

AMENDED IN SENATE JUNE 25, 2012

AMENDED IN SENATE JUNE 13, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1466

Introduced by Committee on Budget (Blumenfield (Chair), Alejo, Bonilla, Brownley, Buchanan, Butler, Cedillo, Chesbro, Dickinson, Feuer, Gordon, Huffman, Mitchell, Monning, and Swanson)

January 10, 2012

~~An act to amend Sections 17206 and 19604 of the Business and Professions Code, to amend Section 1936 of the Civil Code, to amend Section 318 of the Corporations Code, to amend Section 57031 of the Food and Agricultural Code, to amend Sections 3502.5, 3507.1, 3507.3, 3513, 3527, 3541.3, 3563, 8240, 8241, 8245, 8879.58, 8879.59, 10210, 11139.5, 11270, 11532, 11538, 11540, 11544, 11546, 12804, 12901, 12903, 12904, 12905, 12906, 12925, 12930, 12935, 12944, 12946, 12947.5, 12950, 12950.1, 12963.5, 12965, 12966, 12970, 12973, 12975, 12980, 12981, 12981.1, 12985, 12987, 12988, 12989.1, 12989.2, 12990, 13071, 19704, 19815, 50085.5, 71632.5, 71636.1, 71636.3, 71637, and 76104.7 of, to add Sections 8169.7, 12531, 12907, 13300.5, 15849.65, and 16340 to, to add Article 3 (commencing with Section 10270) to Chapter 1 of Part 2 of Division 2 of Title 2 of, to add Division 4.5 (commencing with Section 3600) to Title 1 of, to repeal Sections 11535, 11536, 11537, 11543, 12967, 12968, 12969, 12972, 12987.1, 12989, and 50087 of, to repeal Article 1 (commencing with Section 8260) of Chapter 3.5 of Division 1 of Title 2 of, to repeal Chapter 1 (commencing with Section 14995) of Part 5.6 of Division 3 of Title 2 of, and to repeal and amend Sections 5924 and 15849.6 of, the Government Code, to amend Section 102346 of the Health and Safety Code, to amend Section~~

~~11770 of the Insurance Code, to amend Sections 56, 62.9, 138.7, 150, 151, 152, 153, 156, 511, 515.5, 515.6, 1202, 1773.3, 1776, 1777.5, 1777.7, 2012, 2013, 2686, 3072, 3073, 6332, 6401.7, 6409, 6410, 6411, 6413, and 6413.2 of, to amend the heading of Chapter 7 (commencing with Section 150) of Division 1 of, to add Chapter 4.5 (commencing with Section 108) to Division 1 of, and to repeal Sections 65, 3099, 3099.2, 3099.3, 3099.4, and 3099.5 of, and to repeal Chapter 9 (commencing with Section 1137) of Part 3 of Division 2 of, the Labor Code, to amend Section 972.1 of the Military and Veterans Code, to amend Section 422.92, 13519, 13776, 13777.2, and 13836.1 of the Penal Code, to amend Section 6611 of the Public Contract Code, to amend Sections 25051, 28850, 30750, 30751, 40120, 50120, 70120, 90300, 99561, 95650, 98162.5, 100301, 101341, 102401, 103401, and 125521 of the Public Utilities Code, to amend Section 19533 of, and to repeal Article 6 (commencing with Section 19290) of Chapter 5 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, to amend Section 401 of the Unemployment Insurance Code, to amend Section 4.2 of the Fresno Metropolitan Transit District Act (Chapter 1932 of the Statutes of 1961), and to amend Sections 13.90 and 13.91 of the West Bay Rapid Transit Authority Act (Chapter 104 of the First Extraordinary Session of the Statutes of 1964), relating to state and local government, and making an appropriation therefor, to take effect immediately, bill related to the budget. An act to amend Section 17206 of the Business and Professions Code, to amend Section 1936 of the Civil Code, to amend Sections 8879.58, 8879.59, 11270, 11546, 13071, 17581, 17617, 19849, 19851, and 76104.7 of, to amend and repeal Section 5924 of, to amend, repeal, and add Section 51298 of, to add Sections 8169.7, 12531, and 13300.5 to, to add and repeal Section 15849.65 of, to repeal Section 50087 of, and to repeal and amend Section 15849.6 of, the Government Code, to amend Section 11873 of the Insurance Code, to amend Section 62.9 of the Labor Code, to amend Section 972.1 of the Military and Veterans Code, to amend Section 6611 of the Public Contract Code, and to amend Sections 8352.3, 8352.4, 8352.5, 8352.6, and 19533 of, and to repeal Article 2 (commencing with Section 19290) of Chapter 5 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, and to amend Item 7300-001-0001 of Section 2.00 of the Budget Act of 2012, relating to state government, and making an appropriation therefor, to take effect immediately, bill related to the budget.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1466, as amended, Committee on Budget. State government.

~~(1) Existing law establishes the California State Mediation and Conciliation Service (CSMCS) within the Department of Industrial Relations to investigate and mediate labor disputes, as specified. Existing law governs public transportation labor disputes.~~

~~This bill would repeal and recast those provisions and establish the CSMCS within the Public Employment Relations Board (PERB). The bill would vest PERB with all of the powers, duties, purposes, responsibilities and jurisdiction vested in the Department of Industrial Relations and exercised or carried out through CSMCS.~~

~~(2)~~

~~(1) Existing law regulates consumer rental car agreements and authorizes rental car companies to collect a customer facility charge based on a fee required by an airport operated by specified entities. Existing law also directs those airports to complete independent audits to substantiate the need for the fee prior to the collection of these fees from rental companies. Existing law requires the Controller to review these independent audits and report its conclusions to the Legislature, as specified. Existing law also requires the Controller to be reimbursed for these reviews by the airport being audited.~~

~~This bill would remove the provisions requiring the Controller to review, and report to the Legislature regarding, the independent audits described above.~~

~~(3)~~

~~(2) Existing law requires every city, county, or city and county that has at least 5,000 residents or in which 5% of the population is of Filipino ancestry or ethnic origin and that conducts a survey as to the ancestry or ethnic origin of its employees, or that maintains any statistical tabulation of minority group employees, to categorize employees whose ancestry or ethnic origin is Filipino as Filipinos in the survey or tabulation.~~

~~This bill would repeal that requirement.~~

~~(4)~~

~~(3) Existing law requires the Department of General Services to offer for sale land that is declared excess or is declared surplus by the Legislature, and that is not needed by any state agency, to local agencies and private entities and individuals, subject to specified conditions.~~

This bill would authorize the Department of General Services to sell all or a portion of specified parcels of property located in the City of Sacramento that are leased by the department to the Capitol Area Development Authority, subject to specified criteria. The bill would require the proceeds of that sale to be deposited into the General Fund or the Deficit Recovery Fund, as specified.

(5)

(4) Existing law requires a \$3 state-only penalty to be levied in each county for every \$10, or part of \$10, of a fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, as specified.

This bill would increase the amount of the state-only penalty to \$4 for every \$10, or part of \$10, of those payments.

(6)

(5) Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by the voters as Proposition 1B at the November 7, 2006, general election, authorizes the issuance of \$19.925 billion of general obligation bonds for specified purposes. Existing law specifies the responsibilities of the California Emergency Management Agency (Cal EMA) with respect to the allocation of bond funds appropriated from the Transit System Safety, Security, and Disaster Response Account.

This bill would require Cal EMA, in prioritizing the funding of projects, to additionally prioritize projects that demonstrate the ability and intent to expend a significant percentage of project funds within 6 months. During each fiscal year a transit agency or transit operator receives funds, the bill would authorize Cal EMA to monitor project expenditures.

~~(7) Existing law establishes in state government the Commission on Uniform State Laws, with a specified membership.~~

~~This bill would transfer the Commission on Uniform State Laws to the Legislative Counsel Bureau, and would make conforming changes in law.~~

~~(8) Existing law establishes the Technology Services Board within the Office of Technology Services. Existing law requires the Secretary of California Technology to submit, for board consideration, proposed rates for Office of Technology Services' services. Existing law requires the secretary, prior to submitting the rates to the board, to first submit the proposed rates to the Department of Finance, and requires the department to evaluate the reasonableness of the proposed rates.~~

~~This bill would repeal the provisions establishing the Technology Services Board, and make various conforming changes. This bill would also require the secretary to instead submit the proposed rates directly to the Director of Finance, and would require the Director of Finance to approve the proposed rates based on certain standards and criteria.~~

~~(9)~~

(6) Existing law establishes the California Technology Agency within state government, and requires the office to carry out specified duties relating to creating and managing the technology policy of the state. Existing law requires the agency to be responsible for the approval and oversight of information technology projects.

This bill would require a state department to get written approval from the California Technology Agency to procure oversight services for information technology projects unless otherwise required by law.

~~(10)~~

(7) Existing law requires the Department of Finance to certify annually to the Controller the amount determined to be the fair share of administrative costs due and payable from each state agency and to certify to the Controller any amount redetermined to be the fair share of administrative costs due and payable from a state agency. Existing law requires the Controller to notify a state agency of that amount, and, unless the state agency requests that those payments be deferred, to transfer that amount from specified funds to the Central Service Cost Recovery Fund. Existing law defines “administrative costs” as the amounts expended by various specified state entities for supervision or administration of the state government or for services to the various state agencies.

This bill would modify the definition of administrative costs to include amounts expended by the Financial Information System for California.

~~(11)~~

(8) Existing law requires the Director of Finance, in coordinating the internal auditors of state agencies, to ensure that these auditors utilize the “Standards for the Professional Practices of Internal Auditing.”

This bill would also require the director to be responsible for coordinating state agency internal audits and ~~identifying~~ *identifying* when agencies are required to comply with federally mandated audits.

~~(12)~~

(9) Existing law requires the Department of Finance, the Controller, the Treasurer, and the Department of General Services to collaboratively develop, implement, utilize, maintain, and operate the Financial

Information System for California—(FISCAL) (*FISCAl*) as a single integrated financial management system, as specified. Existing law requires the fiscal Project Office in the Department of Finance to implement these provisions until the Office of the Financial Information System is established.

This bill would require the FISCAl Project Office to report to the Legislature, by February 15 of each year, an update on the project, as specified. The provisions of the bill would remain in effect only until a ~~post-implementation~~ *postimplementation* evaluation report has been approved by the California Technology Agency.

(13)

(10) Existing law sets forth the duties and powers of the Treasurer in the sale of state bonds. Moneys are continuously appropriated from the General Fund in an annual amount necessary to pay all obligations, including principal, interest, fees, costs, indemnities, and all other amounts incurred by the state pursuant to any credit enhancement or liquidity agreement entered into by the state, as specified, for bonds payable pursuant to an appropriation from the General Fund. Existing law, until June 30, 2013, prohibits the amount appropriated for these fees, costs, and other similar expenses from exceeding 3% of the original principal amount of the bonds.

This bill would repeal the inoperative date of those provisions, thereby extending the 3% interest rate indefinitely, thereby making an appropriation.

~~(14) Existing law establishes the Local Agency Investment Fund, authorizes a local government having money in its treasury not required for immediate needs to remit it to the Treasurer for deposit in that fund for the purpose of investment, and prescribes the handling of that money.~~

~~This bill would establish the Voluntary Investment Program Fund within the state Treasury for the receipt of voluntary deposits from local entities, as specified. The bill would provide that the deposits in the fund may be used only to cover short-term cash needs of the state, as specified.~~

~~(15) Existing law creates the Electronic Funds Transfer Task Force, consisting of 8 members appointed by specified agencies, boards, departments, and offices.~~

~~This bill would eliminate the Electronic Funds Transfer Task Force.~~

(16)

(11) Existing law, the State Building Construction Act of 1955, authorizes the State Public Works Board to acquire and construct public

buildings for use by state agencies, when authorized by a separate act or appropriation enacted by the Legislature. Existing law authorizes the board to issue bonds, notes, or other obligations to finance the acquisition or construction of a public building, facility, or equipment as authorized by the Legislature, and any additional amount authorized by the board to pay the cost of financing.

This bill would revise and recast that provision to instead authorize the State Public Works Board to issue bonds, notes, or other obligations to finance the acquisition, design, or construction of a public building as authorized by the Legislature, and any additional amount authorized by the board to pay the cost of financing, including interest payable on any interim loan or interim financing for the public building.

~~(17) Existing law establishes the Department of Industrial Relations, divided into 6 divisions known as the Division of Worker's Compensation, the Division of Occupational Safety and Health, the Division of Labor Standards Enforcement, the Division of Labor Statistics and Research, the Division of Apprenticeship Standards, and the State Compensation Insurance Fund. Under existing law, the Division of Labor Statistics and Research collects, compiles, and presents facts and statistics relating to the condition of labor in the state. Existing law provides that, except as specified, no use shall be made in the reports of the Labor Statistics and Research Division of the names of persons supplying information and makes any agent or employee of the division who violates this provision guilty of a misdemeanor.~~

This bill would abolish the Division of Labor Statistics and Research and transfer the duties of that division to the Division of Occupational Health and Safety and the Division of Labor Standards Enforcement and make conforming changes. The bill would broaden the application of the misdemeanor referenced above to any agent or employee of the department, thereby creating a state-mandated local program.

~~(18) Existing law requires the Division of Apprenticeship Standards to establish and validate minimum standards for the competency and training of electricians through a system of testing and certification.~~

This bill would recast the electrician certification responsibilities of the Division of Apprenticeship Standards under the Division of Labor Standards Enforcement and make conforming changes.

~~(19) Existing law provides that the Department of Industrial Relations shall monitor and enforce compliance with applicable prevailing wage requirements for any public works project paid for out of public funds. Existing law provides that any awarding agency whose public works~~

~~contract is subject to provisions regulating the employment of apprentices upon public works shall send a copy of the award to the Division of Apprenticeship Standards.~~

~~This bill would instead require that an awarding agency whose public works contract falls within the jurisdiction of specified monitoring and enforcement compliance provisions, is subject to provisions regulating the employment of apprentices upon public works, or is subject to any other provision providing for the payment of fees to the department for enforcing prevailing wage requirements send a copy of the award to the department.~~

~~(20) Existing law provides that a contractor or subcontractor who is determined to have knowingly committed a serious violation of specified provisions may be denied the right to bid on or be awarded or perform work on any public works for a period of time. Existing law provides that an affected contractor, subcontractor, or responsible officer may obtain a review of the determination imposing the debarment or civil penalty within 30 days.~~

~~This bill would instead allow for the request of the review within 60 days and make other related changes.~~

~~(21) Existing law requires that the Director of Industrial Relations levy and collect assessments from employers in an amount determined by the director, as specified. In that connection, existing law requires the director to include in the total assessment amount the Department of Industrial Relations' costs for administering the assessment, including the collections process and the cost of reimbursing the Franchise Tax Board or another agency or department for its cost of collection activities. Existing law requires the Department of Industrial Relations to enter into an agreement with the Franchise Tax Board that transfers responsibility from the Department of Industrial Relations to the Franchise Tax Board for the collection of delinquent fees, wages, penalties, and costs, and any interest.~~

~~This bill would repeal the requirement that the Department of Industrial Relations enter into an agreement with the Franchise Tax Board to transfer responsibility from the Department of Industrial Relations to the Franchise Tax Board for the collection of delinquent fees, wages, penalties, and costs, and any interest, including the assessments from employers in an amount determined by the Director of Industrial Relations to be sufficient to fund specified workers' compensation programs implemented in the state and any penalties. This bill would require the Director of Industrial Relations to include~~

in that total assessment amount the cost of reimbursing the Employment Development Department or another agency or department for its cost of collection activities, as provided.

(22) Existing law establishes the California State Mediation and Conciliation Service (CSMCS) within the Department of Industrial Relations to investigate and mediate labor disputes, as specified. Existing law governs public transportation labor disputes.

This bill would repeal and recast those provisions and establish the CSMCS within the Public Employment Relations Board (PERB). The bill would vest PERB with all of the powers, duties, purposes, responsibilities and jurisdiction vested in the Department of Industrial Relations and exercised or carried out through CSMCS.

(23) The California Fair Employment and Housing Act establishes the Department of Fair Employment and Housing in the State and Consumer Services Agency, with the power and duties to, among other things, receive, investigate, and conciliate complaints relating to employment and housing discrimination. The California Fair Employment and Housing Act also establishes the Fair Employment and Housing Commission within the State and Consumer Services Agency, with the powers and duties to, among other things, conduct hearings, subpoena witnesses, create or provide financial or technical assistance to advisory agencies and conciliation councils, publish opinions and publications, and conduct mediations at the request of the Department of Fair Employment and Housing.

This bill would eliminate the Fair Employment and Housing Commission and would transfer the duties of the commission to the Department of Fair Employment and Housing. The bill would create within the department a Fair Employment and Housing Council that would succeed to the powers and duties of the former commission. The bill would establish the Fair Employment and Housing Enforcement and Litigation Fund in the State Treasury to be administered by the department, subject to appropriation, for purposes of deposit of attorney's fees and costs awarded to the department in specified civil actions. The bill would authorize transfer of those funds to the General Fund upon a specified circumstance. The bill would expand specified powers of the department related to complaints, mediations, and prosecutions, and would provide mandatory dispute resolution at no cost to the parties involved, as specified. The bill would eliminate a specified cap of actual damages under the act, and would instead require

~~certain actions be brought in court by civil action, rather than by accusation by the department.~~

~~(24)~~

(12) Existing law, until January 1, 2013, requires a mortgagee, trustee, beneficiary, or authorized agent to comply with certain procedures in dealing with a borrower who is in default prior to filing a notice of default and to explore options for the borrower to avoid foreclosure, as specified. Existing law provides that a violation of these provisions would result in specified civil penalties, including penalties for unfair business practices. Existing law provides that civil penalties collected for unfair business practice violations brought by the Attorney General are deposited in the Unfair Competition Law Fund within the General Fund.

This bill would establish the National Mortgage Special Deposit Fund in the State Treasury as a continuously appropriated fund and would require certain direct payments made to the state under the National Mortgage Settlement to be deposited in the fund for allocation by the Director of Finance, as specified. This bill would further authorize the Director of Finance to allocate moneys from the fund to offset General Fund expenditures during the 2011–12, 2012–13, and 2013–14 fiscal years for purposes consistent with the National Mortgage Settlement. The bill would also require that civil penalties collected under the National Mortgage Settlement be deposited into the Unfair Competition Fund, and be continuously appropriated to the Department of Justice to offset the General Fund costs incurred by the department, thereby also making an appropriation.

~~(25)~~

(13) Existing law requires the Department of Veterans Affairs to disburse funds, appropriated to the department for the purpose of supporting county veterans service offices pursuant to the annual Budget Act, on a pro rata basis, to counties that comply with certain conditions. Existing law requires the Department of Veterans Affairs to determine annually the amount of new or increased monetary benefits paid to eligible veterans by the federal government attributable to the assistance of county veterans service offices and requires the department to prepare and transmit its determination for the preceding fiscal year to the Department of Finance and the Legislature, as specified.

This bill would require the Department of Veterans Affairs, by June 30, 2013, to develop a performance-based formula that will incentivize county veterans service offices to perform workload units, as defined,

that help veterans access federal compensation and pension benefits and other benefits, in order to maximize the amount of federal money received by California veterans. This bill would require the department to conduct a review of the high-performing and low-performing county veterans service offices and based on this review, produce a best-practices manual for county veterans service offices by June 30, 2013.

~~(26) Existing law creates, in the Employment Development Department, the California Unemployment Insurance Appeals Board, consisting of 7 members, 2 of whom are required to be attorneys at law admitted to practice in California. Existing law authorizes the Governor to appoint 5 of the 7 members, as specified.~~

~~This bill would reduce the number of members of this board to 5 and reduce the number of members the Governor may appoint to 3. This bill would require all members of the board to be attorneys at law admitted to practice in any state of the United States with either a minimum of one year of experience in conducting judicial or administrative hearings or 5 years of experience in the practice of law. This bill would provide that these amendments apply to appointments made on or after January 1, 2013.~~

~~(27) Existing law creates within state government the Commission on the Status of Women, consisting of 17 members, including public members appointed by specified executive and legislative officials. Existing law sets forth the powers and duties of the commission, and requires the commission to study certain topics. Existing law requires the commission to act as a information center on the status of women and women's educational, employment, and other related needs.~~

~~This bill would rename the Commission on the Status of Women the Commission on the Status of Women and Girls, and make various conforming changes to that effect. This bill would require the appointing powers, in making appointments of public members to the commission, to make every effort to ensure that there is a geographic balance of representation on the commission. This bill would modify the topics that the commission is required to study by adding some and removing others, including, among others, adding gender equity in the media. This bill would instead require the commission to act as a central information on issues that affect the lives of women and girls. This bill would require the commission to develop a strategy to attract financial support from private donors.~~

~~This bill would state that certain provisions of this bill will prevail over a specified section of the Governor's Reorganization Plan No. 2 of 2012, regardless of the dates on which this bill and that Plan take effect.~~

(14) Existing law, known as the Capital Investment Incentive Program, authorizes, until January 1, 2017, a city, county, or city and county to pay capital investment incentive amounts to a requesting proponent of a "qualified manufacturing facility," as defined. Existing law also requires the Business, Transportation and Housing Agency to certify qualified manufacturing facilities for purposes of these provisions and to carry out various oversight duties, including, but not limited to, reporting specified information to the Legislature.

This bill would, until June 30, 2013, expand these provisions to include a "qualified research and development facility," modify and provide additional definitions, and transfer the duties of the Business, Transportation and Housing Agency to the Governor's Office of Business and Economic Development. This bill would, on July 1, 2013, restore these provisions to existing law.

(15) Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, including school districts, the state is required to provide a subvention of funds to reimburse the local government, with specified exceptions.

Existing law provides that no local agency or school district shall be required to implement or give effect to any statute or executive order, or portion thereof that imposes a mandate during any fiscal year and for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year if specified conditions are met, including that the statute or executive order, or portion thereof, has been specifically identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year.

This bill would provide that all state-mandated local programs suspended in the Budget Act for the 2012-13 fiscal year will also be suspended in the 2013-14 and 2014-15 fiscal years.

(16) Existing law also requires that the total amount due to each city, county, city and county, and special district, for which the state has determined that reimbursement is required under the California Constitution, be appropriated for payment to these entities over a period of not more than 15 years, commencing with the Budget Act for the

2006–07 fiscal year and concluding with the Budget Act for the 2020–21 fiscal year.

This bill would prohibit appropriations for payment of reimbursement claims pursuant to these provisions for the 2012-13, 2013-14, and 2014-15 fiscal years.

(17) Existing law imposes an excise tax on motor vehicle fuel (gasoline). Existing law, as a result of the elimination of the sales tax on gasoline effective July 1, 2010, provides for a commensurate increase in the excise tax on gasoline. Article XIX of the California Constitution requires gasoline excise tax revenues from motor vehicles traveling upon public streets and highways to be deposited in the Highway Users Tax Account, for allocation to city, county, and state transportation purposes. Existing law generally provides for statutory allocation of gasoline excise tax revenues attributable to other modes of transportation, including aviation, boats, agricultural vehicles, and off-highway vehicles, to particular accounts and funds for expenditure on purposes associated with those other modes. Expenditure of the gasoline excise tax revenues attributable to those other modes is not restricted by Article XIX of the California Constitution.

This bill, with respect to the increase in gasoline excise taxes as a result of the elimination of the sales tax on gasoline, would instead transfer the revenues attributable to aviation, boats, agricultural vehicles, and off-highway vehicles to the General Fund, commencing July 1, 2012. The bill, with respect to these revenues already transferred to the particular nonhighway accounts and funds in the 2010–11 and 2011–12 fiscal years, would also transfer those revenues to the General Fund.

(18) Existing law states that it is the policy of the state that the workweek of the state employee shall be 40 hours, and the workday of state employees 8 hours, except that workweeks and workdays of a different number of hours may be established in order to meet the varying needs of the different state agencies.

This bill would require a state employee, except as specified, for the period from July 1, 2012, to June 30, 2013, inclusive, either as required by an applicable memorandum of understanding or by the direction of the Department of Human Resources for excluded employees, to participate in the Personal Leave Program 2012 (PLP 2012 Program), under which each employee would receive a reduction in pay not greater than 5% in exchange for 8 hours of PLP 2012 Program leave credits per month.

(19) Existing law requires the department to adopt rules governing hours of work and overtime compensation and the keeping of related records, except that conflicting provisions of a memorandum of understanding are controlling, as specified.

The bill would require the department, notwithstanding any conflicting provisions of a memorandum of understanding, to adopt a plan for the period from July 1, 2012, to June 30, 2013, inclusive, by which all state employees, except as specified, who are not subject to the PLP 2012 Program, as described above, shall be furloughed for one workday per calendar month, and to adopt rules for the implementation, administration, and enforcement of this furlough plan.

(20) Existing law provides that the State Compensation Insurance Fund shall not be subject to the provisions of the Government Code made applicable to state agencies generally or collectively, unless the provision specifically names the fund as an agency to which it applies. Existing law also provides that employee positions funded by the State Compensation Insurance Fund are exempt from any hiring freezes and staff cutbacks otherwise required by law.

This bill would provide that employees of the fund shall, without limitation, be subject to any and all reductions in state employee compensation imposed by the Legislature on other state employees for the period from July 1, 2012, to June 30, 2013, inclusive, regardless of the means adopted to effect those reductions. With the exception of those reductions, the bill would further provide that if any of these provisions, or a practice or procedure adopted pursuant to these provisions, conflicts with a memorandum of understanding, the memorandum of understanding shall be controlling, as specified.

(21) Existing law authorizes the Department of General Services to, relative to contracts for goods, services, information technology, and telecommunications, use a negotiation process if the department finds that certain conditions exist, as specified.

This bill would authorize, until January 1, 2018, the California Technology Agency to utilize that negotiation process for the purpose of procuring information technology and telecommunications goods and services on behalf of state departments and information technology projects. The bill would require an annual report to the Legislature, as specified.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an injured employee for injuries sustained

in the course of his or her employment. Existing law requires that the Director of Industrial Relations levy and collect assessments from employers in an amount determined by the director to be sufficient to fund specified workers' compensation programs implemented in the state. In that connection, existing law requires the director to include in the total assessment amount the Department of Industrial Relations' costs for administering the assessment, including the collections process and the cost of reimbursing the Franchise Tax Board or another agency or department for its cost of collection activities.

Existing law requires the Department of Industrial Relations to enter into an agreement with the Franchise Tax Board that transfers responsibility from the Department of Industrial Relations to the Franchise Tax Board for the collection of delinquent fees, wages, penalties, and costs, and any interest, including the assessments from employers in an amount determined by the Director of Industrial Relations to be sufficient to fund specified workers' compensation programs implemented in the state and any penalties.

Existing law also authorizes the Department of Industrial Relations to enter into an agreement with the Employment Development Department that provides for the transfer of all or part of the responsibility from the Department of Industrial Relations, or any office or division within that department, to the Employment Development Department for the collection of assessments, as specified, arising out of the enforcement of any law within the jurisdiction of the Department of Industrial Relations or any office or division within that department, as provided.

This bill would repeal the requirement that the Department of Industrial Relations enter into an agreement with the Franchise Tax Board to transfer responsibility from the Department of Industrial Relations to the Franchise Tax Board for the collection of delinquent fees, wages, penalties, and costs, and any interest, including the assessments from employers in an amount determined by the Director of Industrial Relations to be sufficient to fund specified workers' compensation programs implemented in the state and any penalties. This bill would require the Director of Industrial Relations to include in that total assessment amount the cost of reimbursing the Employment Development Department or another agency or department for its cost of collection activities, as provided. This bill would make other conforming changes.

This

(22) *This bill would appropriate \$1,000 from the General Fund to the Department of Finance for purposes of implementing this bill, thereby making an appropriation.*

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~This~~

(23) *The Budget Bill, enacted as the Budget Act of 2012, would make appropriations for the support of state government for the 2012–13 fiscal year.*

This bill would amend the Budget Act of 2012 by revising an item of appropriation in the Budget Act of 2012.

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

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

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

1 SECTION 1. *Section 17206 of the Business and Professions*
2 *Code is amended to read:*

3 17206. Civil Penalty for Violation of Chapter

4 (a) Any person who engages, has engaged, or proposes to engage
5 in unfair competition shall be liable for a civil penalty not to exceed
6 two thousand five hundred dollars (\$2,500) for each violation,
7 which shall be assessed and recovered in a civil action brought in
8 the name of the people of the State of California by the Attorney
9 General, by any district attorney, by any county counsel authorized
10 by agreement with the district attorney in actions involving
11 violation of a county ordinance, by any city attorney of a city
12 having a population in excess of 750,000, by any city attorney of
13 any city and county, or, with the consent of the district attorney,
14 by a city prosecutor in any city having a full-time city prosecutor,
15 in any court of competent jurisdiction.

16 (b) The court shall impose a civil penalty for each violation of
17 this chapter. In assessing the amount of the civil penalty, the court
18 shall consider any one or more of the relevant circumstances
19 presented by any of the parties to the case, including, but not

1 limited to, the following: the nature and seriousness of the
2 misconduct, the number of violations, the persistence of the
3 misconduct, the length of time over which the misconduct occurred,
4 the willfulness of the defendant's misconduct, and the defendant's
5 assets, liabilities, and net worth.

6 (c) If the action is brought by the Attorney General, one-half of
7 the penalty collected shall be paid to the treasurer of the county in
8 which the judgment was entered, and one-half to the General Fund.
9 If the action is brought by a district attorney or county counsel,
10 the penalty collected shall be paid to the treasurer of the county in
11 which the judgment was entered. Except as provided in subdivision
12 (e), if the action is brought by a city attorney or city prosecutor,
13 one-half of the penalty collected shall be paid to the treasurer of
14 the city in which the judgment was entered, and one-half to the
15 treasurer of the county in which the judgment was entered. The
16 aforementioned funds shall be for the exclusive use by the Attorney
17 General, the district attorney, the county counsel, and the city
18 attorney for the enforcement of consumer protection laws.

19 (d) The Unfair Competition Law Fund is hereby created as a
20 special account within the General Fund in the State Treasury. The
21 portion of penalties that is payable to the General Fund or to the
22 Treasurer recovered by the Attorney General from an action or
23 settlement of a claim made by the Attorney General pursuant to
24 this chapter or Chapter 1 (commencing with Section 17500) of
25 Part 3 shall be deposited into this fund. Moneys in this fund, upon
26 appropriation by the Legislature, shall be used by the Attorney
27 General to support investigations and prosecutions of California's
28 consumer protection laws, including implementation of judgments
29 obtained from such prosecutions or investigations and other
30 activities which are in furtherance of this chapter or Chapter 1
31 (commencing with Section 17500) of Part 3. *Notwithstanding*
32 *Section 13340 of the Government Code, any civil penalties*
33 *deposited in the fund pursuant to the National Mortgage Settlement,*
34 *as provided in Section 12531 of the Government Code, are*
35 *continuously appropriated to the Department of Justice for the*
36 *purpose of offsetting General Fund costs incurred by the*
37 *Department of Justice.*

38 (e) If the action is brought at the request of a board within the
39 Department of Consumer Affairs or a local consumer affairs
40 agency, the court shall determine the reasonable expenses incurred

1 by the board or local agency in the investigation and prosecution
2 of the action.

3 Before any penalty collected is paid out pursuant to subdivision
4 (c), the amount of any reasonable expenses incurred by the board
5 shall be paid to the Treasurer for deposit in the special fund of the
6 board described in Section 205. If the board has no such special
7 fund, the moneys shall be paid to the Treasurer. The amount of
8 any reasonable expenses incurred by a local consumer affairs
9 agency shall be paid to the general fund of the municipality or
10 county that funds the local agency.

11 (f) If the action is brought by a city attorney of a city and county,
12 the entire amount of the penalty collected shall be paid to the
13 treasurer of the city and county in which the judgment was entered
14 for the exclusive use by the city attorney for the enforcement of
15 consumer protection laws. However, if the action is brought by a
16 city attorney of a city and county for the purposes of civil
17 enforcement pursuant to Section 17980 of the Health and Safety
18 Code or Article 3 (commencing with Section 11570) of Chapter
19 10 of Division 10 of the Health and Safety Code, either the penalty
20 collected shall be paid entirely to the treasurer of the city and
21 county in which the judgment was entered or, upon the request of
22 the city attorney, the court may order that up to one-half of the
23 penalty, under court supervision and approval, be paid for the
24 purpose of restoring, maintaining, or enhancing the premises that
25 were the subject of the action, and that the balance of the penalty
26 be paid to the treasurer of the city and county.

27 *SEC. 2. Section 1936 of the Civil Code, as amended by Section*
28 *1 of Chapter 531 of the Statutes of 2011, is amended to read:*

29 1936. (a) For the purpose of this section, the following
30 definitions shall apply:

31 (1) "Rental company" means a person or entity in the business
32 of renting passenger vehicles to the public.

33 (2) "Renter" means any person in a manner obligated under a
34 contract for the lease or hire of a passenger vehicle from a rental
35 company for a period of less than 30 days.

36 (3) "Authorized driver" means (A) the renter, (B) the renter's
37 spouse if that person is a licensed driver and satisfies the rental
38 company's minimum age requirement, (C) the renter's employer
39 or coworker if he or she is engaged in business activity with the
40 renter, is a licensed driver, and satisfies the rental company's

1 minimum age requirement, and (D) a person expressly listed by
2 the rental company on the renter's contract as an authorized driver.

3 (4) (A) "Customer facility charge" means any fee, including
4 an alternative fee, required by an airport to be collected by a rental
5 company from a renter for any of the following purposes:

6 (i) To finance, design, and construct consolidated airport car
7 rental facilities.

8 (ii) To finance, design, construct, and operate common-use
9 transportation systems that move passengers between airport
10 terminals and those consolidated car rental facilities, and acquire
11 vehicles for use in that system.

12 (iii) To finance, design, and construct terminal modifications
13 solely to accommodate and provide customer access to
14 common-use transportation systems.

15 (B) The aggregate amount to be collected shall not exceed the
16 reasonable costs, as determined by an independent audit paid for
17 by the airport, to finance, design, and construct those facilities.
18 Copies of the audit shall be provided to the Assembly and Senate
19 Committees on Judiciary, the Assembly Committee on
20 Transportation, and the Senate Committee on Transportation and
21 Housing. In the case of a transportation system, the audit also shall
22 consider the reasonable costs of providing the transit system or
23 busing network. Notwithstanding clause (iii) of subparagraph (A),
24 the fees designated as a customer facility charge shall not be used
25 to pay for terminal expansion, gate expansion, runway expansion,
26 changes in hours of operation, or changes in the number of flights
27 arriving or departing from the airport.

28 (C) Except as provided in subparagraph (D), the authorization
29 given pursuant to this section for an airport to impose a customer
30 facility charge shall become inoperative when the bonds used for
31 financing are paid.

32 (D) If a bond or other form of indebtedness is not used for
33 financing, or the bond or other form of indebtedness used for
34 financing has been paid, the Oakland International Airport may
35 require the collection of a customer facility charge for a period of
36 up to 10 years from the imposition of the charge for the purposes
37 allowed by, and subject to the conditions imposed by, this section.

38 (5) "Damage waiver" means a rental company's agreement not
39 to hold a renter liable for all or any portion of any damage or loss

1 related to the rented vehicle, any loss of use of the rented vehicle,
2 or any storage, impound, towing, or administrative charges.

3 (6) “Electronic surveillance technology” means a technological
4 method or system used to observe, monitor, or collect information,
5 including telematics, Global Positioning System (GPS), wireless
6 technology, or location-based technologies. “Electronic
7 surveillance technology” does not include event data recorders
8 (EDR), sensing and diagnostic modules (SDM), or other systems
9 that are used either:

10 (A) For the purpose of identifying, diagnosing, or monitoring
11 functions related to the potential need to repair, service, or perform
12 maintenance on the rental vehicle.

13 (B) As part of the vehicle’s airbag sensing and diagnostic system
14 in order to capture safety systems-related data for retrieval after a
15 crash has occurred or in the event that the collision sensors are
16 activated to prepare the decisionmaking computer to make the
17 determination to deploy or not to deploy the airbag.

18 (7) “Estimated time for replacement” means the number of hours
19 of labor, or fraction thereof, needed to replace damaged vehicle
20 parts as set forth in collision damage estimating guides generally
21 used in the vehicle repair business and commonly known as “crash
22 books.”

23 (8) “Estimated time for repair” means a good faith estimate of
24 the reasonable number of hours of labor, or fraction thereof, needed
25 to repair damaged vehicle parts.

26 (9) “Membership program” means a service offered by a rental
27 company that permits customers to bypass the rental counter and
28 go directly to the car previously reserved. A membership program
29 shall meet all of the following requirements:

30 (A) The renter initiates enrollment by completing an application
31 on which the renter can specify a preference for type of vehicle
32 and acceptance or declination of optional services.

33 (B) The rental company fully discloses, prior to the enrollee’s
34 first rental as a participant in the program, all terms and conditions
35 of the rental agreement as well as all required disclosures.

36 (C) The renter may terminate enrollment at any time.

37 (D) The rental company fully explains to the renter that
38 designated preferences, as well as acceptance or declination of
39 optional services, may be changed by the renter at any time for
40 the next and future rentals.

(E) An employee designated to receive the form specified in subparagraph (C) of paragraph (1) of subdivision (t) is present at the lot where the renter takes possession of the car, to receive any change in the rental agreement from the renter.

(10) “Passenger vehicle” means a passenger vehicle as defined in Section 465 of the Vehicle Code.

(b) Except as limited by subdivision (c), a rental company and a renter may agree that the renter will be responsible for no more than all of the following:

(1) Physical or mechanical damage to the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle, resulting from collision regardless of the cause of the damage.

(2) Loss due to theft of the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle, provided that the rental company establishes by clear and convincing evidence that the renter or the authorized driver failed to exercise ordinary care while in possession of the vehicle. In addition, the renter shall be presumed to have no liability for any loss due to theft if (A) an authorized driver has possession of the ignition key furnished by the rental company or an authorized driver establishes that the ignition key furnished by the rental company was not in the vehicle at the time of the theft, and (B) an authorized driver files an official report of the theft with the police or other law enforcement agency within 24 hours of learning of the theft and reasonably cooperates with the rental company and the police or other law enforcement agency in providing information concerning the theft. The presumption set forth in this paragraph is a presumption affecting the burden of proof which the rental company may rebut by establishing that an authorized driver committed, or aided and abetted the commission of, the theft.

(3) Physical damage to the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle, resulting from vandalism occurring after, or in connection with, the theft of the rented vehicle. However, the renter shall have no liability for any damage due to vandalism if the renter would have no liability for theft pursuant to paragraph (2).

1 (4) Physical damage to the rented vehicle up to a total of five
2 hundred dollars (\$500) resulting from vandalism unrelated to the
3 theft of the rented vehicle.

4 (5) Actual charges for towing, storage, and impound fees paid
5 by the rental company if the renter is liable for damage or loss.

6 (6) An administrative charge, which shall include the cost of
7 appraisal and all other costs and expenses incident to the damage,
8 loss, repair, or replacement of the rented vehicle.

9 (c) The total amount of the renter's liability to the rental
10 company resulting from damage to the rented vehicle shall not
11 exceed the sum of the following:

12 (1) The estimated cost of parts which the rental company would
13 have to pay to replace damaged vehicle parts. All discounts and
14 price reductions or adjustments that are or will be received by the
15 rental company shall be subtracted from the estimate to the extent
16 not already incorporated in the estimate, or otherwise promptly
17 credited or refunded to the renter.

18 (2) The estimated cost of labor to replace damaged vehicle parts,
19 which shall not exceed the product of (A) the rate for labor usually
20 paid by the rental company to replace vehicle parts of the type that
21 were damaged and (B) the estimated time for replacement. All
22 discounts and price reductions or adjustments that are or will be
23 received by the rental company shall be subtracted from the
24 estimate to the extent not already incorporated in the estimate, or
25 otherwise promptly credited or refunded to the renter.

26 (3) (A) The estimated cost of labor to repair damaged vehicle
27 parts, which shall not exceed the lesser of the following:

28 (i) The product of the rate for labor usually paid by the rental
29 company to repair vehicle parts of the type that were damaged and
30 the estimated time for repair.

31 (ii) The sum of the estimated labor and parts costs determined
32 under paragraphs (1) and (2) to replace the same vehicle parts.

33 (B) All discounts and price reductions or adjustments that are
34 or will be received by the rental company shall be subtracted from
35 the estimate to the extent not already incorporated in the estimate,
36 or otherwise promptly credited or refunded to the renter.

37 (4) For the purpose of converting the estimated time for repair
38 into the same units of time in which the rental rate is expressed, a
39 day shall be deemed to consist of eight hours.

1 (5) Actual charges for towing, storage, and impound fees paid
2 by the rental company.

3 (6) The administrative charge described in paragraph (6) of
4 subdivision (b) shall not exceed (A) fifty dollars (\$50) if the total
5 estimated cost for parts and labor is more than one hundred dollars
6 (\$100) up to and including five hundred dollars (\$500), (B) one
7 hundred dollars (\$100) if the total estimated cost for parts and
8 labor exceeds five hundred dollars (\$500) up to and including one
9 thousand five hundred dollars (\$1,500), and (C) one hundred fifty
10 dollars (\$150) if the total estimated cost for parts and labor exceeds
11 one thousand five hundred dollars (\$1,500). An administrative
12 charge shall not be imposed if the total estimated cost of parts and
13 labor is one hundred dollars (\$100) or less.

14 (d) (1) The total amount of an authorized driver's liability to
15 the rental company, if any, for damage occurring during the
16 authorized driver's operation of the rented vehicle shall not exceed
17 the amount of the renter's liability under subdivision (c).

18 (2) A rental company shall not recover from the renter or other
19 authorized driver an amount exceeding the renter's liability under
20 subdivision (c).

21 (3) A claim against a renter resulting from damage or loss,
22 excluding loss of use, to a rental vehicle shall be reasonably and
23 rationally related to the actual loss incurred. A rental company
24 shall mitigate damages where possible and shall not assert or collect
25 a claim for physical damage which exceeds the actual costs of the
26 repairs performed or the estimated cost of repairs, if the rental
27 company chooses not to repair the vehicle, including all discounts
28 and price reductions. However, if the vehicle is a total loss vehicle,
29 the claim shall not exceed the total loss vehicle value established
30 in accordance with procedures that are customarily used by
31 insurance companies when paying claims on total loss vehicles,
32 less the proceeds from salvaging the vehicle, if those proceeds are
33 retained by the rental company.

34 (4) If insurance coverage exists under the renter's applicable
35 personal or business insurance policy and the coverage is confirmed
36 during regular business hours, the renter may require that the rental
37 company submit any claims to the renter's applicable personal or
38 business insurance carrier. The rental company shall not make any
39 written or oral representations that it will not present claims or
40 negotiate with the renter's insurance carrier. For purposes of this

1 paragraph, confirmation of coverage includes telephone
2 confirmation from insurance company representatives during
3 regular business hours. Upon request of the renter and after
4 confirmation of coverage, the amount of claim shall be resolved
5 between the insurance carrier and the rental company. The renter
6 shall remain responsible for payment to the rental car company
7 for any loss sustained that the renter's applicable personal or
8 business insurance policy does not cover.

9 (5) A rental company shall not recover from the renter or other
10 authorized driver for an item described in subdivision (b) to the
11 extent the rental company obtains recovery from another person.

12 (6) This section applies only to the maximum liability of a renter
13 or other authorized driver to the rental company resulting from
14 damage to the rented vehicle and not to the liability of another
15 person.

16 (e) (1) Except as provided in subdivision (f), a damage waiver
17 shall provide or, if not expressly stated in writing, shall be deemed
18 to provide that the renter has no liability for a damage, loss, loss
19 of use, or a cost or expense incident thereto.

20 (2) Except as provided in subdivision (f), every limitation,
21 exception, or exclusion to a damage waiver is void and
22 unenforceable.

23 (f) A rental company may provide in the rental contract that a
24 damage waiver does not apply under any of the following
25 circumstances:

26 (1) Damage or loss results from an authorized driver's (A)
27 intentional, willful, wanton, or reckless conduct, (B) operation of
28 the vehicle under the influence of drugs or alcohol in violation of
29 Section 23152 of the Vehicle Code, (C) towing or pushing
30 anything, or (D) operation of the vehicle on an unpaved road if
31 the damage or loss is a direct result of the road or driving
32 conditions.

33 (2) Damage or loss occurs while the vehicle is (A) used for
34 commercial hire, (B) used in connection with conduct that could
35 be properly charged as a felony, (C) involved in a speed test or
36 contest or in driver training activity, (D) operated by a person other
37 than an authorized driver, or (E) operated outside the United States.

38 (3) An authorized driver who has (A) provided fraudulent
39 information to the rental company, or (B) provided false

1 information and the rental company would not have rented the
2 vehicle if it had instead received true information.

3 (g) (1) A rental company that offers or provides a damage
4 waiver for any consideration in addition to the rental rate shall
5 clearly and conspicuously disclose the following information in
6 the rental contract or holder in which the contract is placed and,
7 also, in signs posted at the place, such as the counter, where the
8 renter signs the rental contract, and, for renters who are enrolled
9 in the rental company's membership program, in a sign that shall
10 be posted in a location clearly visible to those renters as they enter
11 the location where their reserved rental cars are parked or near the
12 exit of the bus or other conveyance that transports the enrollee to
13 a reserved car: (A) the nature of the renter's liability, such as
14 liability for all collision damage regardless of cause, (B) the extent
15 of the renter's liability, such as liability for damage or loss up to
16 a specified amount, (C) the renter's personal insurance policy or
17 the credit card used to pay for the car rental transaction may
18 provide coverage for all or a portion of the renter's potential
19 liability, (D) the renter should consult with his or her insurer to
20 determine the scope of insurance coverage, including the amount
21 of the deductible, if any, for which the renter is obligated, (E) the
22 renter may purchase an optional damage waiver to cover all
23 liability, subject to whatever exceptions the rental company
24 expressly lists that are permitted under subdivision (f), and (F) the
25 range of charges for the damage waiver.

26 (2) In addition to the requirements of paragraph (1), a rental
27 company that offers or provides a damage waiver shall orally
28 disclose to all renters, except those who are participants in the
29 rental company's membership program, that the damage waiver
30 may be duplicative of coverage that the customer maintains under
31 his or her own policy of motor vehicle insurance. The renter's
32 receipt of the oral disclosure shall be demonstrated through the
33 renter's acknowledging receipt of the oral disclosure near that part
34 of the contract where the renter indicates, by the renter's own
35 initials, his or her acceptance or declination of the damage waiver.
36 Adjacent to that same part, the contract also shall state that the
37 damage waiver is optional. Further, the contract for these renters
38 shall include a clear and conspicuous written disclosure that the
39 damage waiver may be duplicative of coverage that the customer
40 maintains under his or her own policy of motor vehicle insurance.

(3) The following is an example, for purposes of illustration and not limitation, of a notice fulfilling the requirements of paragraph (1) for a rental company that imposes liability on the renter for collision damage to the full value of the vehicle:

“NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY
AND OPTIONAL DAMAGE WAIVER

You are responsible for all collision damage to the rented vehicle even if someone else caused it or the cause is unknown. You are responsible for the cost of repair up to the value of the vehicle, and towing, storage, and impound fees.

Your own insurance, or the issuer of the credit card you use to pay for the car rental transaction, may cover all or part of your financial responsibility for the rented vehicle. You should check with your insurance company, or credit card issuer, to find out about your coverage and the amount of the deductible, if any, for which you may be liable.

Further, if you use a credit card that provides coverage for your potential liability, you should check with the issuer to determine if you must first exhaust the coverage limits of your own insurance before the credit card coverage applies.

The rental company will not hold you responsible if you buy a damage waiver. But a damage waiver will not protect you if (list exceptions).”

(A) When the above notice is printed in the rental contract or holder in which the contract is placed, the following shall be printed immediately following the notice:

“The cost of an optional damage waiver is \$_____ for every (day or week).”

(B) When the above notice appears on a sign, the following shall appear immediately adjacent to the notice:

“The cost of an optional damage waiver is \$_____ to \$_____ for every (day or week), depending upon the vehicle rented.”

(h) Notwithstanding any other provision of law, a rental company may sell a damage waiver subject to the following rate limitations for each full or partial 24-hour rental day for the damage waiver.

(1) For rental vehicles that the rental company designates as an “economy car,” “subcompact car,” “compact car,” or another term having similar meaning when offered for rental, or another vehicle having a manufacturer’s suggested retail price of nineteen thousand dollars (\$19,000) or less, the rate shall not exceed nine dollars (\$9).

(2) For rental vehicles that have a manufacturer’s suggested retail price from nineteen thousand one dollars (\$19,001) to thirty-four thousand nine hundred ninety-nine dollars (\$34,999), inclusive, and that are also either vehicles of next year’s model, or not older than the previous year’s model, the rate shall not exceed fifteen dollars (\$15). For those rental vehicles older than the previous year’s model-year, the rate shall not exceed nine dollars (\$9).

(i) The manufacturer’s suggested retail prices described in subdivision (h) shall be adjusted annually to reflect changes from the previous year in the Consumer Price Index. For the purposes of this section, “Consumer Price Index” means the United States Consumer Price Index for All Urban Consumers, for all items.

(j) A rental company that disseminates in this state an advertisement containing a rental rate shall include in that advertisement a clearly readable statement of the charge for a damage waiver and a statement that a damage waiver is optional.

(k) (1) A rental company shall not require the purchase of a damage waiver, optional insurance, or another optional good or service.

(2) A rental company shall not engage in any unfair, deceptive, or coercive conduct to induce a renter to purchase the damage waiver, optional insurance, or another optional good or service, including conduct such as, but not limited to, refusing to honor the renter’s reservation, limiting the availability of vehicles, requiring a deposit, or debiting or blocking the renter’s credit card account for a sum equivalent to a deposit if the renter declines to purchase the damage waiver, optional insurance, or another optional good or service.

1 (l) (1) In the absence of express permission granted by the
2 renter subsequent to damage to, or loss of, the vehicle, a rental
3 company shall not seek to recover any portion of a claim arising
4 out of damage to, or loss of, the rented vehicle by processing a
5 credit card charge or causing a debit or block to be placed on the
6 renter's credit card account.

7 (2) A rental company shall not engage in any unfair, deceptive,
8 or coercive tactics in attempting to recover or in recovering on any
9 claim arising out of damage to, or loss of, the rented vehicle.

10 (m) (1) A customer facility charge may be collected by a rental
11 company under the following circumstances:

12 (A) Collection of the fee by the rental company is required by
13 an airport operated by a city, a county, a city and county, a joint
14 powers authority, a special district, or the San Diego County
15 Regional Airport Authority formed pursuant to Division 17
16 (commencing with Section 170000) of the Public Utilities Code.

17 (B) The fee is calculated on a per contract basis or as provided
18 in paragraph (2).

19 (C) The fee is a user fee, not a tax imposed upon real property
20 or an incidence of property ownership under Article XIII D of the
21 California Constitution.

22 (D) Except as otherwise provided in subparagraph (E), the fee
23 shall be ten dollars (\$10) per contract or the amount provided in
24 paragraph (2).

25 (E) The fee for a consolidated rental car facility shall be
26 collected only from customers of on-airport rental car companies.
27 If the fee imposed by the airport is for both a consolidated rental
28 car facility and a common-use transportation system, the fee
29 collected from customers of on-airport rental car companies shall
30 be ten dollars (\$10) or the amount provided in paragraph (2), but
31 the fee imposed on customers of off-airport rental car companies
32 who are transported on the common-use transportation system is
33 proportionate to the costs of the common-use transportation system
34 only. The fee is uniformly applied to each class of on-airport or
35 off-airport customers, provided that the airport requires off-airport
36 customers to use the common-use transportation system. For
37 purposes of this subparagraph, "on-airport rental car company"
38 means a rental company operating under an airport property lease
39 or an airport concession or license agreement whose customers
40 use or will use the consolidated rental car facility and the collection

1 of the fee as to those customers is consistent with subparagraph
2 (C).

3 (F) Revenues collected from the fee do not exceed the reasonable
4 costs of financing, designing, and constructing the facility and
5 financing, designing, constructing, and operating any common-use
6 transportation system, or acquiring vehicles for use in that system,
7 and shall not be used for any other purpose.

8 (G) The fee is separately identified on the rental agreement.

9 (H) This paragraph does not apply to fees which are governed
10 by Section 50474.1 of the Government Code or Section 57.5 of
11 the San Diego Unified Port District Act.

12 (I) For any airport seeking to require rental car companies to
13 collect an alternative customer facility charge pursuant to paragraph
14 (2), the following provisions apply:

15 (i) Notwithstanding Section 10231.5 of the Government Code,
16 the airport shall provide reports on an annual basis to the Senate
17 and Assembly Committees on Judiciary detailing all of the
18 following:

19 (I) The total amount of the customer facility charge collected.

20 (II) How the funds are being spent.

21 (III) The amount of and reason for any changes in the airport's
22 budget or financial needs for the facility or common-use
23 transportation system.

24 (IV) Whether airport concession fees authorized by Section
25 1936.01 have increased since the prior report, if any.

26 (ii) The airport shall complete the independent audit required
27 by subparagraph (B) of paragraph (4) of subdivision (a) prior to
28 initial collection of the customer facility charge, prior to any
29 increase pursuant to paragraph (2), and every three years after
30 initial collection and any increase until such time as the fee
31 authorization becomes inoperative pursuant to subparagraph (C)
32 of paragraph (4) of subdivision (a). ~~The Controller shall review~~
33 ~~those audits and independently examine and substantiate the~~
34 ~~necessity for and the amount of the customer facility charge. The~~
35 ~~Controller's costs shall be reimbursed by the individual airport~~
36 ~~being audited. Notwithstanding Section 10231.5 of the Government~~
37 ~~Code, the Controller shall report to the Legislature on its~~
38 ~~conclusions, including whether the airport's actual or projected~~
39 ~~costs are supported and justified, any steps the airport may take to~~
40 ~~limit costs, potential alternatives for meeting the airport's revenue~~

~~1 needs other than the collection of the fee, and whether and to what
2 extent car rental companies or other businesses or individuals using
3 the facility or common-use transportation system may pay for the
4 costs associated with these facilities and systems other than the
5 fee from rental customers, or whether the airport did not comply
6 with any provision of this subparagraph.~~

(iii) Use of the bonds shall be limited to construction and design of the consolidated rental car facility, terminal modifications, and operating costs of the common-use transportation system, as specified in paragraph (4) of subdivision (a).

(2) Any airport may require rental car companies to collect an alternative customer facility charge under the following conditions:

(A) The airport first conducts a publicly noticed hearing pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) to review the costs of financing the design and construction of a consolidated rental car facility and the design, construction, and operation of any common-use transportation system in which all of the following occur:

(i) The airport establishes the amount of revenue necessary to finance the reasonable cost to design and construct a consolidated rental car facility and to design, construct, and operate any common-use transportation system, or acquire vehicles for use in that system, based on evidence presented during the hearing.

(ii) The airport finds, based on evidence presented during the hearing, that the fee authorized in paragraph (1) will not generate sufficient revenue to finance the reasonable costs to design and construct a consolidated rental car facility and to design, construct, and operate any common-use transportation system, or acquire vehicles for use in that system.

(iii) The airport finds that the reasonable cost of the project requires the additional amount of revenue that would be generated by the proposed daily rate, including any rate increase, authorized pursuant to this paragraph.

(iv) The airport outlines each of the following:

(I) Steps it has taken to limit costs.

(II) Other potential alternatives for meeting its revenue needs other than the collection of the fee.

(III) The extent to which rental car companies or other businesses or individuals using the facility or common-use

1 transportation system will pay for the costs associated with these
2 facilities and systems other than the fee from rental customers.

3 ~~(v) The Controller reviews and substantiates the need for and~~
4 ~~amount of the fee pursuant to clause (ii) of subparagraph (I) of~~
5 ~~paragraph (1).~~

6 (B) The airport may not require the fee authorized in this
7 paragraph to be collected at any time that the fee authorized in
8 paragraph (1) of this subdivision is being collected.

9 (C) Pursuant to the procedure set forth in this subdivision, the
10 fee may be collected at a rate charged on a per-day basis subject
11 to the following conditions:

12 (i) Commencing January 1, 2011, the amount of the fee may
13 not exceed six dollars (\$6) per day.

14 (ii) Commencing January 1, 2014, the amount of the fee may
15 not exceed seven dollars and fifty cents (\$7.50) per day.

16 (iii) Commencing January 1, 2017, and thereafter, the amount
17 of the fee may not exceed nine dollars (\$9) per day.

18 (iv) At no time shall the fee authorized in this paragraph be
19 collected from any customer for more than five days for each
20 individual rental car contract.

21 (v) An airport subject to this paragraph shall initiate the process
22 for obtaining the authority to require or increase the alternative
23 fee no later than January 1, 2018. Any airport that obtains the
24 authority to require or increase an alternative fee shall be authorized
25 to continue collecting that fee until the fee authorization becomes
26 inoperative pursuant to subparagraph (C) of paragraph (4) of
27 subdivision (a).

28 (3) Notwithstanding any other provision of law, including, but
29 not limited to, Part 1 (commencing with Section 6001) to Part 1.7
30 (commencing with Section 7280), inclusive, of Division 2 of the
31 Revenue and Taxation Code, the fees collected pursuant to this
32 section, or another law whereby a local agency operating an airport
33 requires a rental car company to collect a facility financing fee
34 from its customers, are not subject to sales, use, or transaction
35 taxes.

36 (n) (1) A rental company shall only advertise, quote, and charge
37 a rental rate that includes the entire amount except taxes, a
38 customer facility charge, if any, and a mileage charge, if any, that
39 a renter must pay to hire or lease the vehicle for the period of time
40 to which the rental rate applies. A rental company shall not charge

1 in addition to the rental rate, taxes, a customer facility charge, if
2 any, and a mileage charge, if any, any fee that is required to be
3 paid by the renter as a condition of hiring or leasing the vehicle,
4 including, but not limited to, required fuel or airport surcharges
5 other than customer facility charges, nor a fee for transporting the
6 renter to the location where the rented vehicle will be delivered to
7 the renter.

8 (2) In addition to the rental rate, taxes, customer facility charges,
9 if any, and mileage charges, if any, a rental company may charge
10 for an item or service provided in connection with a particular
11 rental transaction if the renter could have avoided incurring the
12 charge by choosing not to obtain or utilize the optional item or
13 service. Items and services for which the rental company may
14 impose an additional charge include, but are not limited to, optional
15 insurance and accessories requested by the renter, service charges
16 incident to the renter's optional return of the vehicle to a location
17 other than the location where the vehicle was hired or leased, and
18 charges for refueling the vehicle at the conclusion of the rental
19 transaction in the event the renter did not return the vehicle with
20 as much fuel as was in the fuel tank at the beginning of the rental.
21 A rental company also may impose an additional charge based on
22 reasonable age criteria established by the rental company.

23 (3) A rental company shall not charge a fee for authorized
24 drivers in addition to the rental charge for an individual renter.

25 (4) If a rental company states a rental rate in print advertisement
26 or in a telephonic, in-person, or computer-transmitted quotation,
27 the rental company shall disclose clearly in that advertisement or
28 quotation the terms of mileage conditions relating to the advertised
29 or quoted rental rate, including, but not limited to, to the extent
30 applicable, the amount of mileage and gas charges, the number of
31 miles for which no charges will be imposed, and a description of
32 geographic driving limitations within the United States and Canada.

33 (5) (A) When a rental rate is stated in an advertisement,
34 quotation, or reservation in connection with a car rental at an airport
35 where a customer facility charge is imposed, the rental company
36 shall disclose clearly the existence and amount of the customer
37 facility charge. For purposes of this subparagraph, advertisements
38 include radio, television, other electronic media, and print
39 advertisements. For purposes of this subparagraph, quotations and
40 reservations include those that are telephonic, in-person, and

computer-transmitted. If the rate advertisement is intended to include transactions at more than one airport imposing a customer facility charge, a range of fees may be stated in the advertisement. However, all rate advertisements that include car rentals at airport destinations shall clearly and conspicuously include a toll-free telephone number whereby a customer can be told the specific amount of the customer facility charge to which the customer will be obligated.

(B) If a person or entity other than a rental car company, including a passenger carrier or a seller of travel services, advertises or quotes a rate for a car rental at an airport where a customer facility charge is imposed, that person or entity shall, provided that he, she, or it is provided with information about the existence and amount of the fee, to the extent not specifically prohibited by federal law, clearly disclose the existence and amount of the fee in any telephonic, in-person, or computer-transmitted quotation at the time of making an initial quotation of a rental rate and at the time of making a reservation of a rental car. If a rental car company provides the person or entity with rate and customer facility charge information, the rental car company is not responsible for the failure of that person or entity to comply with this subparagraph when quoting or confirming a rate to a third person or entity.

(6) If a rental company delivers a vehicle to a renter at a location other than the location where the rental company normally carries on its business, the rental company shall not charge the renter an amount for the rental for the period before the delivery of the vehicle. If a rental company picks up a rented vehicle from a renter at a location other than the location where the rental company normally carries on its business, the rental company shall not charge the renter an amount for the rental for the period after the renter notifies the rental company to pick up the vehicle.

(o) A rental company shall not use, access, or obtain any information relating to the renter's use of the rental vehicle that was obtained using electronic surveillance technology, except in the following circumstances:

(1) (A) When the equipment is used by the rental company only for the purpose of locating a stolen, abandoned, or missing rental vehicle after one of the following:

1 (i) The renter or law enforcement has informed the rental
2 company that the vehicle is missing or has been stolen or
3 abandoned.

4 (ii) The rental vehicle has not been returned following one week
5 after the contracted return date, or by one week following the end
6 of an extension of that return date.

7 (iii) The rental company discovers the rental vehicle has been
8 stolen or abandoned, and, if stolen, it shall report the vehicle stolen
9 to law enforcement by filing a stolen vehicle report, unless law
10 enforcement has already informed the rental company that the
11 vehicle is missing or has been stolen or abandoned.

12 (B) If electronic surveillance technology is activated pursuant
13 to subparagraph (A), a rental company shall maintain a record, in
14 either electronic or written form, of information relevant to the
15 activation of that technology. That information shall include the
16 rental agreement, including the return date, and the date and time
17 the electronic surveillance technology was activated. The record
18 shall also include, if relevant, a record of written or other
19 communication with the renter, including communications
20 regarding extensions of the rental, police reports, or other written
21 communication with law enforcement officials. The record shall
22 be maintained for a period of at least 12 months from the time the
23 record is created and shall be made available upon the renter's
24 request. The rental company shall maintain and furnish explanatory
25 codes necessary to read the record. A rental company shall not be
26 required to maintain a record if electronic surveillance technology
27 is activated to recover a rental vehicle that is stolen or missing at
28 a time other than during a rental period.

29 (2) In response to a specific request from law enforcement
30 pursuant to a subpoena or search warrant.

31 (3) This subdivision does not prohibit a rental company from
32 equipping rental vehicles with GPS-based technology that provides
33 navigation assistance to the occupants of the rental vehicle, if the
34 rental company does not use, access, or obtain information relating
35 to the renter's use of the rental vehicle that was obtained using
36 that technology, except for the purposes of discovering or repairing
37 a defect in the technology and the information may then be used
38 only for that purpose.

39 (4) This subdivision does not prohibit a rental company from
40 equipping rental vehicles with electronic surveillance technology

1 that allows for the remote locking or unlocking of the vehicle at
2 the request of the renter, if the rental company does not use, access,
3 or obtain information relating to the renter's use of the rental
4 vehicle that was obtained using that technology, except as
5 necessary to lock or unlock the vehicle.

6 (5) This subdivision does not prohibit a rental company from
7 equipping rental vehicles with electronic surveillance technology
8 that allows the company to provide roadside assistance, such as
9 towing, flat tire, or fuel services, at the request of the renter, if the
10 rental company does not use, access, or obtain information relating
11 to the renter's use of the rental vehicle that was obtained using
12 that technology except as necessary to provide the requested
13 roadside assistance.

14 (6) This subdivision does not prohibit a rental company from
15 obtaining, accessing, or using information from electronic
16 surveillance technology for the sole purpose of determining the
17 date and time the vehicle is returned to the rental company, and
18 the total mileage driven and the vehicle fuel level of the returned
19 vehicle. This paragraph, however, shall apply only after the renter
20 has returned the vehicle to the rental company, and the information
21 shall only be used for the purpose described in this paragraph.

22 (p) A rental company shall not use electronic surveillance
23 technology to track a renter in order to impose fines or surcharges
24 relating to the renter's use of the rental vehicle.

25 (q) A renter may bring an action against a rental company for
26 the recovery of damages and appropriate equitable relief for a
27 violation of this section. The prevailing party shall be entitled to
28 recover reasonable attorney's fees and costs.

29 (r) A rental company that brings an action against a renter for
30 loss due to theft of the vehicle shall bring the action in the county
31 in which the renter resides or, if the renter is not a resident of this
32 state, in the jurisdiction in which the renter resides.

33 (s) A waiver of any of the provisions of this section shall be
34 void and unenforceable as contrary to public policy.

35 (t) (1) A rental company's disclosure requirements shall be
36 satisfied for renters who are enrolled in the rental company's
37 membership program if all of the following conditions are met:

38 (A) Prior to the enrollee's first rental as a participant in the
39 program, the renter receives, in writing, the following:

(i) All of the disclosures required by paragraph (1) of subdivision (g), including the terms and conditions of the rental agreement then in effect.

(ii) An Internet Web site address, as well as a contact number or address, where the enrollee can learn of changes to the rental agreement or to the laws of this state governing rental agreements since the effective date of the rental company's most recent restatement of the rental agreement and distribution of that restatement to its members.

(B) At the commencement of each rental period, the renter is provided, on the rental record or the folder in which it is inserted, with a printed notice stating that he or she had either previously selected or declined an optional damage waiver and that the renter has the right to change preferences.

(C) At the commencement of each rental period, the rental company provides, on the rearview mirror, a hanger on which a statement is printed, in a box, in at least 12-point boldface type, notifying the renter that the collision damage waiver offered by the rental company may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance. If it is not feasible to hang the statement from the rearview mirror, it shall be hung from the steering wheel.

The hanger shall provide the renter a box to initial if he or she (not his or her employer) has previously accepted or declined the collision damage waiver and that he or she now wishes to change his or her decision to accept or decline the collision damage waiver, as follows:

☐ If I previously accepted the collision damage waiver, I now decline it.

☐ If I previously declined the collision damage waiver, I now accept it."

The hanger shall also provide a box for the enrollee to indicate whether this change applies to this rental transaction only or to all future rental transactions. The hanger shall also notify the renter that he or she may make that change, prior to leaving the lot, by returning the form to an employee designated to receive the form

1 who is present at the lot where the renter takes possession of the
2 car, to receive any change in the rental agreement from the renter.

3 (2) (A) This subdivision is not effective unless the employee
4 designated pursuant to subparagraph (E) of paragraph (8) of
5 subdivision (a) is actually present at the required location.

6 (B) This subdivision does not relieve the rental company from
7 the disclosures required to be made within the text of a contract
8 or holder in which the contract is placed; in or on an advertisement
9 containing a rental rate; or in a telephonic, in-person, or
10 computer-transmitted quotation or reservation.

11 (u) The amendments made to this section during the 2001–02
12 Regular Session of the Legislature do not affect litigation pending
13 on or before January 1, 2003, alleging a violation of Section 22325
14 of the Business and Professions Code as it read at the time the
15 action was commenced.

16 (v) (1) When a rental company enters into a rental agreement
17 in the state for the rental of a vehicle to any renter who is not a
18 resident of this country and, as part of, or associated with, the rental
19 agreement, the renter purchases liability insurance, as defined in
20 subdivision (b) of Section 1758.85 of the Insurance Code, from
21 the rental company in its capacity as a rental car agent for an
22 authorized insurer, the rental company shall be authorized to accept,
23 and, if served as set forth in this subdivision, shall accept, service
24 of a summons and complaint and any other required documents
25 against the foreign renter for any accident or collision resulting
26 from the operation of the rental vehicle within the state during the
27 rental period. If the rental company has a registered agent for
28 service of process on file with the Secretary of State, process shall
29 be served on the rental company's registered agent, either by
30 first-class mail, return receipt requested, or by personal service.

31 (2) Within 30 days of acceptance of service of process, the rental
32 company shall, provide a copy of the summons and complaint and
33 any other required documents served in accordance with this
34 subdivision to the foreign renter by first-class mail, return receipt
35 requested.

36 (3) Any plaintiff, or his or her representative, who elects to serve
37 the foreign renter by delivering a copy of the summons and
38 complaint and any other required documents to the rental company
39 pursuant to paragraph (1) shall agree to limit his or her recovery

1 against the foreign renter and the rental company to the limits of
2 the protection extended by the liability insurance.

3 (4) Notwithstanding the requirements of Sections 17450 to
4 17456, inclusive, of the Vehicle Code, service of process in
5 compliance with paragraph (1) shall be deemed valid and effective
6 service.

7 (5) Notwithstanding any other provision of law, the requirement
8 that the rental company accept service of process pursuant to
9 paragraph (1) shall not create any duty, obligation, or agency
10 relationship other than that provided in paragraph (1).

11 (w) This section shall remain in effect only until January 1,
12 2015, and as of that date is repealed, unless a later enacted statute,
13 that is enacted before January 1, 2015, deletes or extends that date.

14 *SEC. 3. Section 1936 of the Civil Code, as added by Section 2*
15 *of Chapter 531 of the Statutes of 2011, is amended to read:*

16 1936. (a) For the purpose of this section, the following
17 definitions shall apply:

18 (1) "Rental company" means a person or entity in the business
19 of renting passenger vehicles to the public.

20 (2) "Renter" means any person in a manner obligated under a
21 contract for the lease or hire of a passenger vehicle from a rental
22 company for a period of less than 30 days.

23 (3) "Authorized driver" means (A) the renter, (B) the renter's
24 spouse if that person is a licensed driver and satisfies the rental
25 company's minimum age requirement, (C) the renter's employer
26 or coworker if he or she is engaged in business activity with the
27 renter, is a licensed driver, and satisfies the rental company's
28 minimum age requirement, and (D) a person expressly listed by
29 the rental company on the renter's contract as an authorized driver.

30 (4) (A) "Customer facility charge" means any fee, including
31 an alternative fee, required by an airport to be collected by a rental
32 company from a renter for any of the following purposes:

33 (i) To finance, design, and construct consolidated airport car
34 rental facilities.

35 (ii) To finance, design, construct, and operate common-use
36 transportation systems that move passengers between airport
37 terminals and those consolidated car rental facilities, and acquire
38 vehicles for use in that system.

1 (iii) To finance, design, and construct terminal modifications
2 solely to accommodate and provide customer access to
3 common-use transportation systems.

4 (B) The aggregate amount to be collected shall not exceed the
5 reasonable costs, as determined by an independent audit paid for
6 by the airport, to finance, design, and construct those facilities.
7 Copies of the audit shall be provided to the Assembly and Senate
8 Committees on Judiciary, the Assembly Committee on
9 Transportation, and the Senate Committee on Transportation and
10 Housing. In the case of a transportation system, the audit also shall
11 consider the reasonable costs of providing the transit system or
12 busing network. Notwithstanding clause (iii) of subparagraph (A),
13 the fees designated as a customer facility charge shall not be used
14 to pay for terminal expansion, gate expansion, runway expansion,
15 changes in hours of operation, or changes in the number of flights
16 arriving or departing from the airport.

17 (C) Except as provided in subparagraph (D), the authorization
18 given pursuant to this section for an airport to impose a customer
19 facility charge shall become inoperative when the bonds used for
20 financing are paid.

21 (D) If a bond or other form of indebtedness is not used for
22 financing, or the bond or other form of indebtedness used for
23 financing has been paid, the Oakland International Airport may
24 require the collection of a customer facility charge for a period of
25 up to 10 years from the imposition of the charge for the purposes
26 allowed by, and subject to the conditions imposed by, this section.

27 (5) "Damage waiver" means a rental company's agreement not
28 to hold a renter liable for all or any portion of any damage or loss
29 related to the rented vehicle, any loss of use of the rented vehicle,
30 or any storage, impound, towing, or administrative charges.

31 (6) "Electronic surveillance technology" means a technological
32 method or system used to observe, monitor, or collect information,
33 including telematics, Global Positioning System (GPS), wireless
34 technology, or location-based technologies. "Electronic
35 surveillance technology" does not include event data recorders
36 (EDR), sensing and diagnostic modules (SDM), or other systems
37 that are used either:

38 (A) For the purpose of identifying, diagnosing, or monitoring
39 functions related to the potential need to repair, service, or perform
40 maintenance on the rental vehicle.

1 (B) As part of the vehicle's airbag sensing and diagnostic system
2 in order to capture safety systems-related data for retrieval after a
3 crash has occurred or in the event that the collision sensors are
4 activated to prepare the decisionmaking computer to make the
5 determination to deploy or not to deploy the airbag.

6 (7) "Estimated time for replacement" means the number of hours
7 of labor, or fraction thereof, needed to replace damaged vehicle
8 parts as set forth in collision damage estimating guides generally
9 used in the vehicle repair business and commonly known as "crash
10 books."

11 (8) "Estimated time for repair" means a good faith estimate of
12 the reasonable number of hours of labor, or fraction thereof, needed
13 to repair damaged vehicle parts.

14 (9) "Membership program" means a service offered by a rental
15 company that permits customers to bypass the rental counter and
16 go directly to the car previously reserved. A membership program
17 shall meet all of the following requirements:

18 (A) The renter initiates enrollment by completing an application
19 on which the renter can specify a preference for type of vehicle
20 and acceptance or declination of optional services.

21 (B) The rental company fully discloses, prior to the enrollee's
22 first rental as a participant in the program, all terms and conditions
23 of the rental agreement as well as all required disclosures.

24 (C) The renter may terminate enrollment at any time.

25 (D) The rental company fully explains to the renter that
26 designated preferences, as well as acceptance or declination of
27 optional services, may be changed by the renter at any time for
28 the next and future rentals.

29 (E) An employee designated to receive the form specified in
30 subparagraph (C) of paragraph (1) of subdivision (t) is present at
31 the lot where the renter takes possession of the car, to receive any
32 change in the rental agreement from the renter.

33 (10) "Passenger vehicle" means a passenger vehicle as defined
34 in Section 465 of the Vehicle Code.

35 (b) Except as limited by subdivision (c), a rental company and
36 a renter may agree that the renter will be responsible for no more
37 than all of the following:

38 (1) Physical or mechanical damage to the rented vehicle up to
39 its fair market value, as determined in the customary market for

1 the sale of that vehicle, resulting from collision regardless of the
2 cause of the damage.

3 (2) Loss due to theft of the rented vehicle up to its fair market
4 value, as determined in the customary market for the sale of that
5 vehicle, provided that the rental company establishes by clear and
6 convincing evidence that the renter or the authorized driver failed
7 to exercise ordinary care while in possession of the vehicle. In
8 addition, the renter shall be presumed to have no liability for any
9 loss due to theft if (A) an authorized driver has possession of the
10 ignition key furnished by the rental company or an authorized
11 driver establishes that the ignition key furnished by the rental
12 company was not in the vehicle at the time of the theft, and (B) an
13 authorized driver files an official report of the theft with the police
14 or other law enforcement agency within 24 hours of learning of
15 the theft and reasonably cooperates with the rental company and
16 the police or other law enforcement agency in providing
17 information concerning the theft. The presumption set forth in this
18 paragraph is a presumption affecting the burden of proof which
19 the rental company may rebut by establishing that an authorized
20 driver committed, or aided and abetted the commission of, the
21 theft.

22 (3) Physical damage to the rented vehicle up to its fair market
23 value, as determined in the customary market for the sale of that
24 vehicle, resulting from vandalism occurring after, or in connection
25 with, the theft of the rented vehicle. However, the renter shall have
26 no liability for any damage due to vandalism if the renter would
27 have no liability for theft pursuant to paragraph (2).

28 (4) Physical damage to the rented vehicle up to a total of five
29 hundred dollars (\$500) resulting from vandalism unrelated to the
30 theft of the rented vehicle.

31 (5) Actual charges for towing, storage, and impound fees paid
32 by the rental company if the renter is liable for damage or loss.

33 (6) An administrative charge, which shall include the cost of
34 appraisal and all other costs and expenses incident to the damage,
35 loss, repair, or replacement of the rented vehicle.

36 (c) The total amount of the renter's liability to the rental
37 company resulting from damage to the rented vehicle shall not
38 exceed the sum of the following:

39 (1) The estimated cost of parts which the rental company would
40 have to pay to replace damaged vehicle parts. All discounts and

1 price reductions or adjustments that are or will be received by the
2 rental company shall be subtracted from the estimate to the extent
3 not already incorporated in the estimate, or otherwise promptly
4 credited or refunded to the renter.

5 (2) The estimated cost of labor to replace damaged vehicle parts,
6 which shall not exceed the product of (A) the rate for labor usually
7 paid by the rental company to replace vehicle parts of the type that
8 were damaged and (B) the estimated time for replacement. All
9 discounts and price reductions or adjustments that are or will be
10 received by the rental company shall be subtracted from the
11 estimate to the extent not already incorporated in the estimate, or
12 otherwise promptly credited or refunded to the renter.

13 (3) (A) The estimated cost of labor to repair damaged vehicle
14 parts, which shall not exceed the lesser of the following:

15 (i) The product of the rate for labor usually paid by the rental
16 company to repair vehicle parts of the type that were damaged and
17 the estimated time for repair.

18 (ii) The sum of the estimated labor and parts costs determined
19 under paragraphs (1) and (2) to replace the same vehicle parts.

20 (B) All discounts and price reductions or adjustments that are
21 or will be received by the rental company shall be subtracted from
22 the estimate to the extent not already incorporated in the estimate,
23 or otherwise promptly credited or refunded to the renter.

24 (4) For the purpose of converting the estimated time for repair
25 into the same units of time in which the rental rate is expressed, a
26 day shall be deemed to consist of eight hours.

27 (5) Actual charges for towing, storage, and impound fees paid
28 by the rental company.

29 (6) The administrative charge described in paragraph (6) of
30 subdivision (b) shall not exceed (A) fifty dollars (\$50) if the total
31 estimated cost for parts and labor is more than one hundred dollars
32 (\$100) up to and including five hundred dollars (\$500), (B) one
33 hundred dollars (\$100) if the total estimated cost for parts and
34 labor exceeds five hundred dollars (\$500) up to and including one
35 thousand five hundred dollars (\$1,500), and (C) one hundred fifty
36 dollars (\$150) if the total estimated cost for parts and labor exceeds
37 one thousand five hundred dollars (\$1,500). An administrative
38 charge shall not be imposed if the total estimated cost of parts and
39 labor is one hundred dollars (\$100) or less.

1 (d) (1) The total amount of an authorized driver's liability to
2 the rental company, if any, for damage occurring during the
3 authorized driver's operation of the rented vehicle shall not exceed
4 the amount of the renter's liability under subdivision (c).

5 (2) A rental company shall not recover from the renter or other
6 authorized driver an amount exceeding the renter's liability under
7 subdivision (c).

8 (3) A claim against a renter resulting from damage or loss,
9 excluding loss of use, to a rental vehicle shall be reasonably and
10 rationally related to the actual loss incurred. A rental company
11 shall mitigate damages where possible and shall not assert or collect
12 a claim for physical damage which exceeds the actual costs of the
13 repairs performed or the estimated cost of repairs, if the rental
14 company chooses not to repair the vehicle, including all discounts
15 and price reductions. However, if the vehicle is a total loss vehicle,
16 the claim shall not exceed the total loss vehicle value established
17 in accordance with procedures that are customarily used by
18 insurance companies when paying claims on total loss vehicles,
19 less the proceeds from salvaging the vehicle, if those proceeds are
20 retained by the rental company.

21 (4) If insurance coverage exists under the renter's applicable
22 personal or business insurance policy and the coverage is confirmed
23 during regular business hours, the renter may require that the rental
24 company submit any claims to the renter's applicable personal or
25 business insurance carrier. The rental company shall not make any
26 written or oral representations that it will not present claims or
27 negotiate with the renter's insurance carrier. For purposes of this
28 paragraph, confirmation of coverage includes telephone
29 confirmation from insurance company representatives during
30 regular business hours. Upon request of the renter and after
31 confirmation of coverage, the amount of claim shall be resolved
32 between the insurance carrier and the rental company. The renter
33 shall remain responsible for payment to the rental car company
34 for any loss sustained that the renter's applicable personal or
35 business insurance policy does not cover.

36 (5) A rental company shall not recover from the renter or other
37 authorized driver for an item described in subdivision (b) to the
38 extent the rental company obtains recovery from another person.

39 (6) This section applies only to the maximum liability of a renter
40 or other authorized driver to the rental company resulting from

1 damage to the rented vehicle and not to the liability of another
2 person.

3 (e) (1) Except as provided in subdivision (f), a damage waiver
4 shall provide or, if not expressly stated in writing, shall be deemed
5 to provide that the renter has no liability for a damage, loss, loss
6 of use, or a cost or expense incident thereto.

7 (2) Except as provided in subdivision (f), every limitation,
8 exception, or exclusion to a damage waiver is void and
9 unenforceable.

10 (f) A rental company may provide in the rental contract that a
11 damage waiver does not apply under any of the following
12 circumstances:

13 (1) Damage or loss results from an authorized driver's (A)
14 intentional, willful, wanton, or reckless conduct, (B) operation of
15 the vehicle under the influence of drugs or alcohol in violation of
16 Section 23152 of the Vehicle Code, (C) towing or pushing
17 anything, or (D) operation of the vehicle on an unpaved road if
18 the damage or loss is a direct result of the road or driving
19 conditions.

20 (2) Damage or loss occurs while the vehicle is (A) used for
21 commercial hire, (B) used in connection with conduct that could
22 be properly charged as a felony, (C) involved in a speed test or
23 contest or in driver training activity, (D) operated by a person other
24 than an authorized driver, or (E) operated outside the United States.

25 (3) An authorized driver who has (A) provided fraudulent
26 information to the rental company, or (B) provided false
27 information and the rental company would not have rented the
28 vehicle if it had instead received true information.

29 (g) (1) A rental company that offers or provides a damage
30 waiver for any consideration in addition to the rental rate shall
31 clearly and conspicuously disclose the following information in
32 the rental contract or holder in which the contract is placed and,
33 also, in signs posted at the place, such as the counter, where the
34 renter signs the rental contract, and, for renters who are enrolled
35 in the rental company's membership program, in a sign that shall
36 be posted in a location clearly visible to those renters as they enter
37 the location where their reserved rental cars are parked or near the
38 exit of the bus or other conveyance that transports the enrollee to
39 a reserved car: (A) the nature of the renter's liability, such as
40 liability for all collision damage regardless of cause, (B) the extent

1 of the renter's liability, such as liability for damage or loss up to
2 a specified amount, (C) the renter's personal insurance policy or
3 the credit card used to pay for the car rental transaction may
4 provide coverage for all or a portion of the renter's potential
5 liability, (D) the renter should consult with his or her insurer to
6 determine the scope of insurance coverage, including the amount
7 of the deductible, if any, for which the renter is obligated, (E) the
8 renter may purchase an optional damage waiver to cover all
9 liability, subject to whatever exceptions the rental company
10 expressly lists that are permitted under subdivision (f), and (F) the
11 range of charges for the damage waiver.

12 (2) In addition to the requirements of paragraph (1), a rental
13 company that offers or provides a damage waiver shall orally
14 disclose to all renters, except those who are participants in the
15 rental company's membership program, that the damage waiver
16 may be duplicative of coverage that the customer maintains under
17 his or her own policy of motor vehicle insurance. The renter's
18 receipt of the oral disclosure shall be demonstrated through the
19 renter's acknowledging receipt of the oral disclosure near that part
20 of the contract where the renter indicates, by the renter's own
21 initials, his or her acceptance or declination of the damage waiver.
22 Adjacent to that same part, the contract also shall state that the
23 damage waiver is optional. Further, the contract for these renters
24 shall include a clear and conspicuous written disclosure that the
25 damage waiver may be duplicative of coverage that the customer
26 maintains under his or her own policy of motor vehicle insurance.

27 (3) The following is an example, for purposes of illustration
28 and not limitation, of a notice fulfilling the requirements of
29 paragraph (1) for a rental company that imposes liability on the
30 renter for collision damage to the full value of the vehicle:

31
32 "NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY
33 AND OPTIONAL DAMAGE WAIVER
34

35 You are responsible for all collision damage to the rented vehicle
36 even if someone else caused it or the cause is unknown. You are
37 responsible for the cost of repair up to the value of the vehicle,
38 and towing, storage, and impound fees.

39 Your own insurance, or the issuer of the credit card you use to
40 pay for the car rental transaction, may cover all or part of your

1 financial responsibility for the rented vehicle. You should check
2 with your insurance company, or credit card issuer, to find out
3 about your coverage and the amount of the deductible, if any, for
4 which you may be liable.

5 Further, if you use a credit card that provides coverage for your
6 potential liability, you should check with the issuer to determine
7 if you must first exhaust the coverage limits of your own insurance
8 before the credit card coverage applies.

9 The rental company will not hold you responsible if you buy a
10 damage waiver. But a damage waiver will not protect you if (list
11 exceptions)."

12 (A) When the above notice is printed in the rental contract or
13 holder in which the contract is placed, the following shall be printed
14 immediately following the notice:

15 "The cost of an optional damage waiver is \$_____ for every (day
16 or week)."

17 (B) When the above notice appears on a sign, the following
18 shall appear immediately adjacent to the notice:

19 "The cost of an optional damage waiver is \$_____ to \$_____ for
20 every (day or week), depending upon the vehicle rented."

21 (h) Notwithstanding any other provision of law, a rental
22 company may sell a damage waiver subject to the following rate
23 limitations for each full or partial 24-hour rental day for the damage
24 waiver.

25 (1) For rental vehicles that the rental company designates as an
26 "economy car," "subcompact car," "compact car," or another term
27 having similar meaning when offered for rental, or another vehicle
28 having a manufacturer's suggested retail price of nineteen thousand
29 dollars (\$19,000) or less, the rate shall not exceed nine dollars
30 (\$9).

31 (2) For rental vehicles that have a manufacturer's suggested
32 retail price from nineteen thousand one dollars (\$19,001) to
33 thirty-four thousand nine hundred ninety-nine dollars (\$34,999),
34 inclusive, and that are also either vehicles of next year's model,
35 or not older than the previous year's model, the rate shall not
36 exceed fifteen dollars (\$15). For those rental vehicles older than
37 the previous year's model-year, the rate shall not exceed nine
38 dollars (\$9).

39 (i) The manufacturer's suggested retail prices described in
40 subdivision (h) shall be adjusted annually to reflect changes from

1 the previous year in the Consumer Price Index. For the purposes
2 of this section, “Consumer Price Index” means the United States
3 Consumer Price Index for All Urban Consumers, for all items.

4 (j) A rental company that disseminates in this state an
5 advertisement containing a rental rate shall include in that
6 advertisement a clearly readable statement of the charge for a
7 damage waiver and a statement that a damage waiver is optional.

8 (k) (1) A rental company shall not require the purchase of a
9 damage waiver, optional insurance, or another optional good or
10 service.

11 (2) A rental company shall not engage in any unfair, deceptive,
12 or coercive conduct to induce a renter to purchase the damage
13 waiver, optional insurance, or another optional good or service,
14 including conduct such as, but not limited to, refusing to honor
15 the renter’s reservation, limiting the availability of vehicles,
16 requiring a deposit, or debiting or blocking the renter’s credit card
17 account for a sum equivalent to a deposit if the renter declines to
18 purchase the damage waiver, optional insurance, or another
19 optional good or service.

20 (l) (1) In the absence of express permission granted by the
21 renter subsequent to damage to, or loss of, the vehicle, a rental
22 company shall not seek to recover any portion of a claim arising
23 out of damage to, or loss of, the rented vehicle by processing a
24 credit card charge or causing a debit or block to be placed on the
25 renter’s credit card account.

26 (2) A rental company shall not engage in any unfair, deceptive,
27 or coercive tactics in attempting to recover or in recovering on any
28 claim arising out of damage to, or loss of, the rented vehicle.

29 (m) (1) A customer facility charge may be collected by a rental
30 company under the following circumstances:

31 (A) Collection of the fee by the rental company is required by
32 an airport operated by a city, a county, a city and county, a joint
33 powers authority, a special district, or the San Diego County
34 Regional Airport Authority formed pursuant to Division 17
35 (commencing with Section 170000) of the Public Utilities Code.

36 (B) The fee is calculated on a per contract basis or as provided
37 in paragraph (2).

38 (C) The fee is a user fee, not a tax imposed upon real property
39 or an incidence of property ownership under Article XIII D of the
40 California Constitution.

1 (D) Except as otherwise provided in subparagraph (E), the fee
2 shall be ten dollars (\$10) per contract or the amount provided in
3 paragraph (2).

4 (E) The fee for a consolidated rental car facility shall be
5 collected only from customers of on-airport rental car companies.
6 If the fee imposed by the airport is for both a consolidated rental
7 car facility and a common-use transportation system, the fee
8 collected from customers of on-airport rental car companies shall
9 be ten dollars (\$10) or the amount provided in paragraph (2), but
10 the fee imposed on customers of off-airport rental car companies
11 who are transported on the common-use transportation system is
12 proportionate to the costs of the common-use transportation system
13 only. The fee is uniformly applied to each class of on-airport or
14 off-airport customers, provided that the airport requires off-airport
15 customers to use the common-use transportation system. For
16 purposes of this subparagraph, “on-airport rental car company”
17 means a rental company operating under an airport property lease
18 or an airport concession or license agreement whose customers
19 use or will use the consolidated rental car facility and the collection
20 of the fee as to those customers is consistent with subparagraph
21 (C).

22 (F) Revenues collected from the fee do not exceed the reasonable
23 costs of financing, designing, and constructing the facility and
24 financing, designing, constructing, and operating any common-use
25 transportation system, or acquiring vehicles for use in that system,
26 and shall not be used for any other purpose.

27 (G) The fee is separately identified on the rental agreement.

28 (H) This paragraph does not apply to fees which are governed
29 by Section 50474.1 of the Government Code or Section 57.5 of
30 the San Diego Unified Port District Act.

31 (I) For any airport seeking to require rental car companies to
32 collect an alternative customer facility charge pursuant to paragraph
33 (2), the following provisions apply:

34 (i) Notwithstanding Section 10231.5 of the Government Code,
35 the airport shall provide reports on an annual basis to the Senate
36 and Assembly Committees on Judiciary detailing all of the
37 following:

38 (I) The total amount of the customer facility charge collected.

39 (II) How the funds are being spent.

1 (III) The amount of and reason for any changes in the airport's
2 budget or financial needs for the facility or common-use
3 transportation system.

4 (IV) Whether airport concession fees authorized by Section
5 1936.01 have increased since the prior report, if any.

6 (ii) The airport shall complete the independent audit required
7 by subparagraph (B) of paragraph (4) of subdivision (a) prior to
8 initial collection of the customer facility charge, prior to any
9 increase pursuant to paragraph (2), and every three years after
10 initial collection and any increase until such time as the fee
11 authorization becomes inoperative pursuant to subparagraph (C)
12 of paragraph (4) of subdivision (a). ~~The Controller shall review~~
13 ~~those audits and independently examine and substantiate the~~
14 ~~necessity for and the amount of the customer facility charge. The~~
15 ~~Controller's costs shall be reimbursed by the individual airport~~
16 ~~being audited. Notwithstanding Section 10231.5 of the Government~~
17 ~~Code, the Controller shall report to the Legislature on its~~
18 ~~conclusions, including whether the airport's actual or projected~~
19 ~~costs are supported and justified, any steps the airport may take to~~
20 ~~limit costs, potential alternatives for meeting the airport's revenue~~
21 ~~needs other than the collection of the fee, and whether and to what~~
22 ~~extent car rental companies or other businesses or individuals using~~
23 ~~the facility or common-use transportation system may pay for the~~
24 ~~costs associated with these facilities and systems other than the~~
25 ~~fee from rental customers, or whether the airport did not comply~~
26 ~~with any provision of this subparagraph.~~

27 (iii) Use of the bonds shall be limited to construction and design
28 of the consolidated rental car facility, terminal modifications, and
29 operating costs of the common-use transportation system, as
30 specified in paragraph (4) of subdivision (a).

31 (2) Any airport may require rental car companies to collect an
32 alternative customer facility charge under the following conditions:

33 (A) The airport first conducts a publicly noticed hearing pursuant
34 to the Ralph M. Brown Act (Chapter 9 (commencing with Section
35 54950) of Part 1 of Division 2 of Title 5 of the Government Code)
36 to review the costs of financing the design and construction of a
37 consolidated rental car facility and the design, construction, and
38 operation of any common-use transportation system in which all
39 of the following occur:

1 (i) The airport establishes the amount of revenue necessary to
2 finance the reasonable cost to design and construct a consolidated
3 rental car facility and to design, construct, and operate any
4 common-use transportation system, or acquire vehicles for use in
5 that system, based on evidence presented during the hearing.

6 (ii) The airport finds, based on evidence presented during the
7 hearing, that the fee authorized in paragraph (1) will not generate
8 sufficient revenue to finance the reasonable costs to design and
9 construct a consolidated rental car facility and to design, construct,
10 and operate any common-use transportation system, or acquire
11 vehicles for use in that system.

12 (iii) The airport finds that the reasonable cost of the project
13 requires the additional amount of revenue that would be generated
14 by the proposed daily rate, including any rate increase, authorized
15 pursuant to this paragraph.

16 (iv) The airport outlines each of the following:

17 (I) Steps it has taken to limit costs.

18 (II) Other potential alternatives for meeting its revenue needs
19 other than the collection of the fee.

20 (III) The extent to which rental car companies or other
21 businesses or individuals using the facility or common-use
22 transportation system will pay for the costs associated with these
23 facilities and systems other than the fee from rental customers.

24 ~~(v) The Controller reviews and substantiates the need for and~~
25 ~~amount of the fee pursuant to clause (ii) of subparagraph (I) of~~
26 ~~paragraph (1).~~

27 (B) The airport may not require the fee authorized in this
28 paragraph to be collected at any time that the fee authorized in
29 paragraph (1) of this subdivision is being collected.

30 (C) Pursuant to the procedure set forth in this subdivision, the
31 fee may be collected at a rate charged on a per-day basis subject
32 to the following conditions:

33 (i) Commencing January 1, 2011, the amount of the fee may
34 not exceed six dollars (\$6) per day.

35 (ii) Commencing January 1, 2014, the amount of the fee may
36 not exceed seven dollars and fifty cents (\$7.50) per day.

37 (iii) Commencing January 1, 2017, and thereafter, the amount
38 of the fee may not exceed nine dollars (\$9) per day.

(iv) At no time shall the fee authorized in this paragraph be collected from any customer for more than five days for each individual rental car contract.

(v) An airport subject to this paragraph shall initiate the process for obtaining the authority to require or increase the alternative fee no later than January 1, 2018. Any airport that obtains the authority to require or increase an alternative fee shall be authorized to continue collecting that fee until the fee authorization becomes inoperative pursuant to subparagraph (C) of paragraph (4) of subdivision (a).

(3) Notwithstanding any other provision of law, including, but not limited to, Part 1 (commencing with Section 6001) to Part 1.7 (commencing with Section 7280), inclusive, of Division 2 of the Revenue and Taxation Code, the fees collected pursuant to this section, or another law whereby a local agency operating an airport requires a rental car company to collect a facility financing fee from its customers, are not subject to sales, use, or transaction taxes.

(n) (1) A rental company shall only advertise, quote, and charge a rental rate that includes the entire amount except taxes, a customer facility charge, if any, and a mileage charge, if any, that a renter must pay to hire or lease the vehicle for the period of time to which the rental rate applies. A rental company shall not charge in addition to the rental rate, taxes, a customer facility charge, if any, and a mileage charge, if any, any fee that is required to be paid by the renter as a condition of hiring or leasing the vehicle, including, but not limited to, required fuel or airport surcharges other than customer facility charges, nor a fee for transporting the renter to the location where the rented vehicle will be delivered to the renter.

(2) In addition to the rental rate, taxes, customer facility charges, if any, and mileage charges, if any, a rental company may charge for an item or service provided in connection with a particular rental transaction if the renter could have avoided incurring the charge by choosing not to obtain or utilize the optional item or service. Items and services for which the rental company may impose an additional charge include, but are not limited to, optional insurance and accessories requested by the renter, service charges incident to the renter's optional return of the vehicle to a location other than the location where the vehicle was hired or leased, and

1 charges for refueling the vehicle at the conclusion of the rental
2 transaction in the event the renter did not return the vehicle with
3 as much fuel as was in the fuel tank at the beginning of the rental.
4 A rental company also may impose an additional charge based on
5 reasonable age criteria established by the rental company.

6 (3) A rental company shall not charge a fee for authorized
7 drivers in addition to the rental charge for an individual renter.

8 (4) If a rental company states a rental rate in print advertisement
9 or in a telephonic, in-person, or computer-transmitted quotation,
10 the rental company shall disclose clearly in that advertisement or
11 quotation the terms of mileage conditions relating to the advertised
12 or quoted rental rate, including, but not limited to, to the extent
13 applicable, the amount of mileage and gas charges, the number of
14 miles for which no charges will be imposed, and a description of
15 geographic driving limitations within the United States and Canada.

16 (5) (A) When a rental rate is stated in an advertisement,
17 quotation, or reservation in connection with a car rental at an airport
18 where a customer facility charge is imposed, the rental company
19 shall disclose clearly the existence and amount of the customer
20 facility charge. For purposes of this subparagraph, advertisements
21 include radio, television, other electronic media, and print
22 advertisements. For purposes of this subparagraph, quotations and
23 reservations include those that are telephonic, in-person, and
24 computer-transmitted. If the rate advertisement is intended to
25 include transactions at more than one airport imposing a customer
26 facility charge, a range of fees may be stated in the advertisement.
27 However, all rate advertisements that include car rentals at airport
28 destinations shall clearly and conspicuously include a toll-free
29 telephone number whereby a customer can be told the specific
30 amount of the customer facility charge to which the customer will
31 be obligated.

32 (B) If a person or entity other than a rental car company,
33 including a passenger carrier or a seller of travel services, advertises
34 or quotes a rate for a car rental at an airport where a customer
35 facility charge is imposed, that person or entity shall, provided
36 that he, she, or it is provided with information about the existence
37 and amount of the fee, to the extent not specifically prohibited by
38 federal law, clearly disclose the existence and amount of the fee
39 in any telephonic, in-person, or computer-transmitted quotation at
40 the time of making an initial quotation of a rental rate and at the

1 time of making a reservation of a rental car. If a rental car company
2 provides the person or entity with rate and customer facility charge
3 information, the rental car company is not responsible for the
4 failure of that person or entity to comply with this subparagraph
5 when quoting or confirming a rate to a third person or entity.

6 (6) If a rental company delivers a vehicle to a renter at a location
7 other than the location where the rental company normally carries
8 on its business, the rental company shall not charge the renter an
9 amount for the rental for the period before the delivery of the
10 vehicle. If a rental company picks up a rented vehicle from a renter
11 at a location other than the location where the rental company
12 normally carries on its business, the rental company shall not
13 charge the renter an amount for the rental for the period after the
14 renter notifies the rental company to pick up the vehicle.

15 (o) A rental company shall not use, access, or obtain any
16 information relating to the renter's use of the rental vehicle that
17 was obtained using electronic surveillance technology, except in
18 the following circumstances:

19 (1) (A) When the equipment is used by the rental company
20 only for the purpose of locating a stolen, abandoned, or missing
21 rental vehicle after one of the following:

22 (i) The renter or law enforcement has informed the rental
23 company that the vehicle is missing or has been stolen or
24 abandoned.

25 (ii) The rental vehicle has not been returned following one week
26 after the contracted return date, or by one week following the end
27 of an extension of that return date.

28 (iii) The rental company discovers the rental vehicle has been
29 stolen or abandoned, and, if stolen, it shall report the vehicle stolen
30 to law enforcement by filing a stolen vehicle report, unless law
31 enforcement has already informed the rental company that the
32 vehicle is missing or has been stolen or abandoned.

33 (B) If electronic surveillance technology is activated pursuant
34 to subparagraph (A), a rental company shall maintain a record, in
35 either electronic or written form, of information relevant to the
36 activation of that technology. That information shall include the
37 rental agreement, including the return date, and the date and time
38 the electronic surveillance technology was activated. The record
39 shall also include, if relevant, a record of written or other
40 communication with the renter, including communications

1 regarding extensions of the rental, police reports, or other written
2 communication with law enforcement officials. The record shall
3 be maintained for a period of at least 12 months from the time the
4 record is created and shall be made available upon the renter's
5 request. The rental company shall maintain and furnish explanatory
6 codes necessary to read the record. A rental company shall not be
7 required to maintain a record if electronic surveillance technology
8 is activated to recover a rental vehicle that is stolen or missing at
9 a time other than during a rental period.

10 (2) In response to a specific request from law enforcement
11 pursuant to a subpoena or search warrant.

12 (3) This subdivision does not prohibit a rental company from
13 equipping rental vehicles with GPS-based technology that provides
14 navigation assistance to the occupants of the rental vehicle, if the
15 rental company does not use, access, or obtain information relating
16 to the renter's use of the rental vehicle that was obtained using
17 that technology, except for the purposes of discovering or repairing
18 a defect in the technology and the information may then be used
19 only for that purpose.

20 (4) This subdivision does not prohibit a rental company from
21 equipping rental vehicles with electronic surveillance technology
22 that allows for the remote locking or unlocking of the vehicle at
23 the request of the renter, if the rental company does not use, access,
24 or obtain information relating to the renter's use of the rental
25 vehicle that was obtained using that technology, except as
26 necessary to lock or unlock the vehicle.

27 (5) This subdivision does not prohibit a rental company from
28 equipping rental vehicles with electronic surveillance technology
29 that allows the company to provide roadside assistance, such as
30 towing, flat tire, or fuel services, at the request of the renter, if the
31 rental company does not use, access, or obtain information relating
32 to the renter's use of the rental vehicle that was obtained using
33 that technology except as necessary to provide the requested
34 roadside assistance.

35 (6) This subdivision does not prohibit a rental company from
36 obtaining, accessing, or using information from electronic
37 surveillance technology for the sole purpose of determining the
38 date and time the vehicle is returned to the rental company, and
39 the total mileage driven and the vehicle fuel level of the returned
40 vehicle. This paragraph, however, shall apply only after the renter

1 has returned the vehicle to the rental company, and the information
2 shall only be used for the purpose described in this paragraph.

3 (p) A rental company shall not use electronic surveillance
4 technology to track a renter in order to impose fines or surcharges
5 relating to the renter's use of the rental vehicle.

6 (q) A renter may bring an action against a rental company for
7 the recovery of damages and appropriate equitable relief for a
8 violation of this section. The prevailing party shall be entitled to
9 recover reasonable attorney's fees and costs.

10 (r) A rental company that brings an action against a renter for
11 loss due to theft of the vehicle shall bring the action in the county
12 in which the renter resides or, if the renter is not a resident of this
13 state, in the jurisdiction in which the renter resides.

14 (s) A waiver of any of the provisions of this section shall be
15 void and unenforceable as contrary to public policy.

16 (t) (1) A rental company's disclosure requirements shall be
17 satisfied for renters who are enrolled in the rental company's
18 membership program if all of the following conditions are met:

19 (A) Prior to the enrollee's first rental as a participant in the
20 program, the renter receives, in writing, the following:

21 (i) All of the disclosures required by paragraph (1) of subdivision
22 (g), including the terms and conditions of the rental agreement
23 then in effect.

24 (ii) An Internet Web site address, as well as a contact number
25 or address, where the enrollee can learn of changes to the rental
26 agreement or to the laws of this state governing rental agreements
27 since the effective date of the rental company's most recent
28 restatement of the rental agreement and distribution of that
29 restatement to its members.

30 (B) At the commencement of each rental period, the renter is
31 provided, on the rental record or the folder in which it is inserted,
32 with a printed notice stating that he or she had either previously
33 selected or declined an optional damage waiver and that the renter
34 has the right to change preferences.

35 (C) At the commencement of each rental period, the rental
36 company provides, on the rearview mirror, a hanger on which a
37 statement is printed, in a box, in at least 12-point boldface type,
38 notifying the renter that the collision damage waiver offered by
39 the rental company may be duplicative of coverage that the
40 customer maintains under his or her own policy of motor vehicle

1 insurance. If it is not feasible to hang the statement from the
2 rearview mirror, it shall be hung from the steering wheel.

3 The hanger shall provide the renter a box to initial if he or she
4 (not his or her employer) has previously accepted or declined the
5 collision damage waiver and that he or she now wishes to change
6 his or her decision to accept or decline the collision damage waiver,
7 as follows:

8 “☐ If I previously accepted the collision damage waiver, I
9 now decline it.

10 ☐ If I previously declined the collision damage waiver, I now
11 accept it.”

12 The hanger shall also provide a box for the enrollee to indicate
13 whether this change applies to this rental transaction only or to all
14 future rental transactions. The hanger shall also notify the renter
15 that he or she may make that change, prior to leaving the lot, by
16 returning the form to an employee designated to receive the form
17 who is present at the lot where the renter takes possession of the
18 car, to receive any change in the rental agreement from the renter.

19 (2) (A) This subdivision is not effective unless the employee
20 designated pursuant to subparagraph (E) of paragraph (8) of
21 subdivision (a) is actually present at the required location.

22 (B) This subdivision does not relieve the rental company from
23 the disclosures required to be made within the text of a contract
24 or holder in which the contract is placed; in or on an advertisement
25 containing a rental rate; or in a telephonic, in-person, or
26 computer-transmitted quotation or reservation.

27 (u) The amendments made to this section during the 2001–02
28 Regular Session of the Legislature do not affect litigation pending
29 on or before January 1, 2003, alleging a violation of Section 22325
30 of the Business and Professions Code as it read at the time the
31 action was commenced.

32 (v) This section shall become operative on January 1, 2015.

33 *SEC. 4. Section 5924 of the Government Code, as amended by*
34 *Section 1 of Chapter 646 of the Statutes of 2009, is amended to*
35 *read:*

36 5924. (a) (1) Notwithstanding Section 13340, there is hereby
37 continuously appropriated without regard to fiscal years, from the
38 General Fund in the State Treasury for the purpose of this chapter,
39 an amount that will equal the sum annually as will be necessary
40 to pay all obligations, including principal, interest, fees, costs,

1 indemnities, and all other amounts incurred by the state under or
2 in connection with any credit enhancement or liquidity agreement,
3 as specified in paragraph (2), that is entered into by the state
4 pursuant to this chapter for bonds payable pursuant to an
5 appropriation from the General Fund.

6 (2) A credit enhancement or liquidity agreement subject to this
7 section includes a credit enhancement or liquidity agreement that
8 is in the form of a letter of credit, standby purchase agreement,
9 reimbursement agreement, liquidity facility, or other similar
10 arrangement.

11 (b) (1) If the agent for sale determines that the credit
12 enhancement or liquidity agreement is expected to result in a lower
13 cost of the borrowing for the bonds to which the credit
14 enhancement or liquidity agreement pertains, the state may incur
15 fees, costs, and other similar expenses under or in connection with
16 any credit enhancement or liquidity agreement entered into by the
17 state pursuant to this chapter.

18 (2) The amount appropriated pursuant to subdivision (a) for
19 fees, costs, and other similar expenses incurred in connection with
20 any credit enhancement or liquidity agreement, when expressed
21 as a percentage of the original principal amount of the bonds to
22 which the credit enhancement or liquidity agreement pertains, may
23 not exceed 3 percent.

24 (3) The amount appropriated pursuant to subdivision (a) for
25 interest incurred in connection with any credit enhancement or
26 liquidity agreement, when expressed as a percentage of the
27 outstanding principal amount of the bonds to which the credit
28 enhancement or liquidity agreement pertains, may not exceed the
29 interest rate percentage set forth in subdivision (d) of Section
30 16731.

31 ~~(c) This section shall become inoperative on June 30, 2013, and,~~
32 ~~as of January 1, 2014, is repealed, unless a later enacted statute,~~
33 ~~that becomes operative on or before January 1, 2014, deletes or~~
34 ~~extends the dates on which it becomes inoperative and is repealed.~~

35 *SEC. 5. Section 5924 of the Government Code, as added by*
36 *Section 2 of Chapter 633 of the Statutes of 2009, is repealed.*

37 ~~5924. (a) (1) Notwithstanding Section 13340, there is hereby~~
38 ~~continuously appropriated without regard to fiscal years, from the~~
39 ~~General Fund in the State Treasury for the purpose of this chapter,~~
40 ~~an amount that will equal the sum annually as will be necessary~~

1 to pay all obligations, including principal, interest, fees, costs,
2 indemnities, and all other amounts incurred by the state under or
3 in connection with any credit enhancement or liquidity agreement,
4 as specified in paragraph (2), that is entered into by the state
5 pursuant to this chapter for bonds payable pursuant to an
6 appropriation from the General Fund.

7 (2) A credit enhancement or liquidity agreement subject to this
8 section includes a credit enhancement or liquidity agreement that
9 is in the form of a letter of credit, standby purchase agreement,
10 reimbursement agreement, liquidity facility, or other similar
11 arrangement.

12 (b) (1) If the agent for sale determines that the credit
13 enhancement or liquidity agreement is expected to result in a lower
14 cost of the borrowing for the bonds to which the credit
15 enhancement or liquidity agreement pertains, the state may incur
16 fees, costs, and other similar expenses under or in connection with
17 any credit enhancement or liquidity agreement entered into by the
18 state pursuant to this chapter.

19 (2) The amount appropriated pursuant to subdivision (a) for
20 fees, costs, and other similar expenses incurred in connection with
21 any credit enhancement or liquidity agreement, when expressed
22 as a percentage of the original principal amount of the bonds to
23 which the credit enhancement or liquidity agreement pertains, may
24 not exceed the percentage set forth in paragraph (1) of subdivision
25 (g) of Section 147 of Title 26 of the United States Code enacted
26 as of January 1, 2003.

27 (3) The amount appropriated pursuant to subdivision (a) for
28 interest incurred in connection with any credit enhancement or
29 liquidity agreement, when expressed as a percentage of the
30 outstanding principal amount of the bonds to which the credit
31 enhancement or liquidity agreement pertains, may not exceed the
32 interest rate percentage set forth in subdivision (d) of Section
33 16731.

34 (c) This section shall become operative June 30, 2013.

35 SEC. 6. Section 5924 of the Government Code, as added by
36 Section 2 of Chapter 646 of the Statutes of 2009, is repealed.

37 5924. (a) (1) Notwithstanding Section 13340, there is hereby
38 continuously appropriated without regard to fiscal years, from the
39 General Fund in the State Treasury for the purpose of this chapter,
40 an amount that will equal the sum annually as will be necessary

1 to pay all obligations, including principal, interest, fees, costs,
2 indemnities, and all other amounts incurred by the state under or
3 in connection with any credit enhancement or liquidity agreement,
4 as specified in paragraph (2), that is entered into by the state
5 pursuant to this chapter for bonds payable pursuant to an
6 appropriation from the General Fund.

7 (2) A credit enhancement or liquidity agreement subject to this
8 section includes a credit enhancement or liquidity agreement that
9 is in the form of a letter of credit, standby purchase agreement,
10 reimbursement agreement, liquidity facility, or other similar
11 arrangement.

12 (b) (1) If the agent for sale determines that the credit
13 enhancement or liquidity agreement is expected to result in a lower
14 cost of the borrowing for the bonds to which the credit
15 enhancement or liquidity agreement pertains, the state may incur
16 fees, costs, and other similar expenses under or in connection with
17 any credit enhancement or liquidity agreement entered into by the
18 state pursuant to this chapter.

19 (2) The amount appropriated pursuant to subdivision (a) for
20 fees, costs, and other similar expenses incurred in connection with
21 any credit enhancement or liquidity agreement, when expressed
22 as a percentage of the original principal amount of the bonds to
23 which the credit enhancement or liquidity agreement pertains, may
24 not exceed the percentage set forth in paragraph (1) of subdivision
25 (g) of Section 147 of Title 26 of the United States Code enacted
26 as of January 1, 2003.

27 (3) The amount appropriated pursuant to subdivision (a) for
28 interest incurred in connection with any credit enhancement or
29 liquidity agreement, when expressed as a percentage of the
30 outstanding principal amount of the bonds to which the credit
31 enhancement or liquidity agreement pertains, may not exceed the
32 interest rate percentage set forth in subdivision (d) of Section
33 16731.

34 (c) This section shall become operative June 30, 2013.

35 SEC. 7. Section 8169.7 is added to the Government Code, to
36 read:

37 8169.7. (a) The department may sell all or a portion of the
38 following properties located in the County of Sacramento, City of
39 Sacramento, State of California, and leased by the department to
40 the Capitol Area Development Authority:

1 (1) Parcel 1. Approximately 0.14 acres of land, not including
2 improvements thereon, located at 1510 14th Street, and identified
3 by Sacramento County Assessor Parcel Number 006-0224-026.

4 (2) Parcel 2. Approximately 0.22 acres of land, not including
5 improvements thereon, located at 1530 N Street and 1412 16th
6 Street, and identified by Sacramento County Assessor Parcel
7 Numbers 006-0231-008 and 006-0231-009.

8 (3) Parcel 3. Approximately 0.15 acres of land, not including
9 improvements thereon, located at 1416 17th Street and 1631 O
10 Street, and identified by Sacramento County Assessor Parcel
11 Numbers 006-0233-012 and 006-0233-013.

12 (4) Parcel 4. Approximately 0.59 acres of land, not including
13 improvements thereon, located at 1609 O Street, and identified by
14 Sacramento County Assessor Parcel Number 006-0233-026.

15 (5) Parcel 5. Approximately 0.07 acres of land, not including
16 improvements thereon, located at 1612 14th Street, and identified
17 by Sacramento County Assessor Parcel Number 006-0284-011.

18 (6) Parcel 6. Approximately 0.30 acres of land, not including
19 improvements thereon, located at 1616, 1622, and 1626 14th Street
20 and 1325 and 1331 Q Street, and identified by Sacramento County
21 Assessor Parcel Numbers 006-0284-012, 006-0284-013,
22 006-0284-014, 006-0284-015, and 006-0284-016.

23 (b) The properties shall be sold for market value, or upon terms
24 and conditions as the director, with concurrence of the Department
25 of Finance, determines are in the best interest of the state.

26 (c) The department may offer the property for sale pursuant to
27 a public bidding process designed to obtain the highest return for
28 the state. Any transaction based on such a bidding process shall
29 be deemed to be the market value. The director, at the director's
30 sole discretion, may reject all bids received if it is in the best
31 interest of the state to do so.

32 (d) The department shall be reimbursed for any cost or expense
33 incurred in the disposition of any parcels from the sale proceeds.

34 (e) The Director of Finance may provide a loan from the
35 General Fund in the amount of not more than two hundred
36 thousand dollars (\$200,000) to augment Item 1760-001-0002 of
37 Section 2.00 of the Budget Act of 2012 and may adjust the amounts
38 appropriated in Item 1760-001-0002 of Section 2.00 of the Budget
39 Act of 2012, for the purposes of supporting the management of the
40 state's real property footprint reduction to accommodate any

1 increase in workload or other costs to the department in
2 implementing this section.

3 (f) The disposition of the properties shall be made on an “as
4 is” basis, and any sale shall be exempt from Chapter 3
5 (commencing with Section 21100) to Chapter 6 (commencing with
6 Section 21165), inclusive, of Division 13 of the Public Resources
7 Code.

8 (g) As to any property sold pursuant to this section, the director
9 shall except and reserve to the state all mineral deposits possessed
10 by the state, as defined in Section 6407 of the Public Resources
11 Code, below a depth of 500 feet, without surface rights of entry.
12 The rights to prospect for, mine, and remove the deposits shall be
13 limited to those areas of the property conveyed that the director,
14 after consultation with the State Lands Commission, determines
15 to be reasonably necessary for the removal of the deposits.

16 (h) The disposition of the properties pursuant to this section
17 shall not constitute a sale or other disposition of surplus state
18 property pursuant to Section 11011.

19 (i) The net proceeds of any moneys received from the disposition
20 of any parcels described in this section shall be deposited in the
21 General Fund or the Deficit Recovery Fund as determined by the
22 Department of Finance.

23 SEC. 8. Section 8879.58 of the Government Code is amended
24 to read:

25 8879.58. (a) (1) No later than September 1 of the first fiscal
26 year in which the Legislature appropriates funds from the Transit
27 System Safety, Security, and Disaster Response Account, and no
28 later than September 1 of each fiscal year thereafter in which funds
29 are appropriated from that account, the Controller shall develop
30 and make public a list of eligible agencies and transit operators
31 and the amount of funds each is eligible to receive from the account
32 pursuant to subdivision (a) of Section 8879.57. It is the intent of
33 the Legislature that funds allocated to specified recipients pursuant
34 to this section provide each recipient with the same proportional
35 share of funds as the proportional share each received from the
36 allocation of State Transit Assistance funds, pursuant to Sections
37 99313 and 99314 of the Public Utilities Code, over fiscal years
38 2004–05, 2005–06, and 2006–07.

39 (2) In establishing the amount of funding each eligible recipient
40 is to receive under subdivision (a) of Section 8879.57 from

1 appropriated funds to be allocated based on Section 99313 of the
2 Public Utilities Code, the Controller shall make the following
3 computations:

4 (A) For each eligible recipient, compute the amounts of State
5 Transit Assistance funds allocated to that recipient pursuant to
6 Section 99313 of the Public Utilities Code during the 2004–05,
7 2005–06, and 2006–07 fiscal years.

8 (B) Compute the total statewide allocation of State Transit
9 Assistance funds pursuant to Section 99313 of the Public Utilities
10 Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

11 (C) Divide subparagraph (A) by subparagraph (B).

12 (D) For each eligible recipient, multiply the allocation factor
13 computed pursuant to subparagraph (C) by 50 percent of the
14 amount available for allocation pursuant to subdivision (a) of
15 Section 8879.57.

16 (3) In establishing the amount of funding each eligible recipient
17 is eligible to receive under subdivision (a) of Section 8879.57 from
18 funds to be allocated based on Section 99314 of the Public Utilities
19 Code, the Controller shall make the following computations:

20 (A) For each eligible recipient, compute the amounts of State
21 Transit Assistance funds allocated to that recipient pursuant to
22 Section 99314 of the Public Utilities Code during the 2004–05,
23 2005–06, and 2006–07 fiscal years.

24 (B) Compute the total statewide allocation of State Transit
25 Assistance funds pursuant to Section 99314 of the Public Utilities
26 Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

27 (C) Divide subparagraph (A) by subparagraph (B).

28 (D) For each eligible recipient, multiply the allocation factor
29 computed pursuant to subparagraph (C) by 50 percent of the
30 amount available for allocation pursuant to subdivision (a) of
31 Section 8879.57.

32 (4) The Controller shall notify eligible recipients of the amount
33 of funding each is eligible to receive pursuant to subdivision (a)
34 of Section 8879.57 for the duration of time that these funds are
35 made available for these purposes based on the computations
36 pursuant to subparagraph (D) of paragraph (2) and subparagraph
37 (D) of paragraph (3).

38 (b) Prior to seeking a disbursement of funds for an eligible
39 project, an agency or transit operator on the public list described
40 in paragraph (1) of subdivision (a) shall submit to the California

Emergency Management Agency a description of the project it proposes to fund with its share of funds from the account. The description shall include all of the following:

(1) A summary of the proposed project that describes the safety, security, or emergency response benefit that the project intends to achieve.

(2) That the useful life of the project shall not be less than the required useful life for capital assets specified in subdivision (a) of Section 16727.

(3) The estimated schedule for the completion of the project.

(4) The total cost of the proposed project, including identification of all funding sources necessary for the project to be completed.

(c) After receiving the information required to be submitted under subdivision (b), the agency shall review the information to determine all of the following:

(1) The project is consistent with the purposes described in subdivision (h) of Section 8879.23.

(2) The project is an eligible capital expenditure, as described in subdivision (a) of Section 8879.57.

(3) The project is a capital improvement that meets the requirements of paragraph (2) of subdivision (b).

(4) The project, or a useful component thereof, is, or will become, fully funded with an allocation of funds from the Transit System Safety, Security, and Disaster Response Account.

(d) (1) Upon conducting the review required in subdivision (c) and determining that a proposed project meets the requirements of that subdivision, the agency shall, on a quarterly basis, provide the Controller with a list of projects and the sponsoring agencies or transit operators eligible to receive an allocation from the account.

(2) The list of projects submitted to the Controller for allocation for any one fiscal year shall be constrained by the total amount of funds appropriated by the Legislature for the purposes of this section for that fiscal year.

(3) For a fiscal year in which the number of projects submitted for funding under this section exceeds available funds, the agency shall prioritize projects contained on the lists submitted pursuant to paragraph (1) so that (A) projects addressing the greatest risks to the public *and that demonstrate the ability and intent to expend*

1 *a significant percentage of project funds within six months* have
2 the highest priority and (B) to the maximum extent possible, the
3 list reflects a distribution of funding that is geographically
4 balanced.

5 (e) Upon receipt of the information from the agency required
6 by subdivision (d), the Controller's office shall commence any
7 necessary actions to allocate funds to eligible agencies and transit
8 operators sponsoring projects on the list of projects, including, but
9 not limited to, seeking the issuance of bonds for that purpose. The
10 total allocations to any one eligible agency or transit operator shall
11 not exceed that agency's or transit operator's share of funds from
12 the account pursuant to the formula contained in subdivision (a)
13 of Section 8879.57.

14 (f) *During each fiscal year that an agency or transit operator*
15 *receives funds pursuant to this section, the California Emergency*
16 *Management Agency may monitor the project expenditures to*
17 *ensure compliance with this section.*

18 ~~(f)~~

19 (g) The Controller's office may, pursuant to Section 12410, use
20 its authority to audit the use of state bond funds on projects
21 receiving an allocation under this section. Each eligible agency or
22 transit operator sponsoring a project subject to an audit shall
23 provide any and all data requested by the Controller's office in
24 order to complete the audit. The Controller's office shall transmit
25 copies of all completed audits to the agency and to the policy
26 committees of the Legislature with jurisdiction over transportation
27 and budget issues.

28 *SEC. 9. Section 8879.59 of the Government Code is amended*
29 *to read:*

30 8879.59. (a) For funds appropriated from the Transit System
31 Safety, Security, and Disaster Response Account for allocation to
32 transit agencies eligible to receive funds pursuant to subdivision
33 (b) of Section 8879.57, the California Emergency Management
34 Agency (Cal EMA) shall administer a grant application and award
35 program for those transit agencies.

36 (b) Funds awarded to transit agencies pursuant to this section
37 shall be for eligible capital expenditures as described in subdivision
38 (b) of Section 8879.57.

39 (c) Prior to allocating funds to projects pursuant to this section,
40 Cal EMA shall adopt guidelines to establish the criteria and process

for the distribution of funds described in this section. Prior to adopting the guidelines, Cal EMA shall hold a public hearing on the proposed guidelines.

(d) For each fiscal year in which funds are appropriated for the purposes of this section, Cal EMA shall issue a notice of funding availability no later than October 1.

(e) No later than December 1 of each fiscal year in which the notice in subdivision (d) is issued, eligible transit agencies may submit project nominations for funding to Cal EMA for its review and consideration. Project nominations shall include all of the following:

(1) A description of the project, which shall illustrate the physical components of the project and the security or emergency response benefit to be achieved by the completion of the project.

(2) Identification of all nonbond sources of funding committed to the project.

(3) An estimate of the project's full cost and the proposed schedule for the project's completion.

(f) For a fiscal year in which the number of projects submitted for funding under this section exceeds available funds, Cal EMA shall prioritize projects so that projects addressing the greatest risks to the public and that demonstrate the ability and intent to expend a significant percentage of project funds within six months have the highest priority.

~~(f)~~
(g) No later than February 1, Cal EMA shall select eligible projects to receive grants under this section and shall provide the Controller with a list of the projects and the sponsoring agencies eligible to receive an allocation from the account. Upon receipt of this information, the Controller's office shall commence any necessary actions to allocate funds to those agencies, including, but not limited to, seeking the issuance of bonds for that purpose. Grants awarded to eligible transit agencies pursuant to subdivision (b) of Section 8879.57 shall be for eligible capital expenditures, as described in paragraph (2) of subdivision (b) of that section.

(h) During each fiscal year that a transit agency receives funds pursuant to this section, Cal EMA may monitor the project expenditures to ensure project funds are expended in compliance with the submitted project nomination.

1 *SEC. 10. Section 11270 of the Government Code is amended*
2 *to read:*

3 11270. As used in this article, “administrative costs” means
4 the amounts expended by the Legislature, the Legislative Counsel
5 Bureau, the ~~office of the Governor~~ *Governor’s Office*, the ~~office~~
6 ~~of the State Chief Information Officer~~ *California Technology*
7 *Agency*, the Office of Planning and Research, the Department of
8 Justice, the ~~office of the Controller~~ *State Controller’s Office*, the
9 ~~office of the Treasurer~~ *State Treasurer’s Office*, the State Personnel
10 Board, the Department of Finance, *the Financial Information*
11 *System for California*, the Office of Administrative Law, the
12 Department of ~~Personnel Administration~~ *Human Resources*, the
13 Secretary of ~~the State and Consumer Services~~ *Agency*, the
14 Secretary of ~~the California Health and Human Services~~ *Agency*,
15 the Bureau of State Audits, and the California State Library, and
16 a proration of any other cost to or expense of the state for services
17 or facilities provided for the Legislature and the above agencies,
18 for supervision or administration of the state government or for
19 services to other state agencies.

20 *SEC. 11. Section 11546 of the Government Code is amended*
21 *to read:*

22 11546. (a) The California Technology Agency shall be
23 responsible for the approval and oversight of information
24 technology projects, which shall include, but are not limited to,
25 all of the following:

26 (1) Establishing and maintaining a framework of policies,
27 procedures, and requirements for the initiation, approval,
28 implementation, management, oversight, and continuation of
29 information technology projects. *Unless otherwise required by*
30 *law, a state department shall not procure oversight services of*
31 *information technology projects without the approval of the*
32 *California Technology Agency.*

33 (2) Evaluating information technology projects based on the
34 business case justification, resources requirements, proposed
35 technical solution, project management, oversight and risk
36 mitigation approach, and compliance with statewide strategies,
37 policies, and procedures. Projects shall continue to be funded
38 through the established Budget Act process.

39 (3) Consulting with agencies during initial project planning to
40 ensure that project proposals are based on well-defined

1 programmatic needs, clearly identify programmatic benefits, and
2 consider feasible alternatives to address the identified needs and
3 benefits consistent with statewide strategies, policies, and
4 procedures.

5 (4) Consulting with agencies prior to project initiation to review
6 the project governance and management framework to ensure that
7 it is best designed for success and will serve as a resource for
8 agencies throughout the project implementation.

9 (5) Requiring agencies to provide information on information
10 technology projects including, but not limited to, all of the
11 following:

12 (A) The degree to which the project is within approved scope,
13 cost, and schedule.

14 (B) Project issues, risks, and corresponding mitigation efforts.

15 (C) The current estimated schedule and costs for project
16 completion.

17 (6) Requiring agencies to perform remedial measures to achieve
18 compliance with approved project objectives. These remedial
19 measures may include, but are not limited to, any of the following:

20 (A) Independent assessments of project activities, the cost of
21 which shall be funded by the agency administering the project.

22 (B) Establishing remediation plans.

23 (C) Securing appropriate expertise, the cost of which shall be
24 funded by the agency administering the project.

25 (D) Requiring additional project reporting.

26 (E) Requiring approval to initiate any action identified in the
27 approved project schedule.

28 (7) Suspending, reinstating, or terminating information
29 technology projects. The agency shall notify the Joint Legislative
30 Budget Committee of any project suspension, reinstatement, and
31 termination within 30 days of that suspension, reinstatement, or
32 termination.

33 (8) Establishing restrictions or other controls to mitigate
34 nonperformance by agencies, including, but not limited to, any of
35 the following:

36 (A) The restriction of future project approvals pending
37 demonstration of successful correction of the identified
38 performance failure.

1 (B) The revocation or reduction of authority for state agencies
2 to initiate information technology projects or acquire information
3 technology or telecommunications goods or services.

4 (b) The California Technology Agency shall have the authority
5 to delegate to another agency any authority granted under this
6 section based on its assessment of the agency's project
7 management, project oversight, and project performance.

8 *SEC. 12. Section 12531 is added to the Government Code, to*
9 *read:*

10 *12531. (a) The Legislature finds and declares that California,*
11 *represented by the California Attorney General, entered a national*
12 *multistate settlement with the country's five largest loan servicers.*
13 *This agreement, the National Mortgage Settlement stemmed from*
14 *successful resolution of federal court action (Consent Judgment,*
15 *United States v. Bank of America (No. 1:12-cv-00361, Banzr. D.C.*
16 *Apr. 4, 2012). The National Mortgage Settlement is broad ranging,*
17 *with California's share of this settlement estimated to be up to*
18 *eighteen billion dollars (\$18,000,000,000). Of this amount,*
19 *approximately four hundred ten million dollars (\$410,000,000)*
20 *will come directly to the state in costs, fees, and penalty payments.*

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

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

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

33 *(e) Notwithstanding any other law, the Director of Finance may*
34 *allocate or otherwise use the funds in the National Mortgage*
35 *Special Deposit Fund to offset General Fund expenditures in the*
36 *2011–12, 2012–13, and 2013–14 fiscal years. The Department of*
37 *Finance and the Controller's office shall recognize this fiscal*
38 *alignment accordingly for the purpose of the state budget process*
39 *and legal basis of accounting.*

1 (f) Not less than 30 days prior to allocating any moneys pursuant
2 to subdivision (e), the Department of Finance shall submit an
3 expenditure plan to the Joint Legislative Budget Committee
4 detailing the proposed use of the moneys in the National Mortgage
5 Special Deposit Fund.

6 (g) Notwithstanding any other law, the Controller may use the
7 funds in the National Mortgage Special Deposit Fund for cashflow
8 loans to the General Fund as provided in Sections 16310 and
9 16381.

10 SEC. 13. Section 13071 of the Government Code is amended
11 to read:

12 13071. The Director of Finance shall be responsible for
13 coordinating state agency internal audits and identifying when
14 agencies are required to comply with federally mandated audits.
15 The Director of Finance, in coordinating the internal auditors of
16 state agencies, shall ensure that these auditors utilize the “Standards
17 for the Professional Practices of Internal Auditing.”

18 SEC. 14. Section 13300.5 is added to the Government Code,
19 to read:

20 13300.5. (a) The Legislature finds and declares that the project
21 of the FISCAL Project to modernize the state’s internal financial
22 systems is a critical project that must be subject to the highest level
23 of oversight. According to the California Technology Agency, the
24 size and scope of this modernization and automation effort make
25 this project one of the highest risk projects undertaken by the state.
26 Therefore, the Legislature must take steps to ensure it is fully
27 informed as the project is implemented. It is the intent of the
28 Legislature to adopt additional reporting requirements for the
29 FISCAL Project Office to adequately manage the project’s risk and
30 to ensure the successful implementation of this effort.

31 (b) The FISCAL Project Office shall report to the Legislature,
32 by February 15 of each year, an update on the project. The report
33 shall include all of the following:

- 34 (1) An executive summary and overview of the project’s status.
35 (2) An overview of the project’s history.
36 (3) Significant events of the project within the current reporting
37 period and a projection of events during the next reporting period.
38 (4) A discussion of mitigation actions being taken by the project
39 for any missed major milestones.

1 (5) A comparison of actual to budgeted expenditures, and an
2 explanation of variances and any planned corrective actions,
3 including a summary of FISCal project and staffing levels and an
4 estimate of staff participation from partner agencies.

5 (6) An articulation of expected functionality and qualitative
6 benefits from the project that were achieved during the reporting
7 period and that are expected to be achieved in the subsequent year.

8 (7) An overview of change management activities and
9 stakeholder engagement in the project, including a summary of
10 departmental participation in the FISCal project.

11 (8) A discussion of lessons learned and best practices that will
12 be incorporated into future changes in management activities.

13 (9) A description of any significant software customization,
14 including a justification for why, if any, customization was granted.

15 (10) Updates on the progress of meeting the project objectives,
16 including the objectives provided in paragraph (1) of subdivision
17 (c) of Section 15849.22.

18 (c) The initial report, due February 15, 2013, shall provide a
19 description of the approved project scope. Later reports shall
20 describe any later deviations to the project scope, cost, or schedule.

21 (d) The initial report shall also provide a summary of the project
22 history from Special Project Report 1 to Special Project Report
23 4, inclusive.

24 (e) This section shall remain in effect until a postimplementation
25 evaluation report has been approved by the California Technology
26 Agency. The California Technology Agency shall post a notice on
27 its Internet Web site when the report is approved.

28 SEC. 15. Section 15849.6 of the Government Code, as added
29 by Section 13 of Chapter 726 of the Statutes of 2010, is repealed.

30 ~~15849.6.— Notwithstanding any provision of this part to the~~
31 ~~contrary, the board may issue bonds, notes, or other obligations~~
32 ~~to finance the acquisition or construction of a public building,~~
33 ~~facility, or equipment as authorized by the Legislature, in the total~~
34 ~~amount authorized by the Legislature, and any additional amount~~
35 ~~authorized by the board to pay the cost of financing. This additional~~
36 ~~amount may include interest during acquisition or interest prior~~
37 ~~to, during, and for a period of six months after construction of the~~
38 ~~public building, facility, or equipment, interest payable on any~~
39 ~~interim loan for the public building, facility, or equipment from~~
40 ~~the General Fund or from the Pooled Money Investment Account,~~

1 a reasonably required reserve fund, and the costs of issuance of
2 any interim financing and permanent financing after completion
3 of the construction or acquisition of the public building, facility,
4 or equipment.

5 This section shall be applicable to, but not limited to, bonds,
6 notes, or obligations of the board that were authorized by
7 appropriations of the Legislature made prior to the effective date
8 of this section.

9 *SEC. 16. Section 15849.6 of the Government Code, as added*
10 *by Section 2 of Chapter 727 of the Statutes of 2010, is amended*
11 *to read:*

12 15849.6. Notwithstanding any provision of this part to the
13 contrary, the board may issue bonds, notes, or other obligations
14 to finance the acquisition, *design*, or construction of a public
15 building, ~~facility, or equipment~~ as authorized by the Legislature,
16 in the total amount authorized by the Legislature, and any
17 additional amount authorized by the board to pay the cost of
18 financing. This additional amount may include interest during
19 acquisition or interest prior to, during, and for a period of six
20 months after construction of the public building, ~~facility, or~~
21 ~~equipment~~, interest payable on any interim loan *or interim*
22 *financing* for the public building, ~~facility, or equipment from the~~
23 ~~General Fund or from the Pooled Money Investment Account~~, a
24 reasonably required reserve fund, and the costs of issuance of any
25 interim financing and permanent financing ~~after completion of the~~
26 ~~construction or acquisition of the public building, facility, or~~
27 ~~equipment~~.

28 This section shall be applicable to, but not limited to, bonds,
29 notes, or obligations of the board that were authorized by
30 appropriations of the Legislature made prior to the effective date
31 of this section.

32 *SEC. 17. Section 15849.65 is added to the Government Code,*
33 *to read:*

34 15849.65. (a) Notwithstanding any provision of this part to
35 the contrary, when a public building for the University of
36 California is authorized, in full or in part, to be financed under
37 this part, the board may issue bonds, notes, or other obligations
38 to reimburse any debt service related to obligations issued or
39 entered into by the Regents of the University of California as
40 interim financing for the public building. In addition to the amount

1 authorized by the Legislature for a public building for the
2 University of California, the board may authorize an additional
3 amount to pay related interest and issuance costs associated with
4 the obligations issued or entered into by the Regents of the
5 University of California.

6 (b) This section shall be applicable to, but not limited to, bonds,
7 notes, or obligations of the board that were authorized by
8 appropriations of the Legislature made prior to the effective date
9 of this section.

10 (c) This section shall become inoperative on July 1, 2017, and,
11 as of January 1, 2018, is repealed, unless a later enacted statute,
12 that becomes operative on or before January 1, 2018, deletes or
13 extends the dates on which it becomes inoperative and is repealed.

14 SEC. 18. Section 17581 of the Government Code is amended
15 to read:

16 17581. (a) No local agency shall be required to implement or
17 give effect to any statute or executive order, or portion thereof,
18 during any fiscal year and for the period immediately following
19 that fiscal year for which the Budget Act has not been enacted for
20 the subsequent fiscal year if all of the following apply:

21 (1) The statute or executive order, or portion thereof, has been
22 determined by the Legislature, the commission, or any court to
23 mandate a new program or higher level of service requiring
24 reimbursement of local agencies pursuant to Section 6 of Article
25 XIII B of the California Constitution.

26 (2) The statute or executive order, or portion thereof, or the
27 commission's test claim number, has been specifically identified
28 by the Legislature in the Budget Act for the fiscal year as being
29 one for which reimbursement is not provided for that fiscal year.
30 For purposes of this paragraph, a mandate shall be considered to
31 have been specifically identified by the Legislature only if it has
32 been included within the schedule of reimbursable mandates shown
33 in the Budget Act and it is specifically identified in the language
34 of a provision of the item providing the appropriation for mandate
35 reimbursements.

36 (b) Within 30 days after enactment of the Budget Act, the
37 Department of Finance shall notify local agencies of any statute
38 or executive order, or portion thereof, for which operation of the
39 mandate is suspended because reimbursement is not provided for

1 that fiscal year pursuant to this section and Section 6 of Article
2 XIII B of the California Constitution.

3 (c) Notwithstanding any other provision of law, if a local agency
4 elects to implement or give effect to a statute or executive order
5 described in subdivision (a), the local agency may assess fees to
6 persons or entities which benefit from the statute or executive
7 order. Any fee assessed pursuant to this subdivision shall not
8 exceed the costs reasonably borne by the local agency.

9 (d) This section shall not apply to any state-mandated local
10 program for the trial courts, as specified in Section 77203.

11 (e) This section shall not apply to any state-mandated local
12 program for which the reimbursement funding counts toward the
13 minimum General Fund requirements of Section 8 of Article XVI
14 of the Constitution.

15 (f) *All state-mandated local programs suspended in the Budget*
16 *Act for the 2012–13 fiscal year shall also be suspended in the*
17 *2013–14 and 2014–15 fiscal years.*

18 SEC. 19. *Section 17617 of the Government Code is amended*
19 *to read:*

20 17617. The total amount due to each city, county, city and
21 county, and special district, for which the state has determined that
22 reimbursement is required under paragraph (2) of subdivision (b)
23 of Section 6 of Article XIII B of the California Constitution, shall
24 be appropriated for payment to these entities over a period of not
25 more than 15 years, commencing with the Budget Act for the
26 2006–07 fiscal year and concluding with the Budget Act for the
27 2020–21 fiscal year. *There shall be no appropriation for payment*
28 *of reimbursement claims submitted pursuant to this section for the*
29 *2012-13, 2013-14, and 2014-15 fiscal years.*

30 SEC. 20. *Section 19849 of the Government Code is amended*
31 *to read:*

32 19849. (a) The department shall adopt rules governing hours
33 of work and overtime compensation and the keeping of records
34 related thereto, including time and attendance records. Each
35 appointing power shall administer and enforce such rules.

36 (b) *Notwithstanding any other law, the department shall adopt*
37 *a plan for the period from July 1, 2012, to June 30, 2013, inclusive,*
38 *by which all state employees not subject to the Personal Leave*
39 *Program 2012 (PLP 2012 Program), as described in subdivision*
40 *(c) of Section 19851, shall be furloughed for one workday per*

1 *calendar month. The department shall further adopt rules for the*
2 *implementation, administration, and enforcement of this furlough*
3 *plan. This subdivision shall not apply to retired annuitants or to*
4 *employees of entities listed in Section 3.90 of the Budget Act of*
5 *2012.*

6 ~~(b) If~~

7 *(c) Except as provided in subdivision (b), if the provisions of*
8 *this section are in conflict with the provisions of a memorandum*
9 *of understanding reached pursuant to Section 3517.5, the*
10 *memorandum of understanding shall be controlling without further*
11 *legislative action, except that if such provisions of a memorandum*
12 *of understanding require the expenditure of funds, the provisions*
13 *shall not become effective unless approved by the Legislature in*
14 *the annual Budget Act.*

15 *SEC. 21. Section 19851 of the Government Code is amended*
16 *to read:*

17 *19851. (a) It is the policy of the state, except during the*
18 *operation of subdivision (c), that the workweek of the state*
19 *employee shall be 40 hours, and the workday of state employees*
20 *eight hours, except that workweeks and workdays of a different*
21 *number of hours may be established in order to meet the varying*
22 *needs of the different state agencies. It is the policy of the state to*
23 *avoid the necessity for overtime work whenever possible. This*
24 *policy does not restrict the extension of regular working-hour*
25 *schedules on an overtime basis in those activities and agencies*
26 *where it is necessary to carry on the state business properly during*
27 *a manpower shortage.*

28 *(b) If the provisions of this section are in conflict with the*
29 *provisions of a memorandum of understanding reached pursuant*
30 *to Section 3517.5, the memorandum of understanding shall be*
31 *controlling without further legislative action, except that if the*
32 *provisions of a memorandum of understanding require the*
33 *expenditure of funds, the provisions shall not become effective*
34 *unless approved by the Legislature in the annual Budget Act.*

35 *(c) Notwithstanding any other law, for the period from July 1,*
36 *2012, to June 30, 2013, inclusive, a state employee shall participate*
37 *in the Personal Leave Program 2012 (PLP 2012 Program), either*
38 *as required by an applicable memorandum of understanding*
39 *reached pursuant to Section 3517.5 or by the direction of the*
40 *department for excluded employees. Under the PLP 2012 Program,*

1 *each employee shall receive a reduction in pay not greater than*
 2 *5 percent. In exchange for this reduction in pay, each employee*
 3 *shall receive eight hours of PLP 2012 Program leave credits on*
 4 *the first day of each monthly pay period. This subdivision shall*
 5 *not apply to retired annuitants or to employees of entities listed*
 6 *in Section 3.90 of the Budget Act of 2012.*

7 *SEC. 22. Section 50087 of the Government Code is repealed.*

8 ~~50087. Every city, county, or city and county which has at least~~
 9 ~~5,000 residents or in which 5 percent of the population is of~~
 10 ~~Filipino ancestry or ethnic origin, according to the last federal~~
 11 ~~census, and which conducts any survey as to the ancestry or ethnic~~
 12 ~~origin of its employees, or which maintains any statistical~~
 13 ~~tabulation of minority group employees, shall categorize employees~~
 14 ~~whose ancestry or ethnic origin is Filipino as Filipinos in such~~
 15 ~~survey or tabulation.~~

16 *SEC. 23. Section 51298 of the Government Code is amended*
 17 *to read:*

18 51298. It is the intent of the Legislature in enacting this chapter
 19 to provide local governments with opportunities to attract *either*
 20 large manufacturing *or research and development* facilities to
 21 invest in their communities and to encourage industries, such as
 22 high technology, aerospace, automotive, biotechnology, software,
 23 environmental sources, and others, to locate and invest in those
 24 facilities in California.

25 (a) Commencing in the 1998–99 fiscal year, the governing body
 26 of a county, city and county, or city, may, by means of an ordinance
 27 or resolution approved by a majority of its entire membership,
 28 elect to establish a capital investment incentive program. In any
 29 county, city and county, or city in which the governing body has
 30 so elected, the county, city and county, or city shall, upon the
 31 approval by a majority of the entire membership of its governing
 32 body of a written request therefor, pay a capital investment
 33 incentive amount to the proponent of a qualified manufacturing
 34 *facility or a qualified research and development* facility for up to
 35 15 consecutive fiscal years. A request for the payment of capital
 36 investment incentive amounts shall be filed by a proponent in
 37 writing with the governing body of an electing county, city and
 38 county, or city in the time and manner specified in procedures
 39 adopted by that governing body. In the case in which the governing
 40 body of an electing county, city and county, or city approves a

1 request for the payment of capital investment incentive amounts,
2 both of the following conditions shall apply:

3 (1) The consecutive fiscal years during which a capital
4 investment incentive amount is to be paid shall commence with
5 the first fiscal year commencing after the date upon which the
6 qualified manufacturing *facility or the qualified research and*
7 *development* facility is certified for occupancy or, if no certification
8 is issued, the first fiscal year commencing after the date upon which
9 the qualified manufacturing facility *or the qualified research and*
10 *development* facility commences operation.

11 (2) In accordance with paragraph (4) of subdivision (d), the
12 annual payment to a proponent of each capital investment incentive
13 amount shall be contingent upon the proponent's payment of a
14 community services fee.

15 (b) For purposes of this section:

16 (1) "Qualified manufacturing facility" means a proposed
17 manufacturing facility that meets all of the following criteria:

18 (A) The proponent's initial investment in that facility, in real
19 and personal property, necessary for the full and normal operation
20 of that facility, made pursuant to the capital investment incentive
21 program, that comprises any portion of that facility or has its situs
22 at that facility, exceeds ~~one~~ two hundred fifty million dollars
23 ~~(\$150,000,000)~~ (\$250,000,000). Compliance with this subparagraph
24 shall be certified by the ~~Business, Transportation and Housing~~
25 ~~Agency~~ Governor's Office of Business and Economic Development
26 upon the ~~agency's~~ director's approval of a proponent's application
27 for certification of a qualified manufacturing facility. An
28 application for certification shall be submitted by a proponent to
29 the ~~agency~~ Governor's Office of Business and Economic
30 Development in writing in the time and manner as specified by the
31 ~~agency~~ director.

32 (B) The facility is to be located within the jurisdiction of the
33 electing county, city and county, or city to which the request is
34 made for payment of capital investment incentive amounts.

35 (C) The facility is operated by any of the following:

36 (i) A business described in Codes 3500 to 3899, inclusive, of
37 the Standard Industrial Classification (SIC) Manual published by
38 the United States Office of Management and Budget, 1987 edition,
39 except that "January 1, 1997," shall be substituted for "January 1,
40 1994," in each place in which it appears.

1 (ii) A business engaged in the recovery of minerals from
2 geothermal resources, including the proportional amount of a
3 geothermal electric generating plant that is integral to the recovery
4 process by providing electricity for it.

5 (iii) A business engaged in the manufacturing of parts or
6 components related to the production of electricity using solar,
7 wind, biomass, hydropower, or geothermal resources on or after
8 July 1, 2010.

9 (D) The proponent is ~~either~~ currently engaged in *any of the*
10 *following: (i) commercial production or engaged in, (ii) the*
11 *perfection of the manufacturing process, or (iii) the perfection of*
12 *a product intended to be manufactured.*

13 (2) “Qualified research and development facility” means a
14 proposed research and development facility that meets all of the
15 following criteria:

16 (A) The proponent’s initial investment in that facility, in real
17 and personal property, necessary for the full and normal operation
18 of that facility, made pursuant to the capital investment incentive
19 program, that comprises any portion of that facility or has its situs
20 at that facility, exceeds two hundred fifty million dollars
21 (\$250,000,000). Compliance with this subparagraph shall be
22 certified by the Governor’s Office of Business and Economic
23 Development upon the director’s approval of a proponent’s
24 application for certification of a qualified research and
25 development facility. An application for certification shall be
26 submitted by a proponent to the Governor’s Office of Business
27 and Economic Development in writing in the time and manner
28 specified by the director.

29 (B) The facility is to be located within the jurisdiction of the
30 electing county, city and county, or city to which the request is
31 made for payment of capital investment incentive amounts.

32 (C) The facility is operated by a business described in Code
33 7371, 7373, or 8711 of the Standard Industrial Classification (SIC)
34 Manual published by the United States Office of Management and
35 Budget, 1987 edition, except that “January 1, 1997,” shall be
36 substituted for “January 1, 1994,” in each place in which it
37 appears.

38 (D) The proponent is currently engaged in research and
39 development.

40 (2)

1 (3) “Proponent” means a party or parties that meet all of the
2 following criteria:

3 (A) The party is named in the application to the county, city
4 and county, or city within which the qualified manufacturing
5 *facility or the qualified research and development* facility would
6 be located for a permit to construct a qualified manufacturing
7 *facility or a qualified research and development* facility.

8 (B) The party will be the fee owner of the qualified
9 manufacturing *facility or the qualified research and development*
10 facility upon the completion of that facility. Notwithstanding the
11 previous sentence, the party may enter into a sale-leaseback
12 transaction and nevertheless be considered the proponent.

13 (C) If a proponent that is receiving capital investment incentive
14 amounts subsequently leases the subject qualified manufacturing
15 *facility or qualified research and development* facility to another
16 party, the lease may provide for the payment to that lessee of any
17 portion of a capital investment incentive amount. Any lessee
18 receiving any portion of a capital investment incentive amount
19 shall also be considered a proponent for the purposes of subdivision
20 (d).

21 ~~(3)~~
22 (4) “Capital investment incentive amount” means, with respect
23 to a qualified manufacturing *facility or a qualified research and*
24 *development* facility for a relevant fiscal year, an amount up to or
25 equal to the amount of ad valorem property tax revenue derived
26 by the participating local agency from the taxation of that portion
27 of the total assessed value of that real and personal property
28 described in subparagraph (A) of paragraph (1) *or subparagraph*
29 *(A) of paragraph (2)* that is in excess of ~~one hundred fifty~~
30 ~~twenty-five million dollars (\$150,000,000)~~ (\$25,000,000).

31 (5) “Development” means a systematic application of knowledge
32 or understanding, directed toward the production of useful
33 materials, devices, and systems or methods, including design,
34 development, and improvement of prototypes and new processes
35 to meet specific requirements.

36 ~~(4)~~
37 (6) “Manufacturing” means the activity of converting or
38 conditioning property by changing the form, composition, quality,
39 or character of the property for ultimate sale at retail or use in the
40 manufacturing of a product to be ultimately sold at retail.

1 Manufacturing includes any improvements to tangible personal
2 property that result in a greater service life or greater functionality
3 than that of the original property.

4 (7) “Research” means either basic research or applied research.

5 (A) “Applied research” means a systematic study to gain
6 knowledge or understanding necessary to determine the means by
7 which a recognized and specific need may be met.

8 (B) “Basic research” means a systematic study directed toward
9 fuller knowledge or understanding of the fundamental aspects of
10 phenomena and of observable facts without specific applications
11 toward processes or products in mind.

12 (c) A city or special district may, upon the approval by a
13 majority of the entire membership of its governing body, pay to
14 the county, city and county, or city an amount equal to the amount
15 of ad valorem property tax revenue allocated to that city or special
16 district, but not the actual allocation, derived from the taxation of
17 that portion of the total assessed value of that real and personal
18 property described in subparagraph (A) of paragraph (1) of
19 subdivision (b) or subparagraph (A) of paragraph (2) of
20 subdivision (b) that is in excess of ~~one hundred fifty~~ twenty-five
21 million dollars ~~(\$150,000,000)~~ (\$25,000,000).

22 (d) A proponent whose request for the payment of capital
23 investment incentive amounts is approved by an electing county,
24 city and county, or city shall enter into a community services
25 agreement with that county, city and county, or city that includes,
26 but is not limited to, all of the following provisions:

27 (1) A provision requiring that a community services fee be
28 remitted by the proponent to the county, city and county, or city,
29 in each fiscal year ~~subject to the agreement~~, in an amount that is
30 equal to 25 percent of the capital investment incentive amount
31 calculated for that proponent for that fiscal year, except that in no
32 fiscal year shall the amount of the community services fee exceed
33 two million dollars (\$2,000,000).

34 (2) A provision specifying the dates in each relevant fiscal year
35 upon which payment of the community services fee is due and
36 delinquent, and the rate of interest to be charged to a proponent
37 for any delinquent portion of the community services fee amount.

38 (3) A provision specifying the procedures and rules for the
39 determination of underpayments or overpayments of a community

1 services fee, for the appeal of determinations of any underpayment,
2 and for the refunding or crediting of any overpayment.

3 (4) A provision specifying that a proponent is ineligible to
4 receive a capital investment incentive amount if that proponent is
5 currently delinquent in the payment of any portion of a community
6 services fee amount, if the qualified manufacturing *facility or the*
7 *qualified research and development* facility is constructed in a
8 manner materially different from the facility as described in
9 building permit application materials, or if the facility is no longer
10 operated as a qualified manufacturing *facility or a qualified*
11 *research and development* facility meeting the requirements of
12 paragraph (1) or (2) of subdivision (b), *as applicable*. If a
13 proponent becomes ineligible to receive a capital investment
14 incentive amount as a result of an agreement provision included
15 pursuant to this subparagraph, the running of the number of
16 consecutive fiscal years specified in an agreement made pursuant
17 to subdivision (a) is not tolled during the period in which the
18 proponent is ineligible.

19 (5) A provision that sets forth a job creation plan with respect
20 to the relevant qualified manufacturing *facility or the qualified*
21 *research and development* facility. The plan shall specify the
22 number of jobs to be created by that facility, and the types of jobs
23 and compensation ranges to be created thereby. The plan shall also
24 specify that for the entire term of the community services
25 agreement, both of the following shall apply:

26 (A) All of the employees working at the qualified manufacturing
27 *facility or the qualified research and development* facility shall be
28 covered by an employer-sponsored health benefits plan.

29 (B) The average weekly wage, exclusive of overtime, paid to
30 all of the employees working at the qualified manufacturing *facility*
31 *or the qualified research and development* facility, who are not
32 management or supervisory employees, shall be not less than the
33 state average weekly wage.

34 For the purpose of this subdivision, “state average weekly wage”
35 means the average weekly wage paid by employers to employees
36 covered by unemployment insurance, as reported to the
37 Employment Development Department for the four calendar
38 quarters ending June 30 of the preceding calendar year.

39 (6) (A) In the case in which the proponent fails to operate the
40 qualified manufacturing *facility or the qualified research and*

1 *development* facility as required by the community services
2 agreement, a provision that requires the recapture of any portion
3 of any capital investment incentive amounts previously paid to the
4 proponent equal to the lesser of the following:

5 (i) All of the capital investment incentive amounts paid to the
6 proponent, less all of the community services fees received from
7 the proponent, and less any capital investment incentive amounts
8 previously recaptured.

9 (ii) The last capital investment incentive amount paid to the
10 proponent, less the last community services fee received from the
11 proponent, multiplied by 40 percent of the number of years
12 remaining in the community services agreement, but not to exceed
13 10 years, and less any capital investment incentive amounts
14 previously recaptured.

15 (B) If the proponent fails to operate the qualified manufacturing
16 *facility or the qualified research and development* facility as
17 required by the community services agreement, the county, city
18 and county, or city may, upon a finding that good cause exists,
19 waive any portion of the recapture of any capital investment
20 incentive amount due under this subdivision. For the purpose of
21 this subdivision, good cause includes, but is not limited to, the
22 following:

23 (i) The proponent has sold or leased the property to a person
24 who has entered into an agreement with the county, city and
25 county, or city to assume all of the responsibilities of the proponent
26 under the community services agreement.

27 (ii) The qualified manufacturing *facility or the qualified research*
28 *and development* facility has been rendered inoperable and beyond
29 repair as a result of an act of God.

30 (C) For purposes of this subdivision, failure to operate a
31 qualified manufacturing *facility or a qualified research and*
32 *development* facility as required by the community services
33 agreement includes, but is not limited to, failure to establish the
34 number of jobs specified in the jobs creation plan created pursuant
35 to paragraph (5).

36 (e) (1) Each county, city and county, or city that elects to
37 establish a capital investment incentive program shall notify the
38 ~~Business, Transportation and Housing Agency~~ *Governor's Office*
39 *of Business and Economic Development* of its election to do so no

1 later than June 30th 30 of the fiscal year in which the election was
2 made.

3 (2) In addition to the information required to be reported
4 pursuant to paragraph (1), each county, city and county, or city
5 that has elected to establish a capital investment incentive program
6 shall notify the ~~Business, Transportation and Housing Agency~~
7 *Governor's Office of Business and Economic Development* each
8 fiscal year no later than June 30th 30 of the amount of any capital
9 investment incentive payments made and the proponent of the
10 qualified manufacturing *facility or the qualified research and*
11 *development* facility to whom the payments were made during that
12 fiscal year.

13 (3) The ~~Business, Transportation and Housing Agency~~
14 *Governor's Office of Business and Economic Development* shall
15 compile the information submitted by each county, city and county,
16 and city pursuant to paragraphs (1) and (2) and submit a report to
17 the Legislature containing this information no later than October
18 1, every two years commencing October 1, 2000.

19 (f) *This section is repealed on June 30, 2013.*

20 SEC. 24. Section 51298 is added to the Government Code, to
21 read:

22 51298. *It is the intent of the Legislature in enacting this chapter*
23 *to provide local governments with opportunities to attract large*
24 *manufacturing facilities to invest in their communities and to*
25 *encourage industries, such as high technology, aerospace,*
26 *automotive, biotechnology, software, environmental sources, and*
27 *others, to locate and invest in those facilities in California.*

28 (a) *Commencing in the 1998–99 fiscal year, the governing body*
29 *of a county, city and county, or city, may, by means of an ordinance*
30 *or resolution approved by a majority of its entire membership,*
31 *elect to establish a capital investment incentive program. In any*
32 *county, city and county, or city in which the governing body has*
33 *so elected, the county, city and county, or city shall, upon the*
34 *approval by a majority of the entire membership of its governing*
35 *body of a written request therefor, pay a capital investment*
36 *incentive amount to the proponent of a qualified manufacturing*
37 *facility for up to 15 consecutive fiscal years. A request for the*
38 *payment of capital investment incentive amounts shall be filed by*
39 *a proponent in writing with the governing body of an electing*
40 *county, city and county, or city in the time and manner specified*

1 in procedures adopted by that governing body. In the case in which
2 the governing body of an electing county, city and county, or city
3 approves a request for the payment of capital investment incentive
4 amounts, both of the following conditions shall apply:

5 (1) The consecutive fiscal years during which a capital
6 investment incentive amount is to be paid shall commence with
7 the first fiscal year commencing after the date upon which the
8 qualified manufacturing facility is certified for occupancy or, if
9 no certification is issued, the first fiscal year commencing after
10 the date upon which the qualified manufacturing facility
11 commences operation.

12 (2) In accordance with paragraph (4) of subdivision (d), the
13 annual payment to a proponent of each capital investment incentive
14 amount shall be contingent upon the proponent's payment of a
15 community services fee.

16 (b) For purposes of this section:

17 (1) "Qualified manufacturing facility" means a proposed
18 manufacturing facility that meets all of the following criteria:

19 (A) The proponent's initial investment in that facility, in real
20 and personal property, necessary for the full and normal operation
21 of that facility, made pursuant to the capital investment incentive
22 program, that comprises any portion of that facility or has its situs
23 at that facility, exceeds one hundred fifty million dollars
24 (\$150,000,000). Compliance with this subparagraph shall be
25 certified by the Business, Transportation and Housing Agency
26 upon the agency's approval of a proponent's application for
27 certification of a qualified manufacturing facility. An application
28 for certification shall be submitted by a proponent to the agency
29 in writing in the time and manner as specified by the agency.

30 (B) The facility is to be located within the jurisdiction of the
31 electing county, city and county, or city to which the request is
32 made for payment of capital investment incentive amounts.

33 (C) The facility is operated by any of the following:

34 (i) A business described in Codes 3500 to 3899, inclusive, of
35 the Standard Industrial Classification (SIC) Manual published by
36 the United States Office of Management and Budget, 1987 edition,
37 except that "January 1, 1997," shall be substituted for "January
38 1, 1994," in each place in which it appears.

39 (ii) A business engaged in the recovery of minerals from
40 geothermal resources, including the proportional amount of a

1 *geothermal electric generating plant that is integral to the recovery*
2 *process by providing electricity for it.*

3 *(iii) A business engaged in the manufacturing of parts or*
4 *components related to the production of electricity using solar,*
5 *wind, biomass, hydropower, or geothermal resources on or after*
6 *July 1, 2010.*

7 *(D) The proponent is either currently engaged in commercial*
8 *production or engaged in the perfection of the manufacturing*
9 *process, or the perfection of a product intended to be*
10 *manufactured.*

11 *(2) “Proponent” means a party or parties that meet all of the*
12 *following criteria:*

13 *(A) The party is named in the application to the county, city and*
14 *county, or city within which the qualified manufacturing facility*
15 *would be located for a permit to construct a qualified*
16 *manufacturing facility.*

17 *(B) The party will be the fee owner of the qualified*
18 *manufacturing facility upon the completion of that facility.*
19 *Notwithstanding the previous sentence, the party may enter into*
20 *a sale-leaseback transaction and nevertheless be considered the*
21 *proponent.*

22 *(C) If a proponent that is receiving capital investment incentive*
23 *amounts subsequently leases the subject qualified manufacturing*
24 *facility to another party, the lease may provide for the payment to*
25 *that lessee of any portion of a capital investment incentive amount.*
26 *Any lessee receiving any portion of a capital investment incentive*
27 *amount shall also be considered a proponent for the purposes of*
28 *subdivision (d).*

29 *(3) “Capital investment incentive amount” means, with respect*
30 *to a qualified manufacturing facility for a relevant fiscal year, an*
31 *amount up to or equal to the amount of ad valorem property tax*
32 *revenue derived by the participating local agency from the taxation*
33 *of that portion of the total assessed value of that real and personal*
34 *property described in subparagraph (A) of paragraph (1) that is*
35 *in excess of one hundred fifty million dollars (\$150,000,000).*

36 *(4) “Manufacturing” means the activity of converting or*
37 *conditioning property by changing the form, composition, quality,*
38 *or character of the property for ultimate sale at retail or use in*
39 *the manufacturing of a product to be ultimately sold at retail.*
40 *Manufacturing includes any improvements to tangible personal*

1 *property that result in a greater service life or greater functionality*
2 *than that of the original property.*

3 *(c) A city or special district may, upon the approval by a*
4 *majority of the entire membership of its governing body, pay to*
5 *the county, city and county, or city an amount equal to the amount*
6 *of ad valorem property tax revenue allocated to that city or special*
7 *district, but not the actual allocation, derived from the taxation of*
8 *that portion of the total assessed value of that real and personal*
9 *property described in subparagraph (A) of paragraph (1) of*
10 *subdivision (b) that is in excess of one hundred fifty million dollars*
11 *(\$150,000,000).*

12 *(d) A proponent whose request for the payment of capital*
13 *investment incentive amounts is approved by an electing county,*
14 *city and county, or city shall enter into a community services*
15 *agreement with that county, city and county, or city that includes,*
16 *but is not limited to, all of the following provisions:*

17 *(1) A provision requiring that a community services fee be*
18 *remitted by the proponent to the county, city and county, or city,*
19 *in each fiscal year subject to the agreement, in an amount that is*
20 *equal to 25 percent of the capital investment incentive amount*
21 *calculated for that proponent for that fiscal year, except that in*
22 *no fiscal year shall the amount of the community services fee*
23 *exceed two million dollars (\$2,000,000).*

24 *(2) A provision specifying the dates in each relevant fiscal year*
25 *upon which payment of the community services fee is due and*
26 *delinquent, and the rate of interest to be charged to a proponent*
27 *for any delinquent portion of the community services fee amount.*

28 *(3) A provision specifying the procedures and rules for the*
29 *determination of underpayments or overpayments of a community*
30 *services fee, for the appeal of determinations of any underpayment,*
31 *and for the refunding or crediting of any overpayment.*

32 *(4) A provision specifying that a proponent is ineligible to*
33 *receive a capital investment incentive amount if that proponent is*
34 *currently delinquent in the payment of any portion of a community*
35 *services fee amount, if the qualified manufacturing facility is*
36 *constructed in a manner materially different from the facility as*
37 *described in building permit application materials, or if the facility*
38 *is no longer operated as a qualified manufacturing facility meeting*
39 *the requirements of paragraph (1) of subdivision (b). If a proponent*
40 *becomes ineligible to receive a capital investment incentive amount*

1 as a result of an agreement provision included pursuant to this
2 subparagraph, the running of the number of consecutive fiscal
3 years specified in an agreement made pursuant to subdivision (a)
4 is not tolled during the period in which the proponent is ineligible.

5 (5) A provision that sets forth a job creation plan with respect
6 to the relevant qualified manufacturing facility. The plan shall
7 specify the number of jobs to be created by that facility, and the
8 types of jobs and compensation ranges to be created thereby. The
9 plan shall also specify that for the entire term of the community
10 services agreement, both of the following shall apply:

11 (A) All of the employees working at the qualified manufacturing
12 facility shall be covered by an employer-sponsored health benefits
13 plan.

14 (B) The average weekly wage, exclusive of overtime, paid to all
15 of the employees working at the qualified manufacturing facility,
16 who are not management or supervisory employees, shall be not
17 less than the state average weekly wage.

18 For the purpose of this subdivision, "state average weekly wage"
19 means the average weekly wage paid by employers to employees
20 covered by unemployment insurance, as reported to the
21 Employment Development Department for the four calendar
22 quarters ending June 30 of the preceding calendar year.

23 (6) (A) In the case in which the proponent fails to operate the
24 qualified manufacturing facility as required by the community
25 services agreement, a provision that requires the recapture of any
26 portion of any capital investment incentive amounts previously
27 paid to the proponent equal to the lesser of the following:

28 (i) All of the capital investment incentive amounts paid to the
29 proponent, less all of the community services fees received from
30 the proponent, and less any capital investment incentive amounts
31 previously recaptured.

32 (ii) The last capital investment incentive amount paid to the
33 proponent, less the last community services fee received from the
34 proponent, multiplied by 40 percent of the number of years
35 remaining in the community services agreement, but not to exceed
36 10 years, and less any capital investment incentive amounts
37 previously recaptured.

38 (B) If the proponent fails to operate the qualified manufacturing
39 facility as required by the community services agreement, the
40 county, city and county, or city may, upon a finding that good

1 cause exists, waive any portion of the recapture of any capital
2 investment incentive amount due under this subdivision. For the
3 purpose of this subdivision, good cause includes, but is not limited
4 to, the following:

5 (i) The proponent has sold or leased the property to a person
6 who has entered into an agreement with the county, city and
7 county, or city to assume all of the responsibilities of the proponent
8 under the community services agreement.

9 (ii) The qualified manufacturing facility has been rendered
10 inoperable and beyond repair as a result of an act of God.

11 (C) For purposes of this subdivision, failure to operate a
12 qualified manufacturing facility as required by the community
13 services agreement includes, but is not limited to, failure to
14 establish the number of jobs specified in the jobs creation plan
15 created pursuant to paragraph (5).

16 (e) (1) Each county, city and county, or city that elects to
17 establish a capital investment incentive program shall notify the
18 Business, Transportation and Housing Agency of its election to
19 do so no later than June 30th of the fiscal year in which the election
20 was made.

21 (2) In addition to the information required to be reported
22 pursuant to paragraph (1), each county, city and county, or city
23 that has elected to establish a capital investment incentive program
24 shall notify the Business, Transportation and Housing Agency
25 each fiscal year no later than June 30th of the amount of any
26 capital investment incentive payments made and the proponent of
27 the qualified manufacturing facility to whom the payments were
28 made during that fiscal year.

29 (3) The Business, Transportation and Housing Agency shall
30 compile the information submitted by each county, city and county,
31 and city pursuant to paragraphs (1) and (2) and submit a report
32 to the Legislature containing this information no later than October
33 1, every two years commencing October 1, 2000.

34 (f) This section shall become operative on July 1, 2013.

35 SEC. 25. Section 76104.7 of the Government Code is amended
36 to read:

37 76104.7. (a) Except as otherwise provided in this section, in
38 addition to the penalty levied pursuant to Section 76104.6, there
39 shall be levied an additional state-only penalty of ~~three~~ four dollars
40 (~~\$3~~) (\$4) for every ten dollars (\$10), or part of ten dollars (\$10),

1 in each county upon every fine, penalty, or forfeiture imposed and
2 collected by the courts for all criminal offenses, including all
3 offenses involving a violation of the Vehicle Code or any local
4 ordinance adopted pursuant to the Vehicle Code.

5 (b) This additional penalty shall be collected together with, and
6 in the same manner as, the amounts established by Section 1464
7 of the Penal Code. These moneys shall be taken from fines and
8 forfeitures deposited with the county treasurer prior to any division
9 pursuant to Section 1463 of the Penal Code. These funds shall be
10 deposited into the county treasury DNA Identification Fund. One
11 hundred percent of these funds, including any interest earned
12 thereon, shall be transferred to the state Controller at the same time
13 that moneys are transferred pursuant to paragraph (2) of subdivision
14 (b) of Section 76104.6, for deposit into the state's DNA
15 Identification Fund. These funds shall be used to fund the
16 operations of the Department of Justice forensic laboratories,
17 including the operation of the DNA Fingerprint, Unsolved Crime
18 and Innocence Protection Act, and to facilitate compliance with
19 the requirements of subdivision (e) of Section 299.5 of the Penal
20 Code.

21 (c) This additional penalty does not apply to the following:

22 (1) Any restitution fine.

23 (2) Any penalty authorized by Section 1464 of the Penal Code
24 or this chapter.

25 (3) Any parking offense subject to Article 3 (commencing with
26 Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

27 (4) The state surcharge authorized by Section 1465.7 of the
28 Penal Code.

29 (d) The fees collected pursuant to this section shall not be subject
30 to subdivision (e) of Section 1203.1d of the Penal Code, but shall
31 be disbursed under paragraph (3) of subdivision (b) of Section
32 1203.1d of the Penal Code.

33 *SEC. 26. Section 11873 of the Insurance Code is amended to*
34 *read:*

35 11873. (a) Except as provided by subdivision (b), the fund
36 shall not be subject to the provisions of the Government Code
37 made applicable to state agencies generally or collectively, unless
38 the section specifically names the fund as an agency to which the
39 provision applies.

(b) The fund shall be subject to the provisions of Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1 of, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of, Chapter 6.5 (commencing with Section 8543) of Division 1 of Title 2 of, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, the Government Code, and Division 5 (commencing with Section 18000) of Title 2 of the Government Code, with the exception of all of the following provisions of that division:

(1) Article 1 (commencing with Section 19820) and Article 2 (commencing with Section 19823) of Chapter 2 of Part 2.6 of Division 5.

(2) Sections 19849.2, 19849.3, 19849.4, and 19849.5.

(3) Chapter 4.5 (commencing with Section 19993.1) of Part 2.6 of Division 5.

~~(c) Notwithstanding~~ *Except as provided in subdivisions (d) and (e) for the period from July 1, 2012, to June 30, 2013, inclusive, and notwithstanding any provision of the Government Code or any other provision of law, the positions funded by the State Compensation Insurance Fund are exempt from any hiring freezes and staff cutbacks otherwise required by law. This subdivision is declaratory of existing law.*

(d) Notwithstanding any other law, employees of the fund shall, without limitation, be subject to any and all reductions in state employee compensation imposed by the Legislature on other state employees for the period from July 1, 2012, to June 30, 2013, inclusive, regardless of the means adopted to effect those reductions.

(e) With the exception of the reductions authorized in subdivision (d), if any provision of this section, or any practice or procedure adopted pursuant to this section, is in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 27. Section 62.9 of the Labor Code is amended to read:

62.9. (a) (1) The director shall levy and collect assessments from employers in accordance with this section. The total amount of the assessment collected shall be the amount determined by the director to be necessary to produce the revenue sufficient to fund the programs specified by Section 62.7, except that the amount assessed in any year for those purposes shall not exceed 50 percent of the amounts appropriated from the General Fund for the support of the occupational safety and health program for the 1993–94 fiscal year, adjusted for inflation. The director also shall include in the total assessment amount the department's costs for administering the assessment, including the collections process and the cost of reimbursing the ~~Franchise Tax Board~~ *Employment Development Department* or another agency or department for its cost of collection activities pursuant to subdivision (c).

(2) The insured employers and private sector self-insured employers that, pursuant to subdivision (b), are subject to assessment shall be assessed, respectively, on the basis of their annual payroll subject to premium charges or their annual payroll that would be subject to premium charges if the employer were insured, as follows:

(A) An employer with a payroll of less than two hundred fifty thousand dollars (\$250,000) shall be assessed one hundred dollars (\$100).

(B) An employer with a payroll of two hundred fifty thousand dollars (\$250,000) or more, but not more than five hundred thousand dollars (\$500,000), shall be assessed two hundred dollars (\$200).

(C) An employer with a payroll of more than five hundred thousand dollars (\$500,000), but not more than seven hundred fifty thousand dollars (\$750,000), shall be assessed four hundred dollars (\$400).

(D) An employer with a payroll of more than seven hundred fifty thousand dollars (\$750,000), but not more than one million dollars (\$1,000,000), shall be assessed six hundred dollars (\$600).

(E) An employer with a payroll of more than one million dollars (\$1,000,000), but not more than one million five hundred thousand dollars (\$1,500,000), shall be assessed eight hundred dollars (\$800).

(F) An employer with a payroll of more than one million five hundred thousand dollars (\$1,500,000), but not more than two

1 million dollars (\$2,000,000), shall be assessed one thousand dollars
2 (\$1,000).

3 (G) An employer with a payroll of more than two million dollars
4 (\$2,000,000), but not more than two million five hundred thousand
5 dollars (\$2,500,000), shall be assessed one thousand five hundred
6 dollars (\$1,500).

7 (H) An employer with a payroll of more than two million five
8 hundred thousand dollars (\$2,500,000), but not more than three
9 million five hundred thousand dollars (\$3,500,000), shall be
10 assessed two thousand dollars (\$2,000).

11 (I) An employer with a payroll of more than three million five
12 hundred thousand dollars (\$3,500,000), but not more than four
13 million five hundred thousand dollars (\$4,500,000), shall be
14 assessed two thousand five hundred dollars (\$2,500).

15 (J) An employer with a payroll of more than four million five
16 hundred thousand dollars (\$4,500,000), but not more than five
17 million five hundred thousand dollars (\$5,500,000), shall be
18 assessed three thousand dollars (\$3,000).

19 (K) An employer with a payroll of more than five million five
20 hundred thousand dollars (\$5,500,000), but not more than seven
21 million dollars (\$7,000,000), shall be assessed three thousand five
22 hundred dollars (\$3,500).

23 (L) An employer with a payroll of more than seven million
24 dollars (\$7,000,000), but not more than twenty million dollars
25 (\$20,000,000), shall be assessed six thousand seven hundred dollars
26 (\$6,700).

27 (M) An employer with a payroll of more than twenty million
28 dollars (\$20,000,000) shall be assessed ten thousand dollars
29 (\$10,000).

30 (b) (1) In the manner as specified by this section, the director
31 shall identify those insured employers having a workers'
32 compensation experience modification rating of 1.25 or more, and
33 private sector self-insured employers having an equivalent
34 experience modification rating of 1.25 or more as determined
35 pursuant to subdivision (e).

36 (2) The assessment required by this section shall be levied
37 annually, on a calendar year basis, on those insured employers and
38 private sector self-insured employers, as identified pursuant to
39 paragraph (1), having the highest workers' compensation
40 experience modification ratings or equivalent experience

1 modification ratings, that the director determines to be required
2 numerically to produce the total amount of the assessment to be
3 collected pursuant to subdivision (a).

4 (c) The director shall collect the assessment from insured
5 employers as follows:

6 (1) Upon the request of the director, the Department of Insurance
7 shall direct the licensed rating organization designated as the
8 department's statistical agent to provide to the director, for
9 purposes of subdivision (b), a list of all insured employers having
10 a workers' compensation experience rating modification of 1.25
11 or more, according to the organization's records at the time the
12 list is requested, for policies commencing the year preceding the
13 year in which the assessment is to be collected.

14 (2) The director shall determine the annual payroll of each
15 insured employer subject to assessment from the payroll that was
16 reported to the licensed rating organization identified in paragraph
17 (1) for the most recent period for which one full year of payroll
18 information is available for all insured employers.

19 (3) On or before September 1 of each year, the director shall
20 determine each of the current insured employers subject to
21 assessment, and the amount of the total assessment for which each
22 insured employer is liable. The director immediately shall notify
23 each insured employer, in a format chosen by the insurer, of the
24 insured's obligation to submit payment of the assessment to the
25 director within 30 days after the date the billing was mailed, and
26 warn the insured of the penalties for failure to make timely and
27 full payment as provided by this subdivision.

28 (4) The director shall identify any insured employers that, within
29 30 days after the mailing of the billing notice, fail to pay, or object
30 to, their assessments. The director shall mail to each of these
31 employers a notice of delinquency and a notice of the intention to
32 assess penalties, advising that, if the assessment is not paid in full
33 within 15 days after the mailing of the notices, the director will
34 levy against the employer a penalty equal to 25 percent of the
35 employer's assessment, and will refer the assessment and penalty
36 ~~to the Franchise Tax Board or~~ another agency or department for
37 collection. The notices required by this paragraph shall be sent by
38 United States first-class mail.

39 (5) If an assessment is not paid by an insured employer within
40 15 days after the mailing of the notices required by paragraph (4),

1 the director shall refer the delinquent assessment and the penalty
2 to the ~~Franchise Tax Board~~ *Employment Development Department*,
3 or another agency or department, as deemed appropriate by the
4 director, for collection pursuant to ~~Section 19290.1 of the Revenue~~
5 ~~and Taxation Code, or~~ Section 1900 of the Unemployment
6 Insurance Code.

7 (d) The director shall collect the assessment directly from private
8 sector self-insured employers. The failure of any private sector
9 self-insured employer to pay the assessment as billed constitutes
10 grounds for the suspension or termination of the employer's
11 certificate to self-insure.

12 (e) The director shall adopt regulations implementing this section
13 that include provision for a method of determining experience
14 modification ratings for private sector self-insured employers that
15 is generally equivalent to the modification ratings that apply to
16 insured employers and is weighted by both severity and frequency.

17 (f) The director shall determine whether the amount collected
18 pursuant to any assessment exceeds expenditures, as described in
19 subdivision (a), for the current year and shall credit the amount of
20 any excess to any deficiency in the prior year's assessment or, if
21 there is no deficiency, against the assessment for the subsequent
22 year.

23 *SEC. 28. Section 972.1 of the Military and Veterans Code, as*
24 *amended by Section 1 of Chapter 183 of the Statutes of 2009, is*
25 *amended to read:*

26 972.1. (a) The sum of five hundred thousand dollars (\$500,000)
27 is hereby appropriated from the General Fund to the Department
28 of Veterans Affairs for allocation, during the 1989–90 fiscal year,
29 for purposes of funding the activities of county ~~veteran~~ *veterans*
30 ~~service-officers~~ *offices* pursuant to this section. Funds for allocation
31 in future years shall be as provided in the annual Budget Act.

32 (b) Funds shall be disbursed each fiscal year on a pro rata basis
33 to counties that have established and maintain a county ~~veteran~~
34 ~~veterans service-officer~~ *office* in accordance with the staffing level
35 and workload of each county ~~veteran~~ *veterans service-officer* *office*
36 under a formula based upon performance that shall be developed
37 by the Department of Veterans Affairs for these purposes.

38 (1) *For the purposes of this section, "workload unit" means a*
39 *specific claim activity that is used to allocate subvention funds to*

1 counties, which is approved by the department, and performed by
2 county veterans service offices.

3 (2) For the purposes of this subdivision, the department, by
4 June 30, 2013, shall develop a performance-based formula that
5 will incentivize county veterans service offices to perform workload
6 units that help veterans access federal compensation and pension
7 benefits and other benefits, in order to maximize the amount of
8 federal money received by California veterans.

9 (c) The department shall annually determine the amount of new
10 or increased monetary benefits paid to eligible veterans by the
11 federal government attributable to the assistance of county ~~veteran~~
12 ~~veterans service officers offices~~. The department shall, on or before
13 January 1 of each year, prepare and transmit its determination for
14 the preceding fiscal year to the Department of Finance and the
15 Legislature. The Department of Finance shall review the
16 department's determination in time to use the information in the
17 annual Budget Act for the budget of the department for the next
18 fiscal year.

19 (d) The department shall conduct a review of the
20 high-performing and low-performing county veterans service
21 offices and based on this review, shall produce a best-practices
22 manual for county veterans service offices by June 30, 2013.

23 (d)

24 (e) (1) The Legislature finds and declares that 50 percent of
25 the amount annually budgeted for county ~~veteran~~ veterans service
26 ~~officers offices~~ is approximately eleven million dollars
27 (\$11,000,000). The Legislature further finds and declares that it
28 is an efficient and reasonable use of state funds to increase the
29 annual budget for county ~~veteran~~ veterans service ~~officers offices~~
30 in an amount not to exceed eleven million dollars (\$11,000,000)
31 if it is justified by the monetary benefits to the state's veterans
32 attributable to the effort of these ~~officers offices~~.

33 (2) It is the intent of the Legislature, after reviewing the
34 department's determination in subdivision (c), to consider an
35 increase in the annual budget for county ~~veteran~~ veterans service
36 ~~officers offices~~ in an amount not to exceed five million dollars
37 (\$5,000,000), if the monetary benefits to the state's veterans
38 attributable to the assistance of county ~~veteran~~ veterans service
39 ~~officers offices~~ justify that increase in the budget.

40 (e)

1 (f) This section shall remain in effect only until January 1, 2016,
2 and as of that date is repealed.

3 SEC. 29. Section 6611 of the Public Contract Code is amended
4 to read:

5 6611. (a) Notwithstanding any other provision of law, the
6 Department of General Services may, relative to contracts for
7 goods, services, information technology, and telecommunications,
8 use a negotiation process if the department finds that one or more
9 of the following conditions exist:

10 (1) The business need or purpose of a procurement or contract
11 can be further defined as a result of a negotiation process.

12 (2) The business need or purpose of a procurement or contract
13 is known by the department, but a negotiation process may identify
14 different types of solutions to fulfill this business need or purpose.

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

18 (4) The business need or purpose of a procurement or contract
19 is known by the department, but negotiation is necessary to ensure
20 that the department is receiving the best value or the most
21 cost-efficient goods, services, information technology, and
22 telecommunications.

23 (b) When it is in the best interests of the state, the department
24 may negotiate amendments to the terms and conditions, including
25 scope of work, of existing contracts for goods, services, information
26 technology, and telecommunications, whether or not the original
27 contract was the result of competition, on behalf of itself or another
28 state agency.

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

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

(d) An unsuccessful bidder shall have no right to protest the results of the negotiating process undertaken pursuant to this section. As a remedy, an unsuccessful bidder may file a petition for a writ of mandate in accordance with Section 1085 of the Code of Civil Procedure. The venue for the petition for a writ of mandate shall be Sacramento, California. An action filed pursuant to this subdivision shall be given preference by the court.

(e) (1) *The California Technology Agency may utilize the negotiation process described in subdivisions (a) and (b) for the purpose of procuring information technology and telecommunications goods and services on behalf of state departments and information technology projects.*

(2) *Nothing in this section shall be interpreted to supersede the department's existing statutory control over procurement processes as dictated in Section 12100.*

(f) *On or before January 1, 2013, and annually thereafter, the California Technology Agency and the Department of General Services shall report to the relevant budget subcommittees of each house of the Legislature on the use of subdivision (e) during budget hearings.*

(g) *Subdivisions (e) and (f) shall remain in effect only until January 1, 2018, unless an enacted statute deletes or extends that date. Procurements still in the negotiation process pursuant to subdivision (e) on January 1, 2018, shall complete negotiations using that process.*

SEC. 30. *Section 8352.3 of the Revenue and Taxation Code is amended to read:*

8352.3. (a) *Subject to Sections 8352 and 8352.1, and except as otherwise provided in subdivision (b), all moneys deposited to the credit of the Motor Vehicle Fuel Account attributable to the distribution of motor vehicle fuel for use or used in propelling an aircraft in the state shall be transferred to the Aeronautics Account in the State Transportation Fund, for allocation as follows:*

~~(a) To pay the refunds authorized by Section 8101.5.~~

~~(b)~~

(1) *To pay the pro rata cost of the Controller and the board under subdivisions (b), (c), and (d) of Section 8352.1.*

~~(c)~~

(2) To pay for the support of the Department of Transportation, for the administration of the State Aeronautics Act (Division 9 (commencing with Section 21001) of the Public Utilities Code).

(d)

(3) Remaining balance to be available for expenditures in accordance with ~~Sections~~ Section 21602; and ~~21682 to 21684, inclusive~~, Article 4 (commencing with Section 21680) of Chapter 4 of Part 1 of Division 9 of the Public Utilities Code.

(b) Commencing July 1, 2012, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 and otherwise to be deposited in the Aeronautics Account pursuant to subdivision (a) shall instead be transferred to the General Fund. The revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 that were deposited in the Aeronautics Account in the 2010–11 and 2011–12 fiscal years shall be transferred to the General Fund.

SEC. 31. Section 8352.4 of the Revenue and Taxation Code is amended to read:

8352.4. (a) Subject to Sections 8352 and 8352.1, and except as otherwise provided in subdivision (b), there shall be transferred from the money deposited to the credit of the Motor Vehicle Fuel Account to the Harbors and Watercraft Revolving Fund, for expenditure in accordance with Division 1 (commencing with Section 30) of the Harbors and Navigation Code, the sum of six million six hundred thousand dollars (\$6,600,000) per annum, representing the amount of money in the Motor Vehicle Fuel Account attributable to taxes imposed on distributions of motor vehicle fuel used or usable in propelling vessels. The actual amount shall be calculated using the annual reports of registered boats prepared by the Department of Motor Vehicles for the United States Coast Guard and the formula and method of the December 1972 report prepared for this purpose and submitted to the Legislature on December 26, 1972, by the Director of Transportation. If the amount transferred during each fiscal year is in excess of the calculated amount, the excess shall be retransferred from the Harbors and Watercraft Revolving Fund to the Motor Vehicle Fuel Account. If the amount transferred is less than the amount calculated, the difference shall be transferred from the Motor Vehicle Fuel Account to the Harbors and Watercraft

1 Revolving Fund. No adjustment shall be made if the computed
2 difference is less than fifty thousand dollars (\$50,000), and the
3 amount shall be adjusted to reflect any temporary or permanent
4 increase or decrease that may be made in the rate under the Motor
5 Vehicle Fuel Tax Law. Payments pursuant to this section shall be
6 made prior to payments pursuant to Section 8352.2.

7 *(b) Commencing July 1, 2012, the revenues attributable to the*
8 *taxes imposed pursuant to subdivision (b) of Section 7360 and*
9 *Section 7361.1 and otherwise to be deposited in the Harbors and*
10 *Watercraft Revolving Fund pursuant to subdivision (a) shall*
11 *instead be transferred to the General Fund. The revenues*
12 *attributable to the taxes imposed pursuant to subdivision (b) of*
13 *Section 7360 and Section 7361.1 that were deposited in the*
14 *Harbors and Watercraft Revolving Fund in the 2010–11 and*
15 *2011–12 fiscal years shall be transferred to the General Fund.*

16 ~~When~~

17 *(c) When* deemed necessary by the Department of Transportation
18 and the Department of Boating and Waterways, the Department
19 of Transportation, after consultation with the Department of
20 Boating and Waterways, shall prepare, or cause to be prepared, an
21 updated report setting forth the current estimate of the amount of
22 money credited to the Motor Vehicle Fuel Account attributable to
23 taxes imposed on distributions of motor vehicle fuel used or usable
24 in propelling vessels. The Department of Transportation shall
25 submit the report to the Legislature upon its completion.

26 *SEC. 32. Section 8352.5 of the Revenue and Taxation Code is*
27 *amended to read:*

28 8352.5. *(a) (1) Subject to Sections 8352 and 8352.1, and*
29 *except as otherwise provided in subdivision (b), there shall be*
30 *transferred from the money deposited to the credit of the Motor*
31 *Vehicle Fuel Account to the Department of Food and Agriculture*
32 *Fund, during the second quarter of each fiscal year, an amount*
33 *equal to the estimate contained in the most recent report prepared*
34 *pursuant to this section.*

35 ~~The~~

36 *(2) The* amounts are not subject to Section 6357 with respect to
37 the collection of sales and use taxes thereon, and represent the
38 portion of receipts in the Motor Vehicle Fuel Account during a
39 calendar year that were attributable to agricultural off-highway
40 use of motor vehicle fuel which is subject to refund pursuant to

1 Section 8101, less gross refunds allowed by the Controller during
2 the fiscal year ending June 30th following the calendar year to
3 persons entitled to refunds for agricultural off-highway use
4 pursuant to Section 8101. Payments pursuant to this section shall
5 be made prior to payments pursuant to Section 8352.2.

6 *(b) Commencing July 1, 2012, the revenues attributable to the*
7 *taxes imposed pursuant to subdivision (b) of Section 7360 and*
8 *Section 7361.1 and otherwise to be deposited in the Department*
9 *of Food and Agriculture Fund pursuant to subdivision (a) shall*
10 *instead be transferred to the General Fund. The revenues*
11 *attributable to the taxes imposed pursuant to subdivision (b) of*
12 *Section 7360 and Section 7361.1 that were deposited in the*
13 *Department of Food and Agriculture Fund in the 2010–11 and*
14 *2011–12 fiscal years shall be transferred to the General Fund.*

15 ~~On~~

16 *(c) On or before September 30, 2012, and on or before*
17 *September 30th 30 of each ~~odd-numbered~~ even-numbered year*
18 *thereafter, the Director of Transportation and the Director of Food*
19 *and Agriculture shall jointly prepare, or cause to be prepared, a*
20 *report setting forth the current estimate of the amount of money*
21 *in the Motor Vehicle Fuel Account attributable to agricultural*
22 *off-highway use of motor vehicle fuel, which is subject to refund*
23 *pursuant to Section 8101 less gross refunds allowed by the*
24 *Controller to persons entitled to refunds for agricultural*
25 *off-highway use pursuant to Section 8101; and they shall submit*
26 *a copy of the report to the Legislature.*

27 *SEC. 33. Section 8352.6 of the Revenue and Taxation Code is*
28 *amended to read:*

29 8352.6. (a) (1) Subject to Section 8352.1, *and except as*
30 *otherwise provided in paragraphs (2) and (3), on the first day of*
31 *every month, there shall be transferred from moneys deposited to*
32 *the credit of the Motor Vehicle Fuel Account to the Off-Highway*
33 *Vehicle Trust Fund created by Section 38225 of the Vehicle Code*
34 *an amount attributable to taxes imposed upon distributions of motor*
35 *vehicle fuel used in the operation of motor vehicles off highway*
36 *and for which a refund has not been claimed. Transfers made*
37 *pursuant to this section shall be made prior to transfers pursuant*
38 *to Section 8352.2.*

39 *(2) Commencing July 1, 2012, the revenues attributable to the*
40 *taxes imposed pursuant to subdivision (b) of Section 7360 and*

1 Section 7361.1 and otherwise to be deposited in the Off-Highway
2 Vehicle Trust Fund pursuant to paragraph (1) shall instead be
3 transferred to the General Fund. The revenues attributable to the
4 taxes imposed pursuant to subdivision (b) of Section 7360 and
5 Section 7361.1 that were deposited in the Off-Highway Vehicle
6 Trust Fund in the 2010–11 and 2011–12 fiscal years shall be
7 transferred to the General Fund.

8 (2)

9 (3) The Controller shall withhold eight hundred thirty-three
10 thousand dollars (\$833,000) from ~~this~~ the monthly transfer to the
11 Off-Highway Vehicle Trust Fund pursuant to paragraph (1), and
12 transfer that amount to the General Fund.

13 (b) The amount transferred to the Off-Highway Vehicle Trust
14 Fund pursuant to paragraph (1) of subdivision (a), as a percentage
15 of the Motor Vehicle Fuel Account, shall be equal to the percentage
16 transferred in the 2006–07 fiscal year. Every five years, starting
17 in the 2013–14 fiscal year, the percentage transferred may be
18 adjusted by the Department of Transportation in cooperation with
19 the Department of Parks and Recreation and the Department of
20 Motor Vehicles. Adjustments shall be based on, but not limited
21 to, the changes in the following factors since the 2006–07 fiscal
22 year or the last adjustment, whichever is more recent:

23 (1) The number of vehicles registered as off-highway motor
24 vehicles as required by Division 16.5 (commencing with Section
25 38000) of the Vehicle Code.

26 (2) The number of registered street-legal vehicles that are
27 anticipated to be used off highway, including four-wheel drive
28 vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

29 (3) Attendance at the state vehicular recreation areas.

30 (4) Off-highway recreation use on federal lands as indicated by
31 the United States Forest Service’s National Visitor Use Monitoring
32 and the United States Bureau of Land Management’s Recreation
33 Management Information System.

34 (c) It is the intent of the Legislature that transfers from the Motor
35 Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund
36 should reflect the full range of motorized vehicle use off highway
37 for both motorized recreation and motorized off-road access to
38 other recreation opportunities. Therefore, the Legislature finds that
39 the fuel tax baseline established in subdivision (b), attributable to
40 off-highway estimates of use as of the 2006–07 fiscal year,

accounts for the three categories of vehicles that have been found over the years to be users of fuel for off-highway motorized recreation or motorized access to nonmotorized recreational pursuits. These three categories are registered off-highway motorized vehicles, registered street-legal motorized vehicles used off highway, and unregistered off-highway motorized vehicles.

(d) It is the intent of the Legislature that the off-highway motor vehicle recreational use to be determined by the Department of Transportation pursuant to paragraph (2) of subdivision (b) be that usage by vehicles subject to registration under Division 3 (commencing with Section 4000) of the Vehicle Code, for recreation or the pursuit of recreation on surfaces where the use of vehicles registered under Division 16.5 (commencing with Section 38000) of the Vehicle Code may occur.

SEC. 34. Article 6 (commencing with Section 19290) of Chapter 5 of Part 10.2 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 35. Section 19533 of the Revenue and Taxation Code is amended to read:

19533. (a) In the event the debtor has more than one debt being collected by the Franchise Tax Board and the amount collected by the Franchise Tax Board is insufficient to satisfy the total amount owing, the amount collected shall be applied in the following priority:

(a)

(1) Payment of any delinquencies transferred for collection under Article 5 (commencing with Section 19270) of Chapter 5.

(b)

(2) Payment of any taxes, additions to tax, penalties, interest, fees, or other amounts due and payable under Part 7.5 (commencing with Section 13201), Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part, and amounts authorized to be collected under Section 19722.

~~(c) Payment of delinquent wages collected pursuant to the Labor Code.~~

~~(d)~~

(3) Payment of delinquencies collected under Section 10878.

~~(e)~~

(4) Payment of any amounts due that are referred for collection under Article 5.5 (commencing with Section 19280) of Chapter 5.

~~(f) Payment of any amounts that are referred for collection pursuant to Section 62.9 of the Labor Code.~~

~~(g) Payment of delinquent penalties collected for the Department of Industrial Relations pursuant to the Labor Code.~~

~~(h) Payment of delinquent fees collected for the Department of Industrial Relations pursuant to the Labor Code.~~

~~(i) Payment of delinquencies referred by the Student Aid Commission.~~

~~(j)~~

(5) Payment of any delinquencies referred for collection under Article 7 (commencing with Section 19291) of Chapter 5.

~~(k)~~

(b) Notwithstanding the payment priority established by this section, voluntary payments designated by the taxpayer as payment for a personal income tax liability or as a payment on amounts authorized to be collected under Section 19722, shall not be applied pursuant to this priority, but shall instead be applied as designated.

SEC. 36. Item 7300-001-0001 of Section 2.00 of the Budget Act of 2012 is amended to read:

7300-001-0001—For support of Agricultural Labor Relations		
Board.....		4,904,000
Schedule:		
(1) 10-Board Administration.....	2,138,000	
	1,938,000	
(2) 20-General Counsel Administration.....	2,766,000	
	2,966,000	
(3) 30.01-Administration Services.....	275,000	
(4) 30.02-Distributed Administration Ser-		
vices.....	-275,000	

SEC. 37. Section 36 of this act shall become operative only if Assembly Bill 1464 or Senate Bill 1004 of the 2011–12 Regular Session is enacted as the Budget Act of 2012, and Assembly Bill 1497 or Senate Bill 1037 of the 2011–12 Regular Session are enacted and amend the Budget Act of 2012.

1 *SEC. 38. The sum of one thousand dollars (\$1,000) is hereby*
2 *appropriated from the General Fund to the Department of Finance*
3 *to implement this bill.*

4 *SEC. 39. This act is a bill providing for appropriations related*
5 *to the Budget Bill within the meaning of subdivision (e) of Section*
6 *12 of Article IV of the California Constitution, has been identified*
7 *as related to the budget in the Budget Bill, and shall take effect*
8 *immediately.*

9
10
11 **All matter omitted in this version of the bill**
12 **appears in the bill as amended in the**
13 **Senate, June 13, 2012. (JR11)**
14