c) for annuitants in the immediately preceding fiscal year. The reported costs shall not include expenses that have been incurred but not claimed as of July 31.

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

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

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



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

The state shall not reimburse for penalty amounts.

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

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

(j) This section shall become operative on January 1, 2004. This section shall cease to be operative on January 1, 2005, or on an earlier date as the board makes a formal determination that HMOs are no longer the most cost-effective health care plans offered by the board.

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

SEC. 20. Section 43402 of the Government Code is repealed.

SEC. 21. Section 25192 of the Health and Safety Code is amended to read:

25192. (a) All civil and criminal penalties collected pursuant to this chapter shall be apportioned in the following manner:

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

(2) Twenty-five percent shall be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action.

(3) Twenty-five percent shall be paid to the department and used to fund the activity of the CUPA, the local health officer, or other local public officer or agency authorized to enforce the provisions of this chapter pursuant to Section 25180, whichever entity investigated the matter that led to the bringing of the action. If investigation by the local police department or sheriff's office or California Highway Patrol led to the bringing of the action, the CUPA, the local health officer, or the authorized officer or agency, shall pay a total of 40 percent of its portion under this subdivision to that investigating agency or agencies to be used for the same purpose. If more than one agency is eligible for payment under this paragraph, division of payment among the eligible agencies shall be in the discretion of the CUPA, the local health officer, or the authorized officer or agency.



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

SEC. 22. Section 25249.12 of the Health and Safety Code is amended to read:

25249.12. (a) The Governor shall designate a lead agency and other agencies that may be required to implement this chapter, including this section. Each agency so designated may adopt and modify regulations, standards, and permits as necessary to conform with and implement this chapter and to further its purposes.

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

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

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

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

(d) Twenty-five percent of all civil and criminal penalties collected pursuant to this chapter shall be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action, or in the case of an action brought by a person under subdivision (d) of Section 25249.7, to that person.

SEC. 23. Section 50710.1 of the Health and Safety Code is amended to read:

50710.1. (a) If all the development costs of any migrant farm labor center assisted pursuant to this chapter are provided by federal, state, or local grants, and if inadequate funds are available from any federal, state, or local service to write-down operating costs, the department may approve rents for that center which are in excess of rents charged in other centers assisted by the Office of Migrant Services. However, prior to approving these rents, the department shall consider the adequacy of evidence presented by the entity operating the center that the rents reimburse actual, reasonable, and necessary costs of operation. The department may not increase any rent charged at a migrant farm labor center during the 2003–04 fiscal year.

(b) At the end of each fiscal year, any entity operating a migrant farm labor center pursuant to this chapter may establish a reserve account



comprised of the excess funds provided through the annual operating contract received from the department, if the department certifies there is no need to address reasonable general maintenance requirements or repairs, rehabilitation, and replacement needs of the requesting migrant farm labor center which affect the immediate health and safety of residents. The cumulative balance of the reserve account shall not exceed 10 percent of the annual operating funds annually committed to the entity by the department. Funds in the reserve account shall be used only for capital improvements such as replacing or repairing structural elements, furniture, fixtures, or equipment of the migrant farm labor center, the replacement or repair of which are reasonably required to preserve the migrant farm labor center. Withdrawals from the reserve account shall be made only upon the written approval of the department of the amount and nature of expenditures.

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

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

(2) Rents are not to be increased above the rents charged during the period immediately prior to the extended occupancy period unless the department finds that an increase is necessary to cover the difference between reasonable operating costs necessary to keep the center open during the extended occupancy period and the amount of state funds available pursuant to paragraph (1) and any contributions from agricultural employers or other federal, local, or private sources. These contributions shall not be used to reduce the amount of state funds that otherwise would be made available to the center to subsidize rents during an extended occupancy period.

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



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

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

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

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

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

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

(D) The climate during the extended occupancy period.

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

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

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

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

(7) The occupancy during the extended occupancy period represents a new tenancy and is not subject to existing and statutory and regulatory limitations governing rents. Prior to the beginning of the extended





occupancy period, residents shall be provided at least two days' advance written notice of any rent increase and of the expected length of the extended occupancy period, including the scheduled date of closure of the center, and prior to being eligible for residency during the extended occupancy period, residents shall sign rental documents deemed necessary by the department.

(d) The Legislature finds and declares that variable annual climates and changing agricultural techniques create an inability to accurately predict the end of a harvest season for the purposes of housing migrant farmworkers and their families. Because of these factors, in any part of this state, and in any specific year, one or more migrant farmworker housing centers governed by this chapter need to remain open for up to two additional weeks to allow the residents to provide critical assistance to growers in harvesting crops while also fulfilling work expectations that encouraged them to migrate to the areas of the centers. In addition, if the centers close prematurely, the migrant farmworkers often must remain in the areas to work for up to two weeks. During this time they will not be able to obtain decent, safe, and affordable housing and the health and safety of their families and the surrounding community will be threatened.

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

SEC. 24. Section 53533 of the Health and Safety Code is amended to read:

53533. (a) Money deposited in the fund from the sale of bonds pursuant to this part shall be allocated for expenditure in accordance with the following schedule:

(1) Nine hundred ten million dollars (\$910,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, except for the following:

(A) Fifty million dollars (\$50,000,000) shall be transferred to the Preservation Opportunity Fund and, notwithstanding Section 13340 of the Government Code, is continuously appropriated without regard to fiscal years for the preservation of at-risk housing pursuant to enabling legislation.

(B) Twenty million dollars (\$20,000,000) shall be used for nonresidential space for supportive services, including, but not limited to, job training, health services, and child care within, or immediately



proximate to, projects to be funded under the Multifamily Housing Program. This funding shall be in addition to any applicable per-unit or project loan limits and may be in the form of a grant. Service providers shall ensure that services are available to project residents on a priority basis over the general public.

(C) Twenty-five million dollars (\$25,000,000) shall be used for matching grants to local housing trust funds pursuant to enabling legislation.

(D) Fifteen million dollars (\$15,000,000) shall be used for student housing through the Multifamily Housing Program, subject to the following provisions:

(i) The department shall give first priority for projects on land owned by a University of California or California State University campus. Second priority shall be given to projects located within one mile of a University of California or California State University campus that is suffering from a severe shortage of housing and limited availability of developable land as determined by the department. Those determinations shall be set forth in the Notice of Funding Availability and shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

(ii) All funds shall be matched on a one-to-one basis from private sources or by the University of California or California State University. For the purposes of this subparagraph, “University of California” includes the Hastings College of the Law.

(iii) Occupancy for the units shall be restricted to students enrolled on a full-time basis in the University of California or California State University.

(iv) Income eligibility pursuant to the Multifamily Housing Program shall be established by verification of the combined income of the student and his or her family.

(v) Any funds not used for this purpose within 24 months of the date that the funds are made available shall be awarded pursuant to subdivision (a) for the Downtown Rebound Program as set forth in paragraph (1) of subdivision (c) of Section 50898.2.

(E) Any funds not encumbered for the purposes set forth in this paragraph, except subparagraph (D), within 30 months of availability shall revert to the Housing Rehabilitation Loan Fund created by Section 50661 for general use in the Multifamily Housing Program.

(F) If the enabling legislation for any program specified in this paragraph fails to be enacted into law in the 2001–02 Regular Session of the Legislature, the specified allocation for that program shall be void and the funds shall revert for general use in the Multifamily Housing Program.



(2) One hundred ninety-five million dollars (\$195,000,000) shall be transferred to the Emergency Housing and Assistance Fund to be expended for the Emergency Housing and Assistance Program authorized by Chapter 11.5 (commencing with Section 50800 of Part 2).

(3) One hundred ninety-five million dollars (\$195,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, to be used for supportive housing projects for individuals and households moving from emergency shelters or transitional housing or those at risk of homelessness. The criteria for selecting projects should give priority to supportive housing for people with disabilities who would otherwise be at high risk of homelessness where the applications represent collaboration with programs that meet the needs of the person's disabilities. The department may provide for higher per-unit loan limits as reasonably necessary to provide and maintain rents affordable to those individuals and households. For purposes of this paragraph, "supportive housing" means housing with no limit on length of stay, that is occupied by the target population, as defined in subdivision (d) of Section 53260, and that is linked to onsite or offsite services that assist the tenant to retain the housing, improve his or her health status, maximize his or her ability to live, and, when possible, work in the community.

(4) Two hundred million dollars (\$200,000,000) shall be transferred to the Joe Serna, Jr. Farmworker Housing Grant Fund to be expended for farmworker housing programs authorized by Chapter 3.2 (commencing with Section 50517.5) of Part 2, except for the following:

(A) Twenty-five million dollars (\$25,000,000) shall be used for projects that serve migratory agricultural workers as defined in subdivision (i) of Section 7602 of Title 25 of the California Code of Regulations. If, after July 1, 2003, funds remain after the approval of all feasible applications, the department shall be deemed an eligible recipient for the purposes of reconstructing migrant centers operated through the Office of Migrant Services pursuant to Chapter 8.5 (commencing with Section 50710) that would otherwise be scheduled for closure due to health or safety considerations or are in need of significant repairs to ensure the health and safety of the residents. Of the dollars allocated by this section, the department shall receive four million one hundred thousand dollars (\$4,100,000) for these purposes.

(B) Twenty million dollars (\$20,000,000) shall be used for developments that also provide health services to the residents. Recipients of these funds shall be required to provide ongoing monitoring of funded developments to ensure compliance with the requirements of the Joe Serna, Jr. Farmworker Housing Grant Program.



Projects receiving funds through this allocation shall be ineligible for funding through the Joe Serna, Jr. Farmworker Housing Grant Program.

(C) Any funds not encumbered for the purposes set forth in this paragraph within 30 months of availability shall revert for general use in the Joe Serna, Jr. Farmworker Housing Grant Program.

(5) Two hundred five million dollars (\$205,000,000) shall be transferred to the Self-Help Housing Fund. Notwithstanding Section 13340 of the Government Code and Section 50697.1, these funds are hereby continuously appropriated without regard to fiscal years to the department to be expended for the purposes of the CalHome Program authorized by Chapter 6 (commencing with Section 50650) of Part 2, except for the following:

(A) Seventy-five million dollars (\$75,000,000) shall be transferred to the Building Equity and Growth in Neighborhoods Fund to be used for the Building Equity and Growth in Neighborhoods (BEGIN) Program pursuant to enabling legislation.

(B) Five million dollars (\$5,000,000) shall be used to provide grants to cities, counties, cities and counties, and nonprofit organizations to provide grants for lower income tenants with disabilities for the purpose of making exterior modifications to rental housing in order to make that housing accessible to persons with disabilities. For the purposes of this subparagraph, “exterior modifications” includes modifications that are made to entryways or to common areas of the structure or property. The program provided for under this subparagraph shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

(C) Ten million dollars (\$10,000,000) shall be expended for construction management under the California Self-Help Housing Program pursuant to subdivision (b) of Section 50696.

(D) Any funds not encumbered for the purposes set forth in this paragraph within 30 months of availability shall revert for general use in the CalHome Program.

(E) If the enabling legislation for any program specified in this paragraph fails to be enacted into law in the 2001–02 Regular Session of the Legislature, the specified allocation for that program shall be void and the funds shall revert for general use in the CalHome Program.

(6) Five million dollars (\$5,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for capital expenditures in support of local code enforcement and compliance programs. This allocation shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code. If the moneys allocated pursuant to this paragraph are not expended within three years after being transferred, the



department may, in its discretion, transfer the moneys to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program.

(7) Two hundred ninety million dollars (\$290,000,000) shall be transferred to the Self-Help Housing Fund. Notwithstanding Section 50697.1, these funds are hereby continuously appropriated to the agency to be expended for the purposes of the California Homebuyer's Downpayment Assistance Program authorized by Chapter 11 (commencing with Section 51500) of Part 3, except for the following:

(A) Fifty million dollars (\$50,000,000) shall be transferred to the School Facilities Fee Assistance Fund as provided by subdivision (a) of Section 51453 to be used for the Homebuyer Down Payment Assistance Program of 2002 established by Section 51451.5.

(B) Eighty-five million dollars (\$85,000,000) shall be transferred to the California Housing Loan Insurance Fund to be used for purposes of Part 4 (commencing with Section 51600).

(C) Twelve million five hundred thousand dollars (\$12,500,000) shall be reserved for downpayment assistance to low-income first-time homebuyers who, as documented to the agency by a nonprofit organization certified and funded to provide homeownership counseling by a federally funded national nonprofit corporation, is purchasing a residence in a community revitalization area targeted by the nonprofit organization and who has received homeownership counseling from the nonprofit organization.

(D) Twenty-five million dollars (\$25,000,000) shall be used for downpayment assistance pursuant to Section 51505. After 18 months of availability, if the agency determines that the funds set aside pursuant to this section will not be utilized for purposes of Section 51505, these funds shall be available for the general use of the agency for the purposes of the California Homebuyer's Downpayment Assistance Program, but may also continue to be available for the purposes of Section 51505.

(E) Funds not utilized for the purposes set forth in subparagraphs (B) and (C) within 30 months shall revert for general use in the California Homebuyer's Downpayment Assistance Program.

(8) One hundred million dollars (\$100,000,000) shall be transferred to the Jobs Housing Improvement Account to be expended as capital grants to local governments for increasing housing pursuant to enabling legislation. If the enabling legislation fails to become law in the 2001–02 Regular Session of the Legislature, the specified allocation for this program shall be void and the funds shall revert for general use in the Multifamily Housing Program as specified in paragraph (1) of subdivision (a).



(b) No portion of the money allocated pursuant to this section may be expended for project operating costs, except that this section does not preclude expenditures for operating costs from reserves required to be maintained by or on behalf of the project sponsor.

(c) The Legislature may, from time to time, amend the provisions of law related to programs to which funds are, or have been, allocated pursuant to this section for the purpose of improving the efficiency and effectiveness of the program, or for the purpose of furthering the goals of the program.

(d) The Bureau of State Audits shall conduct periodic audits to ensure that bond proceeds are awarded in a timely fashion and in a manner consistent with the requirements of this part, and that awardees of bond proceeds are using funds in compliance with applicable provisions of this part.

SEC. 25. Section 53534 is added to the Health and Safety Code, to read:

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

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

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

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

(4) While these housing projects present an opportunity to recoup General Fund moneys, the Legislature recognizes that the withdrawal of state funds may mean the cancellation of projects, the loss of affordable housing, and the creation of potential liabilities to the state where costs have been incurred in reliance on the state funding commitment. The need to find revenue sources does not supersede the need for public





assistance to facilitate the creation of new housing opportunities particularly for persons and households of low to moderate income.

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

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

(7) If the funding for projects previously funded under the Joe Serna, Jr. Farmworker Housing Grant Program and the CalHome Program were disencumbered, these projects would be eligible to compete for funds under the same programs as funded through this part. However, the time delays and costs associated by the resubmittal of applications would render a hardship to the project sponsors and cause unnecessary delays in project implementation.

(8) The use of funds approved by the voters through the enactment of this part to ensure successful completion of projects eligible and fundable through the Joe Serna, Jr. Farmworker Housing Grant Program and the CalHome Program that would otherwise be delayed or lost if the general funding was disencumbered is both necessary and appropriate,





and will facilitate the efficient and effective implementation of the projects funded through this part and will further the goals of the respective programs.

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

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

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

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

SEC. 26. Section 62.5 of the Labor Code is amended to read:

62.5. (a) The Workers’ Compensation Administration Revolving Fund is hereby created as a special account in the State Treasury. Money in the fund may be expended by the department, upon appropriation by the Legislature, for the administration of the workers’ compensation program set forth in this division and Division 4 (commencing with Section 3200), other than the activities financed pursuant to Section 3702.5, and may not be used for any other purpose.

(b) The fund shall consist of assessments made pursuant to subdivision (e). Costs to the program shall be shared on a proportional basis between the General Fund and employer assessments. The General Fund appropriation shall account for 80 percent and employer assessments shall account for 20 percent of the total costs of the program.

(c) (1) The Uninsured Employers Benefits Trust Fund is hereby created as a special trust fund account in the State Treasury, of which the director is trustee, and its sources of funds are as provided in subdivision (e). Notwithstanding Section 13340 of the Government Code, the fund is continuously appropriated for the payment of nonadministrative expenses of the workers’ compensation program for workers injured while employed by uninsured employers in accordance with Article 2



(commencing with Section 3710) of Chapter 4 of Part 1 of Division 4, and shall not be used for any other purpose. All moneys collected shall be retained in the trust fund until paid as benefits to workers injured while employed by uninsured employers. Nonadministrative expenses include audits and reports of services prepared pursuant to subdivision (b) of Section 3716.1. The assessment amount for this fund shall be stated separately.

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

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

(d) (1) The Subsequent Injuries Benefits Trust Fund is hereby created as a special trust fund account in the State Treasury, of which the director is trustee, and its sources of funds are as provided in subdivision (e). Notwithstanding Section 13340 of the Government Code, the fund is continuously appropriated for the nonadministrative expenses of the workers' compensation program for workers who have suffered serious injury and who are suffering from previous and serious permanent disabilities or physical impairments, in accordance with Article 5 (commencing with Section 4750) of Chapter 2 of Part 2 of Division 4, and Section 4 of Article XIV of the California Constitution, and shall not be used for any other purpose. All moneys collected shall be retained in the trust fund until paid as benefits to workers who have suffered serious injury and who are suffering from previous and serious permanent disabilities or physical impairments. Nonadministrative expenses include audits and reports of services pursuant to subdivision (c) of Section 4755. The assessment amount for this fund shall be stated separately.

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

(3) Notwithstanding paragraph (1), in the event that budgetary restrictions or impasse prevent the timely payment of administrative expenses from the Workers' Compensation Administration Revolving Fund, those expenses shall be advanced from the Subsequent Injuries Benefits Trust Fund. Expense advances made pursuant to this paragraph



shall be reimbursed in full to the Subsequent Injuries Benefits Trust Fund upon enactment of the annual Budget Act.

(e) (1) Separate assessments shall be levied by the director upon all employers as defined in Section 3300 for purposes of deposit in the Workers' Compensation Administration Revolving Fund, the Uninsured Employers Benefits Trust Fund, and the Subsequent Injuries Benefits Trust Fund. The total amount of the assessments shall be allocated between self-insured employers and insured employers in proportion to payroll respectively paid in the most recent year for which payroll information is available. The director shall adopt reasonable regulations governing the manner of collection of the assessments. The regulations shall require the assessments to be paid by self-insurers to be expressed as a percentage of indemnity paid during the most recent year for which information is available, and the assessments to be paid by insured employers to be expressed as a percentage of premium. In no event shall the assessments paid by insured employers be considered a premium for computation of a gross premium tax or agents' commission.

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

SEC. 27. Section 139.2 of the Labor Code is amended to read:

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

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

(1) Prior to his or her appointment as a qualified medical evaluator, passes an examination written and administered by the Industrial Medical Council for the purpose of demonstrating competence in evaluating medical-legal issues in the workers' compensation system. Physicians shall not be required to pass an additional examination as a condition of reappointment. A physician seeking appointment as a qualified medical evaluator on or after January 1, 2001, shall also complete prior to appointment, a course on disability evaluation report writing approved by the Industrial Medical Council. The Industrial



Medical Council shall specify the curriculum to be covered by disability evaluation report writing courses, which shall include, but is not limited to, 12 or more hours of instruction.

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

(3) Is a medical doctor or doctor of osteopathy and meets one of the following requirements:

(A) Is board certified in a specialty by a board recognized by the council and either the Medical Board of California or the Osteopathic Medical Board of California.

(B) Has successfully completed a residency training program accredited by the American College of Graduate Medical Education or the osteopathic equivalent.

(C) Was an active qualified medical evaluator on June 30, 2000.

(D) Has qualifications that the council and either the Medical Board of California or the Osteopathic Medical Board of California, as appropriate, both deem to be equivalent to board certification in a specialty.

(4) Is a doctor of chiropractic and meets either of the following requirements:

(A) Has completed a chiropractic postgraduate specialty program of a minimum of 300 hours taught by a school or college recognized by the council, the Board of Chiropractic Examiners and the Council on Chiropractic Education.

(B) Has been certified in California workers' compensation evaluation by a provider recognized by the council. The certification program shall include instruction on disability evaluation report writing that meets the standards set forth in paragraph (1).

(5) Is a psychologist and meets one of the following requirements:

(A) Is board certified in clinical psychology by a board recognized by the council.

(B) Holds a doctoral degree in psychology, or a doctoral degree deemed equivalent for licensure by the Board of Psychology pursuant to Section 2914 of the Business and Professions Code, from a university or professional school recognized by the council and has not less than five years' postdoctoral experience in the diagnosis and treatment of emotional and mental disorders.

(C) Has not less than five years' postdoctoral experience in the diagnosis and treatment of emotional and mental disorders, and has served as an agreed medical evaluator on eight or more occasions prior to January 1, 1990.



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

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

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

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

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

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

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

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

If the evaluator does not meet any one of these criteria, the Industrial Medical Council may in its discretion reappoint or deny reappointment according to regulations adopted by the council. In no event may a physician who does not currently meet the requirements for initial appointment or who has been terminated under subdivision (e) because



his or her license has been revoked or terminated by the licensing authority be reappointed.

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

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

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

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

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

(h) (1) When the injured worker is not represented by an attorney, the medical director appointed pursuant to Section 122, shall assign three-member panels of qualified medical evaluators within five working days after receiving a request for a panel. If a panel is not assigned within 15 working days, the employee shall have the right to obtain a medical evaluation from any qualified medical evaluator of his or her choice. The medical director shall use a random selection method for assigning panels of qualified medical evaluators. The medical director shall select evaluators who are specialists of the type selected by the employee. The medical director shall advise the employee that he or she should consult with his or her treating physician prior to deciding which type of specialist to request.

(2) The Industrial Medical Council shall promulgate a form that shall notify the employee of the physicians selected for his or her panel. The form shall include, for each physician on the panel, the physician's name, address, telephone number, specialty, number of years in practice, and a brief description of his or her education and training, and shall advise the employee that he or she is entitled to receive transportation expenses and temporary disability for each day necessary for the examination. The form shall also state in a clear and conspicuous location and type: "You have the right to consult with an information and



assistance officer at no cost to you prior to selecting the doctor to prepare your evaluation, or you may consult with an attorney. If your claim eventually goes to court, the judge will consider the evaluation prepared by the doctor you select to decide your claim.”

(3) When compiling the list of evaluators from which to select randomly, the medical director shall include all qualified medical evaluators who meet all of the following criteria:

(A) He or she does not have a conflict of interest in the case, as defined by regulations adopted pursuant to subdivision (o).

(B) He or she is certified by the council to evaluate in an appropriate specialty and at locations within the general geographic area of the employee’s residence.

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

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

(i) The medical director appointed pursuant to Section 122, shall continuously review the quality of comprehensive medical evaluations and reports prepared by agreed and qualified medical evaluators and the timeliness with which evaluation reports are prepared and submitted. The review shall include, but not be limited to, a review of a random sample of reports submitted to the division, and a review of all reports alleged to be inaccurate or incomplete by a party to a case for which the evaluation was prepared. The medical director shall submit to the administrative director an annual report summarizing the results of the continuous review of medical evaluations and reports prepared by agreed and qualified medical evaluators and make recommendations for the improvement of the system of medical evaluations and determinations.

(j) After public hearing pursuant to Section 5307.4, the council shall adopt regulations concerning the following medical issues:

(1) Standards governing the timeframes within which medical evaluations shall be prepared and submitted by agreed and qualified medical evaluators. Except as provided in this subdivision, the timeframe for initial medical evaluations to be prepared and submitted shall be no more than 30 days after the evaluator has seen the employee





or otherwise commenced the medical evaluation procedure. The council shall develop regulations governing the provision of extensions of the 30-day period in cases: (A) where the evaluator has not received test results or consulting physician's evaluations in time to meet the 30-day deadline; and, (B) to extend the 30-day period by not more than 15 days when the failure to meet the 30-day deadline was for good cause. For purposes of this subdivision, "good cause" means: (i) medical emergencies of the evaluator or evaluator's family; (ii) death in the evaluator's family; or, (iii) natural disasters or other community catastrophes that interrupt the operation of the evaluator's business. The council shall develop timeframes governing availability of qualified medical evaluators for unrepresented employees under Sections 4061 and 4062. These timeframes shall give the employee the right to the addition of a new evaluator to his or her panel, selected at random, for each evaluator not available to see the employee within a specified period of time, but shall also permit the employee to waive this right for a specified period of time thereafter.

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

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

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

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

(A) A medical-legal evaluation that has not been defined and valued pursuant to Section 5307.6. However, the council may recommend guidelines for evaluations that have been defined and valued pursuant to Section 5307.6 for the purpose of governing the appointment, reappointment, and discipline of qualified medical evaluators. The guidelines shall establish minimum times for patient contact in the



conduct of the evaluations, and shall be consistent with regulations adopted pursuant to Section 5307.6.

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

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

If, without good cause, the council fails to adopt the guidelines required by subparagraph (A) or (B) by March 31, 1994, or fails, without good cause, to adopt a guideline pursuant to subparagraph (C) within six months after a request by the administrative director or the Insurance Commissioner, then the administrative director shall have the authority to adopt the guideline.

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

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

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

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

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

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

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

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

No hearing shall be required prior to the suspension or termination of a physician's privilege to serve as a qualified medical evaluator when the physician has done either of the following:

(A) Failed to timely pay the fee required by the council pursuant to subdivision (n).

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

(l) The council shall cite the qualified medical evaluator for a violation listed in subdivision (k) and shall set a hearing on the alleged



violation within 30 days of service of the citation on the qualified medical evaluator. In addition to the authority to terminate or suspend the qualified medical evaluator upon finding a violation listed in subdivision (k), the council may, in its discretion, place a qualified medical evaluator on probation subject to appropriate conditions, including ordering continuing education or training. The council shall report to the appropriate licensing board the name of any qualified medical evaluator who is disciplined pursuant to this subdivision.

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

(n) Each qualified medical evaluator shall pay a fee, as determined by the Industrial Medical Council, for appointment or reappointment. Any qualified medical evaluator appointed prior to January 1, 1993, shall also pay the same fee as specified in accordance with this subdivision. These fees shall be based on a sliding scale as established by the council. All revenues from fees paid under this subdivision shall be deposited into the Industrial Medicine Fund, which is hereby created for the administration of the Industrial Medical Council. Moneys paid into the Industrial Medicine Fund for the activities of the Industrial Medical Council are available for expenditure upon appropriation by the Legislature and shall not be used by any other department or agency or for any purpose other than administration of the council. Any future annual appropriation to the council from the Workers' Compensation Administration Revolving Fund shall not be less than the amount appropriated or provided during the 1991–92 fiscal year.

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



SEC. 28. Section 3716 of the Labor Code is amended to read:

3716. (a) If the employer fails to pay the compensation required by Section 3715 to the person entitled thereto, or fails to furnish the bond required by Section 3715 within a period of 10 days after notification of the award, the award, upon application by the person entitled thereto, shall be paid by the director from the Uninsured Employers Benefits Trust Fund. The expenses of the director in administering these provisions, directly or by contract pursuant to Section 3716.1, shall be paid from the Workers' Compensation Administration Revolving Fund. Refunds may be paid from the Uninsured Employers Benefits Trust Fund for amounts remitted erroneously to the fund, or the director may authorize offsetting subsequent remittances to the fund.

(b) It is the intent of the Legislature that the Uninsured Employers Benefits Trust Fund is created to ensure that workers who happen to be employed by illegally uninsured employers are not deprived of workers' compensation benefits, and is not created as a source of contribution to insurance carriers, or self-insured, or legally insured employers. The Uninsured Employers Benefits Trust Fund has no liability for claims of occupational disease or cumulative injury unless no employer during the period of the occupational disease or cumulative injury during which liability is imposed under Section 5500.5 was insured for workers' compensation, was permissibly self-insured, or was legally uninsured. No employer has a right of contribution against the Uninsured Employers Benefits Trust Fund for the liability of an illegally uninsured employer under an award of benefits for occupational disease or cumulative injury, nor may an employee in a claim of occupational disease or cumulative injury elect to proceed against an illegally uninsured employer.

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

(d) The Uninsured Employers Benefits Trust Fund shall have no liability to pay compensation, nor shall it be joined in any appeals board proceeding, unless the employer alleged to be illegally uninsured shall first either have made a general appearance or have been served with the application specified in Section 3715 and with a special notice of lawsuit issued by the appeals board. The special notice of lawsuit shall be in a form to be prescribed by the appeals board, and it shall contain at least the information and warnings required by the Code of Civil Procedure to be contained in the summons issued in a civil action. The special



notice of lawsuit shall also contain a notice that if the appeals board makes an award against the defendant that his or her house or other dwelling and other property may be taken to satisfy the award in a nonjudicial sale, with no exemptions from execution. The special notice of lawsuit shall, in addition, contain a notice that a lien may be imposed upon the defendant's property without further hearing and before the issuance of an award. The applicant shall identify a legal person or entity as the employer named in the special notice of lawsuit. The reasonable expense of serving the application and special notice of lawsuit, when incurred by the employee, shall be awarded as a cost. Proof of service of the special notice of lawsuit and application shall be filed with the appeals board.

(1) The application and special notice of lawsuit may be served, within or without this state, in the manner provided for service of summons in the Code of Civil Procedure. Thereafter, an employer, alleged to be illegally uninsured, shall notify the appeals board of the address at which it may be served with official notices and papers, and shall notify the appeals board of any changes in the address. No findings, order, decision, award, or other notice or paper need be served in this manner on an employer, alleged to be illegally uninsured, who has been served as provided in this section, and who has not filed an answer, otherwise made a general appearance, or furnished the appeals board with its address. The findings, orders, decisions, awards, or other notice or paper may be mailed to the employer as the board, by regulation, may provide.

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

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



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

SEC. 29. Section 3716.1 of the Labor Code is amended to read:

3716.1. (a) In any hearing, investigation, or proceeding, the Attorney General, or attorneys of the Department of Industrial Relations, shall represent the director and the state. Expenses incident to representation of the director and the state, before the appeals board and in civil court, by the Attorney General or Department of Industrial Relations attorneys, shall be reimbursed from the Workers' Compensation Administration Revolving Fund. Expenses incident to representation by the Attorney General or attorneys of the Department of Industrial Relations incurred in attempts to recover moneys pursuant to Section 3717 of the Labor Code shall not exceed the total amounts recovered by the director on behalf of the Uninsured Employers Benefits Trust Fund pursuant to this chapter.

(b) The director shall assign investigative and claims' adjustment services respecting matters concerning uninsured employers injury cases. The director or his or her representative may make these service assignments within the department, or he or she may contract for these services with the State Compensation Insurance Fund, except insofar as these matters might conflict with the interests of the State Compensation Insurance Fund. The administrative costs associated with these services shall be reimbursed from the Workers' Compensation Administration Revolving Fund and the nonadministrative costs from the Uninsured Employers Benefits Trust Fund, except when a budget impasse requires advances as described in subdivision (c) of Section 62.5. To the extent permitted by state law, the director may contract for audits or reports of services under this section.

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

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

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



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

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

(B) Fines and penalties collected by the department.

(C) Revenues collected pursuant to Section 3717.

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

SEC. 30. Section 3728 of the Labor Code is amended to read:

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

(b) Expenditures made from the revolving fund in payment of claims for compensation due from the Uninsured Employers Benefits Trust Fund and from the Workers' Compensation Administration Revolving Fund for administrative and adjusting services rendered are exempted from the operation of Section 925.6 of the Government Code. Reimbursement of the revolving fund from the Uninsured Employers Benefits Trust Fund or the Workers' Compensation Administration Revolving Fund for expenditures shall be made upon presentation to the Controller of an abstract or statement of the expenditures. The abstract or statement shall be in any form as the Controller requires.

SEC. 31. Section 3729 of the Labor Code is repealed.

SEC. 32. Section 4350 is added to the Labor Code, to read:

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

SEC. 33. The heading of Article 1 (commencing with Section 4351) of Chapter 10 of Part 1 of Division 4 of the Labor Code is repealed:

SEC. 34. Section 4355 is added to the Labor Code, to read:

4355. (a) Should the United States Government or any agent thereof, in accordance with any federal statute, rule, or regulation, furnish monetary assistance, benefits, or other temporary or permanent relief to disaster service workers or to disaster service workers and their dependents for injuries arising out of and occurring in the course of their activities as disaster service workers, the amount of compensation that any disaster service worker or his or her dependents are otherwise





entitled to receive from the State of California under this division for any injury shall be reduced by the amount of monetary assistance, benefits, or other temporary or permanent relief the disaster service worker or his or her dependents have received and will receive from the United States or any agent thereof as a result of the injury.

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

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

(d) If the furnishing of compensation under this division to a disaster service worker or his or her dependents prevents the disaster service worker or his or her dependents from receiving assistance, benefits, or other temporary or permanent relief under a federal statute, rule, regulation, the disaster service worker and his or her dependents shall have no right to, and may not receive, any compensation from the State of California under this division for any injury for which the United States Government or any agent thereof will furnish assistance, benefits, or other temporary or permanent relief in the absence of the furnishing of compensation by the State of California.

SEC. 35. Article 3 (commencing with Section 4381) of Chapter 10 of Part 1 of Division 4 of the Labor Code is repealed.

SEC. 36. Section 4753.5 of the Labor Code is amended to read:

4753.5. In any hearing, investigation, or proceeding, the state shall be represented by the Attorney General, or the attorneys of the Department of Industrial Relations, as appointed by the director. Expenses incident to representation, including costs for investigation, medical examinations, and other expert reports, fees for witnesses, and other necessary and proper expenses, but excluding the salary of any of the Attorney General's deputies, shall be reimbursed from the Workers' Compensation Administration Revolving Fund. No witness fees or fees for medical services shall exceed those fees prescribed by the appeals board for the same services in those cases where the appeals board, by rule, has prescribed fees. Reimbursement pursuant to this section shall



be in addition to, and in augmentation of, any other appropriations made or funds available for the use or support of the the legal representation.

SEC. 37. Section 4755 of the Labor Code is amended to read:

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

(b) Expenditures made from the revolving fund in payments on claims for any additional compensation and for adjusting services are exempted from the operation of Section 16003 of the Government Code. Reimbursement of the revolving fund for these expenditures shall be made upon presentation to the Controller of an abstract or statement of the expenditures. The abstract or statement shall be in any form as the Controller requires.

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

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

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

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

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



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

(B) Other revenues collected by the department.

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

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

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

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

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

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

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

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



subcontractor under a contractor who performs any public works not excluded by subdivision (o).

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

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

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

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Chief of the Division of Apprenticeship Standards, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.



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

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

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

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

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

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

(4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

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

(m) (1) A contractor to whom a 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 determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take



as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.

(2) At the conclusion of the 2002–03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Division of Apprenticeship Standards for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The funds shall be distributed as follows:

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

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

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

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

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

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

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

SEC. 39. Section 1033.2 is added to the Military and Veterans Code, to read:



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

SEC. 40. Section 6611 is added to the Public Contract Code, to read:

6611. (a) Notwithstanding any other provision of law, when procuring goods, services, construction services, or information technology for itself or on behalf of another state agency, the Department of General Services may, consistent with the requirements of this division, use a negotiation process if the department finds that one or more of the following conditions exist:

(1) The business need or purpose that will be fulfilled by the procurement can be further defined as a result of a negotiation process.

(2) The business need or purpose that will be fulfilled by the procurement is known by the department, but a negotiation process may identify different types of procurement to fulfill this business need or purpose.

(3) The complexity of the purpose or need suggests a bidder's costs to prepare and develop the response are extremely high.

(4) The business need or purpose that will be fulfilled by the procurement is known by the department, but postbid negotiation regarding the price of the procurement is necessary to ensure that the department is receiving the best value or the most cost-efficient goods, services, construction services, or information technology.

(b) (1) The department shall establish the procedures and guidelines for the negotiation process described in subdivision (a), which procedures and guidelines shall include, but not be limited to, a clear description of the methodology that will be used by the department to evaluate a bid for the procurement goods, services, construction services, and information technology.

(2) The procedures and guidelines described in paragraph (1) may include provisions that authorize the department to receive supplemental bids after the initial bids are opened. If the procedures and guidelines include these provisions, the procedures and guidelines shall specify the conditions under which supplemental bids may be received by the department.

SEC. 41. Section 40409 is added to the Public Resources Code, to read:

40409. Notwithstanding any other provision of law, no board member or advisor may collect per diem or travel expenses for attending





a meeting at the board headquarters or for traveling to or from the board headquarters.

SEC. 42. Section 40433 of the Public Resources Code is amended to read:

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

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

SEC. 43. Section 42873 of the Public Resources Code is amended to read:

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

- (1) Polymer treatment.
- (2) Rubber reclaiming and crumb rubber production.
- (3) Retreading.
- (4) Shredding.

(5) The manufacture of products made from used tires, including, but not limited to, all of the following:

- (A) Artificial reefs.
- (B) Rubber asphalt.
- (C) Playground equipment.
- (D) Crash barriers.
- (E) Erosion control materials.
- (F) Nonslip floor and track surfacing.
- (G) Oilspill recovery equipment.
- (H) Roofing adhesives.

(6) Other environmentally safe applications or treatments determined to be appropriate by the board.

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

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

SEC. 44. Section 42885.5 of the Public Resources Code is amended to read:



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

(b) On or before July 1, 2001, and every two years thereafter, the board shall submit the adopted five-year plan to the appropriate policy and fiscal committees of the Legislature. The board shall include, in the plan, programmatic and fiscal issues including, but not limited to, the hierarchy used by the board to maximize productive uses of waste and used tires and the performance objectives and measurement criteria used by the board to evaluate the success of its waste and used tire recycling program. Additionally, the plan shall describe each program element's effectiveness, based upon performance measures developed by the board, including, but not limited to, the following:

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

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

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

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

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

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

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

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

SEC. 45. Section 71040 of the Public Resources Code is amended to read:

71040. The Secretary for Environmental Protection shall establish an electronic online permit assistance center through the Internet. The electronic online permit assistance center shall be available for use by any business or other entity subject to a law or regulation implemented by a board, department, or office within the California Environmental Protection Agency, and shall provide a business or other entity with assistance in complying with those laws and regulations. The center, which shall be called the "California Government-On Line to Desktops" or "CALGOLD" program, shall provide special software, "hotlinks" and other online resources and tools that may be used by a business or other entity to streamline and expedite compliance with laws and regulations implemented by a board, department, or office within the



California Environmental Protection Agency. The CALGOLD program shall, to the extent feasible, incorporate permit assistance activities of local and federal entities and of other entities of the state into its operations.

SEC. 46. Section 280 of the Public Utilities Code is amended to read:

280. (a) There is hereby created the California Teleconnect Fund Administrative Committee, which is an advisory board to advise the 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, consistent with Chapter 278 of the Statutes of 1994, and to carry out the program pursuant to the commission's direction, control, and approval.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the commission pursuant to a schedule established by the commission. Commencing on October 1, 2001, and continuing thereafter, the commission shall transfer the moneys received, and all unexpended revenues collected prior to October 1, 2001, to the Controller for deposit in the California Teleconnect Fund Administrative Committee Fund. All interest earned by moneys in the fund shall be deposited in the fund.

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

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

(1) The Director of Finance, after making a determination pursuant to subdivision (b) of Section 16320 of the Government Code, does not order repayment of all or a portion of any loan from the California



Teleconnect Fund Administrative Committee Fund within 30 days of notification by the commission of the need for the moneys.

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

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

SEC. 47. Section 321.1 is added to the Public Utilities Code, to read:

321.1. It is 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 be accomplished using existing resources and within existing commission structures. The commission shall not establish a separate office or department for the purpose of evaluating economic development consequences of commission activities.

SEC. 48. Section 18409 of the Revenue and Taxation Code is amended to read:

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

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

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

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



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

SEC. 49. Section 18621.9 is added to the Revenue and Taxation Code, to read:

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

(b) For purposes of this section:

(1) “Income tax preparer” means a person that meets both of the following:

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

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

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

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



to any rule, notice, or guideline issued by the Franchise Tax Board that identifies a tax return as an acceptable individual income tax return.

(4) “Tax preparation software” means any computer software program intended for accounting, tax return preparation, or tax compliance.

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

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

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

SEC. 50. Section 19170 is added to the Revenue and Taxation Code, to read:

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

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

SEC. 51. Section 104.19 is added to the Streets and Highways Code, to read:

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

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

SEC. 52. Section 6 of Chapter 213 of the Statutes of 2000 is amended to read:

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

(a) (1) Five million dollars (\$5,000,000) to the Governor’s Office on Service and Volunteerism, on an annual basis, for the purpose of funding grants to local and state operated Americorps and Conservation Corps



programs, up to 5 percent of which may be used for state level administration costs.

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

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

SEC. 53. Notwithstanding any other provision of law, the balance of the appropriation in Item 8260-103-0001 of Section 2.00 of the Budget Act of 2000 (Chapter 52 of the Statutes of 2000) for “The Wall--Las Memorias” Projects is reappropriated for the purposes provided for in that appropriation and shall be available for encumbrance and expenditure until June 30, 2004. Moreover, the contract with the California Arts Council referenced in that item (Contract Number CIP-00-024) shall be extended until June 30, 2004.

SEC. 54. Notwithstanding any other provision of law, the state’s July 1, 2003, payment to the California Public Employees’ Retirement System shall be considered an expenditure for the 2002–03 fiscal year.

SEC. 55. The Legislature finds and declares that the State of California faces an unprecedented fiscal crisis that requires legislative budget actions to control spending growth. It therefore is the Legislature’s intent that, in assisting the Governor in preparing the State Budget for the 2004–05 fiscal year, the Department of Finance not include any proposed funding for any of the following:

(a) State, University of California, or California State University employee salary increases that have not already been approved prior to the enactment of this act.

(b) Discretionary price adjustments to state, University of California, or California State University operations.

(c) Local mandate reimbursements, including payments for prior-year reimbursements, except that the continuing funding for mandates funded in the 2003–04 fiscal year may be included in the budget for 2004–05.

(d) For General Fund capital outlay, beyond a minimal amount of fifty million dollars (\$50,000,000) for emergencies and contingencies.

(e) The All American Canal.

(f) Proposition 98 spending in excess of the minimum guarantee for the 2003–04 and 2004–05 fiscal years.

(g) Enrollment growth at the University of California or the California State University.

SEC. 55. To ensure the integrity of the 2003–04 budget and to ensure that the necessary critical programs in each department are





adequately funded, it is necessary that the Director of Finance be authorized to reduce appropriations and to reallocate funds among appropriations available to each department.

SEC. 56. (a) Notwithstanding any other provision of law, if exigent circumstances require adjustments to appropriations within a department to adequately fund a program based on total appropriations for the department, or a reduction to an appropriation to a department, the Director of Finance is authorized to (1) reduce appropriations from, and reallocate funds within, appropriations for the same department, where necessary to ensure that each department's expenditures will be consistent with appropriations authorized by the Budget Act of 2003 and any other appropriation available to that department, and (2) impose other savings strategies as determined appropriate by the Director of Finance to ensure that each department's planned expenditures are consistent with the appropriations authorized by the Budget Act of 2003 and any other appropriation available to that department.

(b) The Department of Finance shall, 30 days prior to taking an action pursuant to subdivision (a), notify in writing all of the following:

(1) The chairperson of the committee in each house of the Legislature that considers appropriations.

(2) The chairperson of the committee in each house of the Legislature that considers the state budget.

(3) The chairperson of the Joint Legislative Budget Committee.

(c) The written notification required by subdivision (b) shall include a statement that details the exigent circumstances which justify the action to be taken pursuant to subdivision (a).

SEC. 57. The changes made by this act to Sections 1540, 1541, and 1542 of the Code of Civil Procedure shall apply to any claims for which the Controller has not made a decision by the earlier of July 1, 2003, or the effective date of this act.

SEC. 58. Section 19 and 21 of this act, which repeal Sections 29145 and 43402 of the Government Code, respectively, shall become operative on July 1, 2003.

SEC. 59. The Legislature finds and declares that the changes made by this act to Sections 25192 and 25249.12 of the Health and Safety Code further the purposes of the Safe Drinking Water and Toxic Enforcement Act of 1986.

SEC. 60. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:



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

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