

AMENDED IN SENATE JUNE 25, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1498

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 relating to the Budget Act of 2012.—An act to amend Section 19604 of the Business and Professions Code, Section 318 of the Corporations Code, to amend Section 57031 of the Food and Agriculture Code, to amend Sections 3502.5, 3507.1, 3507.3, 3513, 3527, 3541.3, 3563, 8240, 8241, 8245, 10210, 11139.5, 11532, 11538, 11540, 11544, 12804, 12901, 12903, 12904, 12905, 12906, 12925, 12930, 12935, 12944, 12946, 12947.5, 12950, 12950.1, 12961, 12963.5, 12964, 12965, 12966, 12973, 12974, 12975, 12980, 12981, 12981.1, 12983, 12985, 12988, 12989.1, 12989.2, 12990, 19704, 19815, 50085.5, 71632.5, 71636.1, 71636.3, and 71637 of, to add Section 12907 to, to add Division 4.5 (commencing with Section 3600) to Title 1 of, add Article 3 (commencing with Section 10270) to Chapter 1 of Part 2 of Division 2 of Title 2 of, to repeal Sections 11535, 11536, 11537, 11543, 12967, 12968, 12969, 12970, 12972, 12987, 12987.1, and 12989 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, 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, 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, 6409.1, 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 422.92, 13519, 13776, 13777.2, and 13836.1 of the Penal 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 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 government, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 1498, as amended, Committee on Budget. ~~Budget Act of 2012.~~
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) 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.

(3) 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.

(4) 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.

(5) 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 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. The bill would make these provisions operative on January 1, 2013.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

(10) 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.

(11) 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.

(12) 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.

(13) 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.

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

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.~~

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

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

1 SECTION 1. Section 19604 of the Business and Professions
2 Code is amended to read:

3 19604. The board may authorize any racing association, racing
4 fair, betting system, or multijurisdictional wagering hub to conduct
5 advance deposit wagering in accordance with this section. Racing
6 associations, racing fairs, and their respective horsemen’s
7 organizations may form a partnership, joint venture, or any other
8 affiliation in order to further the purposes of this section.

9 (a) As used in this section, the following definitions apply:

10 (1) “Advance deposit wagering” (ADW) means a form of
11 parimutuel wagering in which a person residing within California
12 or outside of this state establishes an account with an ADW
13 provider, and subsequently issues wagering instructions concerning
14 the funds in this account, thereby authorizing the ADW provider
15 holding the account to place wagers on the account owner’s behalf.

16 (2) “ADW provider” means a licensee, betting system, or
17 multijurisdictional wagering hub, located within California or

1 outside this state, that is authorized to conduct advance deposit
2 wagering pursuant to this section.

3 (3) “Betting system” means a business conducted exclusively
4 in this state that facilitates parimutuel wagering on races it
5 simulcasts and other races it offers in its wagering menu.

6 (4) “Breed of racing” means as follows:

7 (A) With respect to associations and fairs licensed by the board
8 to conduct thoroughbred, fair, or mixed breed race meetings, “breed
9 of racing” shall mean thoroughbred.

10 (B) With respect to associations licensed by the board to conduct
11 quarter horse race meetings, “breed of racing” shall mean quarter
12 horse.

13 (C) With respect to associations and fairs licensed by the board
14 to conduct standardbred race meetings, “breed of racing” shall
15 mean standardbred.

16 (5) “Contractual compensation” means the amount paid to an
17 ADW provider from advance deposit wagers originating in this
18 state. Contractual compensation includes, but is not limited to, hub
19 fee payments, and may include host fee payments, if any, for
20 out-of-state and out-of-country races. Contractual compensation
21 is subject to the following requirements:

22 (A) Excluding contractual compensation for host fee payments,
23 contractual compensation shall not exceed 6.5 percent of the
24 amount wagered.

25 (B) The host fee payments included within contractual
26 compensation shall not exceed 3.5 percent of the amount wagered.
27 Notwithstanding this provision, the host fee payment with respect
28 to wagers on the Kentucky Derby, Preakness Stakes, Belmont
29 Stakes, and selected Breeders’ Cup Championship races may be
30 negotiated by the ADW provider, the racing associations accepting
31 wagers on those races pursuant to Section 19596.2, and the
32 horsemen’s organization.

33 (C) In order to ensure fair and consistent market access fee
34 distributions to associations, fairs, horsemen, and breeders, for
35 each breed of racing, the percentage of wagers paid as contractual
36 compensation to an ADW provider pursuant to the terms of a hub
37 agreement with a racing association or fair when that racing
38 association or fair is conducting live racing shall be the same as
39 the percentage of wagers paid as contractual compensation to that

1 ADW provider when that racing association or fair is not
2 conducting live racing.

3 (6) “Horsemen’s organization” means, with respect to a
4 particular racing meeting, the organization recognized by the board
5 as responsible for negotiating purse agreements on behalf of
6 horsemen participating in that racing meeting.

7 (7) “Hub agreement” means a written agreement providing for
8 contractual compensation paid with respect to advance deposit
9 wagers placed by California residents on a particular breed of
10 racing conducted outside of California. In the event a hub
11 agreement exceeds a term of two years, then an ADW provider,
12 one or more racing associations or fairs that together conduct no
13 fewer than five weeks of live racing for the breed covered by the
14 hub agreement, and the horsemen’s organization responsible for
15 negotiating purse agreements for the breed covered by the hub
16 agreement shall be signatories to the hub agreement. A hub
17 agreement is required for an ADW provider to receive contractual
18 compensation for races conducted outside of California.

19 (8) “Hub agreement arbitration” means an arbitration proceeding
20 pursuant to which the disputed provisions of the hub agreement
21 pertaining to the hub or host fees from wagers on races conducted
22 outside of California provided pursuant to paragraph (2) of
23 subdivision (b) are determined in accordance with the provisions
24 of this paragraph. If a hub agreement arbitration is requested, all
25 of the following shall apply:

26 (A) The ADW provider shall be permitted to accept advance
27 deposit wagers from California residents.

28 (B) The contractual compensation received by the ADW
29 provider shall be the contractual compensation specified in the
30 hub agreement that is the subject of the hub agreement arbitration.

31 (C) The difference between the contractual compensation
32 specified in subparagraph (B) and the contractual compensation
33 determined to be payable at the conclusion of the hub agreement
34 arbitration shall be calculated and paid within 15 days following
35 the arbitrator’s decision and order. The hub agreement arbitration
36 shall be held as promptly as possible, but in no event more than
37 60 days following the demand for that arbitration. The arbitrator
38 shall issue a decision no later than 15 days following the conclusion
39 of the arbitration. A single arbitrator jointly selected by the ADW
40 provider and the party requesting a hub agreement arbitration shall

1 conduct the hub agreement arbitration. However, if the parties
2 cannot agree on the arbitrator within seven days of issuance of the
3 written demand for arbitration, then the arbitrator shall be selected
4 pursuant to the Streamlined Arbitration Rules and Procedures of
5 the Judicial Arbitration and Mediation Services, or pursuant to the
6 applicable rules of its successor organization. In making the hub
7 agreement arbitration determination, the arbitrator shall be required
8 to choose between the contractual compensation of the hub
9 agreement agreed to by the ADW provider or whatever different
10 terms for the hub agreement were proposed by the party requesting
11 the hub agreement arbitration. The arbitrator shall not be permitted
12 to impose new, different, or compromised terms to the hub
13 agreement. The arbitrator's decision shall be final and binding on
14 the parties. If an arbitration is requested, either party may bring
15 an action in state court to compel a party to go into arbitration or
16 to enforce the decision of the arbitrator. The cost of the hub
17 agreement arbitration, including the cost of the arbitrator, shall be
18 borne in equal shares by the parties to the hub agreement and the
19 party or parties requesting a hub agreement arbitration. The hub
20 agreement arbitration shall be administered by the Judicial
21 Arbitration and Mediation Services pursuant to its Streamlined
22 Arbitration Rules and Procedures or its successor organization.

23 (9) "Incentive awards" means those payments provided for in
24 Sections 19617.2, 19617.7, 19617.8, 19617.9, and 19619. The
25 amount determined to be payable for incentive awards under this
26 section shall be payable to the applicable official registering agency
27 and thereafter distributed as provided in this chapter.

28 (10) "Licensee" means any racing association or fair licensed
29 to conduct a live racing meet in this state, or affiliation thereof,
30 authorized under this section.

31 (11) "Market access fee" means the amount of advance deposit
32 wagering handle remaining after the payment of winning wagers,
33 and after the payment of contractual compensation, if any, to an
34 ADW provider. Market access fees shall be distributed in
35 accordance with subdivision (f).

36 (12) "Multijurisdictional wagering hub" means a business
37 conducted in more than one jurisdiction that facilitates parimutuel
38 wagering on races it simulcasts and other races it offers in its
39 wagering menu.

1 (13) “Racing fair” means a fair authorized by the board to
2 conduct live racing.

3 (14) “Zone” means the zone of the state, as defined in Section
4 19530.5, except as modified by the provisions of subdivision (f)
5 of Section 19601. For these purposes, the central and southern
6 zones shall together be considered one zone.

7 (b) Wagers shall be accepted according to the procedures set
8 forth in this subdivision.

9 (1) No ADW provider shall accept wagers or wagering
10 instructions on races conducted in California from a resident of
11 California unless all of the following conditions are met:

12 (A) The ADW provider is licensed by the board.

13 (B) A written agreement allowing those wagers exists with the
14 racing association or fair conducting the races on which the wagers
15 are made.

16 (C) The agreement referenced in subparagraph (B) shall have
17 been approved in writing by the horsemen’s organization
18 responsible for negotiating purse agreements for the breed on
19 which the wagers are made in accordance with the Interstate
20 Horseracing Act (15 U.S.C. Sec. 3001 et seq.), regardless of the
21 location of the ADW provider, whether in California or otherwise,
22 including, without limitation, any and all requirements contained
23 therein with respect to written consents and required written
24 agreements of horsemen’s groups to the terms and conditions of
25 the acceptance of those wagers and any arrangements as to the
26 exclusivity between the host racing association or fair and the
27 ADW provider. For purposes of this subdivision, the substantive
28 provisions of the Interstate Horseracing Act shall be taken into
29 account without regard to whether, by its own terms, that act is
30 applicable to advance deposit wagering on races conducted in
31 California accepted from residents of California.

32 (2) No ADW provider shall accept wagers or wagering
33 instructions on races conducted outside of California from a
34 resident of California unless all of the following conditions are
35 met:

36 (A) The ADW provider is licensed by the board.

37 (B) There is a hub agreement between the ADW provider and
38 one or both of (i) one or more racing associations or fairs that
39 together conduct no fewer than five weeks of live racing on the
40 breed on which wagering is conducted during the calendar year

1 during which the wager is placed, and (ii) the horsemen's
2 organization responsible for negotiating purse agreements for the
3 breed on which wagering is conducted.

4 (C) If the parties referenced in clauses (i) and (ii) of
5 subparagraph (B) are both signatories to the hub agreement, then
6 no party shall have the right to request a hub agreement arbitration.

7 (D) If only the party or parties referenced in clause (i) of
8 subparagraph (B) is a signatory to the hub agreement, then the
9 signatories to the hub agreement shall, within five days of
10 execution of the hub agreement, provide a copy of the hub
11 agreement to the horsemen's organization responsible for
12 negotiating purse agreements for the breed on which wagering is
13 conducted for each race conducted outside of California on which
14 California residents may place advance deposit wagers. Prior to
15 receipt of the hub agreement, the horsemen's organization shall
16 sign a nondisclosure agreement with the ADW provider agreeing
17 to hold confidential all terms of the hub agreement. If the
18 horsemen's organization wants to request a hub agreement
19 arbitration, it shall send written notice of its election to the
20 signatories to the hub agreement within 10 days after receipt of
21 the copy of the hub agreement, and shall provide its alternate
22 proposal to the hub and host fees specified in the hub agreement
23 with that written notice. If the horsemen's organization does not
24 provide that written notice within the 10-day period, then no party
25 shall have the right to request a hub agreement arbitration. If the
26 horsemen's organization does provide that written notice within
27 the 10-day period, then the ADW provider shall have 10 days to
28 elect in writing to do one of the following:

- 29 (i) Abandon the hub agreement.
- 30 (ii) Accept the alternate proposal submitted by the horsemen's
31 organization.
- 32 (iii) Proceed with a hub agreement arbitration.

33 (E) If only the party referenced in clause (ii) of subparagraph
34 (B) is a signatory to the hub agreement, then the signatories to the
35 hub agreement shall, within five days of execution of the hub
36 agreement, provide written notice of the host and hub fees
37 applicable pursuant to the hub agreement for each race conducted
38 outside of California on which California residents may place
39 advance deposit wagers, which notice shall be provided to all
40 racing associations and fairs conducting live racing of the same

1 breed covered by the hub agreement. If any racing association or
2 fair wants to request a hub agreement arbitration, it shall send
3 written notice of its election to the signatories to the hub agreement
4 within 10 days after receipt of the notice of host and hub fees. It
5 shall also provide its alternate proposal to the hub and host fees
6 specified in the hub agreement with the notice of its election. If
7 more than one racing association or fair provides notice of their
8 request for hub agreement arbitration, those racing associations or
9 fairs, or both, shall have a period of five days to jointly agree upon
10 which of their alternate proposals shall be the official proposal for
11 purposes of the hub agreement arbitration. If one or more racing
12 associations or fairs that together conduct no fewer than five weeks
13 of live racing on the breed on which wagering is conducted during
14 the calendar year during which the wager is placed does not provide
15 written notice of their election to arbitrate within the 10-day period,
16 then no party shall have the right to request a hub agreement
17 arbitration. If a valid hub agreement arbitration request is made,
18 then the ADW provider shall have 10 days to elect in writing to
19 do one of the following:

- 20 (i) Abandon the hub agreement.
- 21 (ii) Accept the alternate proposal submitted by the racing
22 associations or fairs.
- 23 (iii) Proceed with a hub agreement arbitration.

24 The results of any hub agreement arbitration elected pursuant
25 to this subdivision shall be binding on all other associations and
26 fairs conducting live racing on that breed.

27 (F) The acceptance thereof is in compliance with the provisions
28 of the Interstate Horseracing Act (15 U.S.C. Sec. 3001 et seq.),
29 regardless of the location of the ADW provider, whether in
30 California or otherwise, including, without limitation, any and all
31 requirements contained therein with respect to written consents
32 and required written agreements of horsemen's groups to the terms
33 and conditions of the acceptance of ~~such~~ *the* wagers and any
34 arrangements as to the exclusivity between the host racing
35 association or fair and the ADW provider.

36 (c) An advance deposit wager may be made only by the ADW
37 provider holding the account pursuant to wagering instructions
38 issued by the owner of the funds communicated by telephone call
39 or through other electronic media. The ADW provider shall ensure
40 the identification of the account's owner by using methods and

1 technologies approved by the board. Any ADW provider that
2 accepts wagering instructions concerning races conducted in
3 California, or accepts wagering instructions originating in
4 California, shall provide a full accounting and verification of the
5 source of the wagers thereby made, including the postal ZIP Code
6 and breed of the source of the wagers, in the form of a daily
7 download of parimutuel data to a database designated by the board.
8 The daily download shall be delivered in a timely basis using file
9 formats specified by the database designated by the board, and
10 shall include any and all data necessary to calculate and distribute
11 moneys according to the rules and regulations governing California
12 parimutuel wagering. Any and all reasonable costs associated with
13 the creation, provision, and transfer of this data shall be borne by
14 the ADW provider.

15 (d) (1) (A) The board shall develop and adopt rules to license
16 and regulate all phases of operation of advance deposit wagering
17 for ADW providers operating in California, including advance
18 deposit wagering activity that takes place within a minisatellite
19 wagering facility. The board may recover any costs associated
20 with the licensing or regulation of advance deposit wagering
21 activities in a minisatellite wagering facility either directly from
22 the ADW provider or through an appropriate increase in the
23 funding formula devised by the board pursuant to paragraph (1)
24 of subdivision (a) of Section 19616.51.

25 (B) The board shall not approve an application for an original
26 or renewal license as an ADW provider unless the entity, if
27 requested in writing by a bona fide labor organization no later than
28 90 days prior to licensing, has entered into a contractual agreement
29 with that labor organization that provides all of the following:

30 (i) The labor organization has historically represented employees
31 who accept or process any form of wagering at the nearest horse
32 racing meeting located in California.

33 (ii) The agreement establishes the method by which the ADW
34 provider will agree to recognize and bargain in good faith with a
35 labor organization which has demonstrated majority status by
36 submitting authorization cards signed by those employees who
37 accept or process any form of wagering for which a California
38 ADW license is required.

39 (iii) The agreement requires the ADW provider to maintain its
40 neutrality concerning the choice of those employees who accept

1 or process any form of wagering for which a California ADW
2 license is required whether or not to authorize the labor
3 organization to represent them with regard to wages, hours, and
4 other terms and conditions of employment.

5 (iv) The agreement applies to those classifications of employees
6 who accept or process wagers for which a California ADW license
7 is required whether the facility is located within or outside of
8 California.

9 (C) (i) The agreement required by subparagraph (B) shall not
10 be conditioned by either party upon the other party agreeing to
11 matters outside the requirements of subparagraph (B).

12 (ii) The requirement in subparagraph (B) shall not apply to an
13 ADW provider which has entered into a collective bargaining
14 agreement with a bona fide labor organization that is the exclusive
15 bargaining representative of employees who accept or process
16 parimutuel wagers on races for which an ADW license is required
17 whether the facility is located within or outside of California.

18 (D) Permanent state or county employees and nonprofit
19 organizations that have historically performed certain services at
20 county, state, or district fairs may continue to provide those
21 services.

22 (E) Parimutuel clerks employed by racing associations or fairs
23 or employees of ADW providers who accept or process any form
24 of wagers who are laid off due to lack of work shall have
25 preferential hiring rights for new positions with their employer in
26 occupations whose duties include accepting or processing any
27 form of wagers, or the operation, repair, service, or maintenance
28 of equipment that accepts or processes any form of wagering at a
29 racetrack, satellite wagering facility, or ADW provider licensed
30 by the board. The preferential hiring rights established by this
31 subdivision shall be conditioned upon the employee meeting the
32 minimum qualification requirements of the new job.

33 (2) The board shall develop and adopt rules and regulations
34 requiring ADW providers to establish security access policies and
35 safeguards, including, but not limited to, the following:

36 (A) The ADW provider shall use board-approved methods to
37 perform location and age verification confirmation with respect
38 to persons establishing an advance deposit wagering account.

1 (B) The ADW provider shall use personal identification numbers
2 (PINs) or other technologies to assure that only the accountholder
3 has access to the advance deposit wagering account.

4 (C) The ADW provider shall provide for withdrawals from the
5 wagering account only by means of a check made payable to the
6 accountholder and sent to the address of the accountholder or by
7 means of an electronic transfer to an account held by the verified
8 accountholder or the accountholder may withdraw funds from the
9 wagering account at a facility approved by the board by presenting
10 verifiable account identification information.

11 (D) The ADW provider shall allow the board access to its
12 premises to visit, investigate, audit, and place expert accountants
13 and other persons it deems necessary for the purpose of ensuring
14 that its rules and regulations concerning credit authorization,
15 account access, and other security provisions are strictly complied
16 with. To ensure that the amounts retained from the parimutuel
17 handle are distributed under law, rules, or agreements, any ADW
18 provider that accepts wagering instructions concerning races
19 conducted in California or accepts wagering instructions originating
20 in California shall provide an independent “agreed-upon
21 procedures” audit for each California racing meeting, within 60
22 days of the conclusion of the race meeting. The auditing firm to
23 be used and the content and scope of the audit, including host fee
24 obligations, shall be set forth in the applicable agreement. The
25 ADW provider shall provide the board, horsemen’s organizations,
26 and the host racing association with an annual parimutuel audit of
27 the financial transactions of the ADW provider with respect to
28 wagers authorized pursuant to this section, prepared in accordance
29 with generally accepted auditing standards and the requirements
30 of the board. Any and all reasonable costs associated with those
31 audits shall be borne by the ADW provider.

32 (3) The board shall prohibit advance deposit wagering
33 advertising that it determines to be deceptive to the public. The
34 board shall also require, by regulation, that every form of
35 advertising contain a statement that minors are not allowed to open
36 or have access to advance deposit wagering accounts.

37 (e) In order for a licensee, betting system, or multijurisdictional
38 wagering hub to be approved by the board as an ADW provider,
39 it shall meet both of the following requirements:

1 (1) All wagers thereby made shall be included in the appropriate
2 parimutuel pool under a contractual agreement with the applicable
3 host track.

4 (2) The amounts deducted from advance deposit wagers shall
5 be in accordance with the provisions of this chapter.

6 (f) After the payment of contractual compensation, the amounts
7 received as market access fees from advance deposit wagers, which
8 shall not be considered for purposes of Section 19616.51, shall be
9 distributed as follows:

10 (1) An amount equal to 0.0011 multiplied by the amount handled
11 on advance deposit wagers originating in California for each racing
12 meeting shall be distributed to the Center for Equine Health to
13 establish the Kenneth L. Maddy Fund for the benefit of the School
14 of Veterinary Medicine at the University of California at Davis.

15 (2) An amount equal to 0.0003 multiplied by the amount handled
16 on advance deposit wagers originating in California for each racing
17 meeting shall be distributed to the ~~Department of Industrial~~
18 ~~Relations~~ *Public Employment Relations Board* to cover costs
19 associated with audits conducted pursuant to Section 19526 and
20 for the purposes of reimbursing the State Mediation and
21 Conciliation Service for costs incurred pursuant to this section.
22 However, if that amount would exceed the costs of the ~~Department~~
23 ~~of Industrial Relations~~ *Public Employment Relations Board*, the
24 amount distributed to ~~the department~~ *that board* shall be reduced,
25 and that reduction shall be forwarded to an organization designated
26 by the racing association or fair described in subdivision (a) for
27 the purpose of augmenting a compulsive gambling prevention
28 program specifically addressing that problem.

29 (3) An amount equal to 0.00165 multiplied by the amount
30 handled on advance deposit wagers that originate in California for
31 each racing meeting shall be distributed as follows:

32 (A) One-half of the amount shall be distributed to supplement
33 the trainer-administered pension plans for backstretch personnel
34 established pursuant to Section 19613. Moneys distributed pursuant
35 to this subparagraph shall supplement, and not supplant, moneys
36 distributed to that fund pursuant to Section 19613 or any other
37 provision of law.

38 (B) One-half of the amount shall be distributed to the welfare
39 fund established for the benefit of horsemen and backstretch
40 personnel pursuant to subdivision (b) of Section 19641. Moneys

1 distributed pursuant to this subparagraph shall supplement, and
2 not supplant, moneys distributed to that fund pursuant to Section
3 19641 or any other provision of law.

4 (4) With respect to wagers on each breed of racing that originate
5 in California, an amount equal to 2 percent of the first two hundred
6 fifty million dollars (\$250,000,000) of handle from all advance
7 deposit wagers originating from within California annually, an
8 amount equal to 1.5 percent of the next two hundred fifty million
9 dollars (\$250,000,000) of handle from all advance deposit wagers
10 originating from within California annually, an amount equal to
11 1 percent of the next two hundred fifty million dollars
12 (\$250,000,000) of handle from all advance deposit wagers
13 originating from within California annually, and an amount equal
14 to 0.50 percent of handle from all advance deposit wagers
15 originating from within California in excess of seven hundred fifty
16 million dollars (\$750,000,000) annually, shall be distributed as
17 satellite wagering commissions. Satellite wagering facilities that
18 were not operational in 2001, other than one each in the Cities of
19 Inglewood and San Mateo, and two additional facilities each
20 operated by the Alameda County Fair and the Los Angeles County
21 Fair and their partners and other than existing facilities which are
22 relocated, are not eligible for satellite wagering commission
23 distributions under this section. The satellite wagering facility
24 commissions calculated in accordance with this subdivision shall
25 be distributed to each satellite wagering facility and racing
26 association or fair in the zone in which the wager originated in the
27 same relative proportions that the satellite wagering facility or the
28 racing association or fair generated satellite commissions during
29 the previous calendar year. If there is a reduction in the satellite
30 wagering commissions pursuant to this section, the benefits
31 therefrom shall be distributed equitably as purses and commissions
32 to all associations and racing fairs generating advance deposit
33 wagers in proportion to the handle generated by those associations
34 and racing fairs. If a satellite wagering facility is permanently
35 closed other than for renovation or remodeling, or if a satellite
36 wagering facility is unwilling or unable to accept all of the signals
37 that are available to that facility, the commissions otherwise
38 provided for in this subdivision that would be payable to that
39 facility shall be proportionately reduced to take into account the
40 time that satellite wagering is no longer conducted by that facility,

1 or the payment of those commissions shall be eliminated entirely
2 if the facility is permanently closed, and, in either case, the satellite
3 wagering commissions not paid shall be proportionately
4 redistributed to the other eligible satellite wagering facilities. For
5 purposes of this section, the purse funds distributed pursuant to
6 Section 19605.72 shall be considered to be satellite wagering
7 facility commissions attributable to thoroughbred races at the
8 locations described in that section.

9 (5) After the distribution of the amounts set forth in paragraphs
10 (1) to (4), inclusive, the remaining market access fees from advance
11 deposit wagers originating in California shall be as follows:

12 (A) With respect to wagers on each breed of racing, the amount
13 remaining shall be distributed to the racing association or fair that
14 is conducting live racing on that breed during the calendar period
15 in the zone in which the wager originated. That amount shall be
16 allocated to that racing association or fair as commissions, to
17 horsemen participating in that racing meeting in the form of purses,
18 and as incentive awards, in the same relative proportion as they
19 were generated or earned during the prior calendar year at that
20 racing association or fair on races conducted or imported by that
21 racing association or fair after making all deductions required by
22 applicable law. Notwithstanding any other provision of law, the
23 distributions with respect to each breed of racing set forth in this
24 subparagraph may be altered upon the approval of the board, in
25 accordance with an agreement signed by the respective
26 associations, fairs, horsemen's organizations, and breeders
27 organizations receiving those distributions.

28 (B) If the provisions of Section 19601.2 apply, then the amount
29 distributed to the applicable racing associations or fairs shall first
30 be divided between those racing associations or fairs in direct
31 proportion to the total amount wagered in the applicable zone on
32 the live races conducted by the respective association or fair.
33 Notwithstanding this requirement, when the provisions of
34 subdivision (b) of Section 19607.5 apply to the 2nd District
35 Agricultural Association in Stockton or the California Exposition
36 and State Fair in Sacramento, then the total amount distributed to
37 the applicable racing associations or fairs shall first be divided
38 equally, with 50 percent distributed to applicable fairs and 50
39 percent distributed to applicable associations.

1 (C) Notwithstanding any provisions of this section to the
2 contrary, with respect to wagers on out-of-state and out-of-country
3 thoroughbred races conducted after 6 p.m., Pacific time, 50 percent
4 of the amount remaining shall be distributed as commissions to
5 thoroughbred associations and racing fairs, as thoroughbred and
6 fair purses, and as incentive awards in accordance with
7 subparagraph (A), and the remaining 50 percent, together with the
8 total amount remaining from advance deposit wagering originating
9 from California out-of-state and out-of-country harness and quarter
10 horse races conducted after 6 p.m., Pacific time, shall be distributed
11 as commissions on a pro rata basis to the applicable licensed
12 quarter horse association and the applicable licensed harness
13 association, based upon the amount handled in state, both on- and
14 off-track, on each breed's own live races in the previous year by
15 that association, or its predecessor association. One-half of the
16 amount thereby received by each association shall be retained by
17 that association as a commission, and the other half of the money
18 received shall be distributed as purses to the horsemen participating
19 in its current or next scheduled licensed racing meeting.

20 (D) Notwithstanding any provisions of this section to the
21 contrary, with respect to wagers on out-of-state and out-of-country
22 nonthoroughbred races conducted before 6 p.m., Pacific time, 50
23 percent of the amount remaining shall be distributed as
24 commissions as provided in subparagraph (C) for licensed quarter
25 horse and harness associations, and the remaining 50 percent shall
26 be distributed as commissions to the applicable thoroughbred
27 associations or fairs, as thoroughbred and fair purses, and as
28 incentive awards in accordance with subparagraph (A).

29 (E) Notwithstanding any provision of this section to the contrary,
30 the distribution of market access fees pursuant to this subparagraph
31 may be altered upon the approval of the board, in accordance with
32 an agreement signed by all parties whose distributions would be
33 affected.

34 (g) A racing association, a fair, a satellite wagering facility, or
35 a minisatellite wagering facility may enter into an agreement with
36 an ADW provider to accept and facilitate the placement of any
37 wager from a patron at its facility that a California resident could
38 make through that ADW provider. Deductions from wagers made
39 pursuant to ~~such an~~ *the* agreement shall be distributed in accordance
40 with the provisions of this chapter governing wagers placed at that

1 facility, except that the board may authorize alternative
2 distributions as agreed to by the ADW provider, the operator of
3 the facility accepting the wager, the association or fair conducting
4 that breed of racing in the zone where the wager is placed, and the
5 respective horsemen's organization.

6 (h) Any issues concerning the interpretation or application of
7 this section shall be resolved by the board.

8 (i) Amounts distributed under this section shall be proportionally
9 reduced by an amount equal to 0.00295 multiplied by the amount
10 handled on advance deposit wagers originating in California for
11 each racing meeting, except for harness racing meetings, provided
12 that the amount of this reduction shall not exceed two million
13 dollars (\$2,000,000). The method used to calculate the reduction
14 in proportionate share shall be approved by the board. The amount
15 deducted shall be distributed as follows:

16 (1) Fifty percent of the money to the board to establish and to
17 administer jointly with the organization certified as the majority
18 representative of California-licensed jockeys pursuant to Section
19 19612.9, a defined contribution retirement plan for
20 California-licensed jockeys who retired from racing on or after
21 January 1, 2009.

22 (2) The remaining 50 percent of the money shall be distributed
23 as follows:

24 (A) Seventy percent shall be distributed to supplement the
25 trainer-administered pension plans for backstretch personnel
26 established pursuant to Section 19613. Moneys distributed pursuant
27 to this subparagraph shall supplement, and not supplant, moneys
28 distributed to that fund pursuant to Section 19613 or any other
29 provision of law.

30 (B) Thirty percent shall be distributed to the welfare fund
31 established for the benefit of horsemen and backstretch personnel
32 pursuant to subdivision (b) of Section 19641. Moneys distributed
33 pursuant to this subparagraph shall supplement, and not supplant,
34 moneys distributed to that fund pursuant to Section 19641 or any
35 other provision of law.

36 (j) Amounts distributed under this section shall be proportionally
37 reduced by an amount equal to 0.00295 multiplied by the amount
38 handled on advance deposit wagers originating in California for
39 each harness racing meeting, provided that the amount of this
40 reduction shall not exceed five hundred thousand dollars

1 (\$500,000). The method used to calculate the reduction in
2 proportionate share shall be approved by the board. The amount
3 deducted shall be distributed as follows:

4 (1) First to the welfare fund established for the benefit of
5 horsemen and backstretch personnel, pursuant to subdivision (b)
6 of Section 19641, and administered by the organization
7 representing the horsemen participating in the race meeting, in the
8 amount requested by the welfare fund. Moneys distributed pursuant
9 to this paragraph shall supplement, and not supplant, moneys
10 distributed to that fund pursuant to Section 19641 or any other
11 provision of law.

12 (2) The amount remaining, if any, shall be utilized for the benefit
13 of the horsemen as specified in a written agreement between the
14 racing association that conducts the live harness race meeting and
15 the organization representing the horsemen participating in the
16 race meeting.

17 *SEC. 2. Section 318 of the Corporations Code is amended to*
18 *read:*

19 318. (a) The Secretary of State shall develop and maintain a
20 registry of distinguished women and minorities who are available
21 to serve on corporate boards of directors. As used in this section,
22 “minority” means an ethnic person of color including American
23 Indians, Asians (including, but not limited to, Chinese, Japanese,
24 Koreans, Pacific Islanders, Samoans, and Southeast Asians),
25 Blacks, Filipinos, and Hispanics.

26 (b) For each woman or minority who participates in the registry,
27 the Secretary of State shall maintain information on his or her
28 educational, professional, community service, and corporate
29 governance background. That information may include, but is not
30 limited to:

31 (1) Paid or volunteer employment.

32 (2) Service in elected public office or on public boards or
33 commissions.

34 (3) Directorships, officerships, and trusteeships of business and
35 nonprofit entities, including committee experience.

36 (4) Professional, academic, or community awards or honors.

37 (5) Publications.

38 (6) Government relations experience.

39 (7) Experience with corporate constituents.

40 (8) Any other areas of special expertise.

1 (c) In addition to the information subdivision (b) requires, each
2 woman or minority who participates in the registry may disclose
3 any number of personal attributes that may contribute to board
4 diversity. Those attributes may include, but are not limited to,
5 gender, physical disability, race, or ethnic origin.

6 (d) In addition to the information subdivision (b) requires, each
7 woman or minority who participates in the registry may indicate
8 characteristics of corporations for which he or she would consider,
9 or is especially interested in, serving as a director. These
10 characteristics may include, but are not limited to, company size,
11 industry, geographic location, board meeting frequency, director
12 time commitments, director compensation, director insurance or
13 indemnification, or social policy concerns.

14 (e) Any woman or minority may nominate himself or herself
15 to the registry by filing with the Secretary of State the information
16 required by subdivision (b) on a form the secretary prescribes. Any
17 registrant may attach a copy of his or her resume and up to two
18 letters of recommendation to his or her registration form. Each
19 registrant's registration form, together with any attached resume
20 or letters of recommendation, shall constitute his or her registry
21 transcript.

22 (f) The Secretary of State shall make appropriate rules requiring
23 registrants to renew or update their filings with the registry, as
24 necessary to ensure continued accuracy of registry information.

25 (g) The Secretary of State shall assign each registrant a file
26 number, then enter the information described in subdivisions (b),
27 (c), and (d) into a data base, using the registrant's file number to
28 identify him or her. The registry data base shall not disclose any
29 registrant's name or street address, but may list the city, county,
30 or ZIP Code of his or her business or residence address. The
31 secretary shall make data base information available to those
32 persons described in subdivisions (i) and (j). The secretary may
33 provide that access either by permitting direct data base searches
34 or by performing data base searches on written request.

35 (h) The Secretary of State may also make information contained
36 in the registry data base available to any person or entity qualified
37 to transact business in California that regularly engages in the
38 business of providing data base access or search services; provided,
39 that data base access will not be construed to entitle the user to
40 access to any registrant's transcript.

1 (i) The Secretary of State shall make information contained in
2 a reasonable number of registrants' transcripts available to any
3 corporation or its representative. A ~~“representative”~~,
4 *“representative,”* for purposes of this subdivision, may be an
5 attorney, an accountant, or a retained executive recruiter. A
6 ~~“retained executive recruiter”~~, *recruiter,* for purposes of this
7 subdivision, is an individual or business entity engaged in the
8 executive search business that is regularly retained to locate
9 qualified candidates for appointment or election as corporate
10 directors or executive officers.

11 (j) The Secretary of State may also grant access to a reasonable
12 number of registrants' transcripts to any other person who
13 demonstrates to the secretary's satisfaction that the person does
14 both of the following:

15 (1) Seeks access to the registry in connection with an actual
16 search for a corporate director.

17 (2) Intends to use any information obtained from the registry
18 only for the purpose of finding qualified candidates for an open
19 position on a corporate board of directors.

20 (k) The Secretary of State may employ reasonable means to
21 verify that any party seeking access to registry transcript
22 information is one of those specified in subdivision (i) or (j). To
23 that end, the secretary may require a representative to identify its
24 principal, but may not disclose that principal's identity to any other
25 person.

26 (l) Upon written request specifying the registrant's file number,
27 the Secretary of State shall provide any party entitled to access to
28 registry transcripts with a copy of any registrant's transcript. The
29 secretary may by rule or regulation specify other reasonable means
30 by which persons entitled thereto may order copies of registrants'
31 transcripts.

32 (m) Notwithstanding any other ~~provision of law~~, ~~no~~ a person
33 shall *not* be entitled to access to information the registry contains,
34 except as this section specifically provides.

35 (n) The Secretary of State shall charge fees for registering with
36 the registry, obtaining access to the registry data base, and
37 obtaining copies of registrants' transcripts. The Secretary of State,
38 in consultation with the Senate Commission on Corporate
39 Governance, Shareholder Rights, and Securities Transactions, shall
40 fix those fees by regulation. Fees shall be fixed so that the

1 aggregate amount of all fees collected shall be sufficient to cover
2 the total cost of administering the registry program. Registration
3 fees shall be fixed so as to encourage qualified women and
4 minorities to participate. Fees shall be deposited into the Secretary
5 of State's Business Fee Fund.

6 (o) The Secretary of State may make any rule, regulation,
7 guideline, or agreement the secretary deems necessary to carry out
8 the purposes and provisions of this section.

9 (p) The Secretary of State may cooperate with the ~~California~~
10 Commission on the Status of Women *and Girls*, the California
11 Council to Promote Business Ownership by Women, the Senate
12 Commission on Corporate Governance, Shareholder Rights, and
13 Securities Transactions, women's organizations, minority
14 organizations, business and professional organizations, and any
15 other individual or entity the secretary deems appropriate, for any
16 of the following purposes:

17 (1) Promoting corporate use of the registry.

18 (2) Locating qualified women and minorities and encouraging
19 them to participate in the registry.

20 (3) Educating interested parties on the purpose and most
21 effective use of the registry.

22 The secretary may also prepare and distribute publications
23 designed to promote informed use of the registry.

24 (q) The Secretary of State may seek registrants' consent to be
25 listed in a published directory of women and minorities eligible
26 to serve as corporate directors, which will contain a summary of
27 each listed registrant's qualifications. The secretary may
28 periodically publish, or cause to be published, such a directory.
29 Only those registrants who so consent in writing may be included
30 in the directory. The printed directory shall be provided to any
31 person upon payment of a fee, which the Secretary of State will
32 determine by regulation, in consultation with the Senate
33 Commission on Corporate Governance, Shareholder Rights, and
34 Securities Transactions.

35 (r) The Secretary of State shall implement this section no later
36 than January 1, 1995.

37 (s) At least once in each three-year period during which the
38 registry is available for corporate use, the Secretary of State, in
39 consultation with the Senate Commission on Corporate
40 Governance, Shareholder Rights, and Securities Transactions, shall

1 report to the Legislature on the extent to which the registry has
2 helped women and minorities progress toward achieving parity in
3 corporate board appointments or elections.

4 (t) The Secretary of State shall notify each University of
5 California campus and each California State University campus
6 of the opportunity to maintain the registry created pursuant to this
7 section. If more than one campus of the university or state
8 university expresses interest in maintaining the registry, the
9 Secretary of State shall select a campus based on a competitive
10 selection process. If a campus is selected, the Secretary of State
11 shall transfer the information contained in the registry, free of cost,
12 to that campus. Any University of California or California State
13 University campus selected to maintain the registry shall do so in
14 a manner consistent with this section. Funds deposited in the
15 Secretary of State's Business Fees Fund pursuant to this section
16 shall be transferred to the university selected to maintain the
17 registry, and shall be used to administer the registry program. The
18 Secretary of State shall maintain the registry until a University of
19 California or California State University campus agrees to do so.

20 *SEC. 3. Section 57031 of the Food and Agricultural Code is*
21 *amended to read:*

22 57031. (a) Any union representing registered unloaders is
23 authorized and entitled to bargain with the employer of the
24 registered unloaders to establish a scale of charges for unloading
25 produce.

26 (b) If the union or unions representing registered unloaders and
27 the employer of registered unloaders are unable to agree on a scale
28 of charges, the ~~director~~ *Public Employment Relations Board* shall
29 mediate the dispute pursuant to Section ~~65 3601~~ of the ~~Labor~~
30 *Government Code*.

31 (c) The scale of charges in effect on December 31, 1978, shall
32 remain in effect until new charges are established pursuant to this
33 section.

34 *SEC. 4. Section 3502.5 of the Government Code is amended*
35 *to read:*

36 3502.5. (a) Notwithstanding Section 3502, any other provision
37 of this chapter, or any other law, rule, or regulation, an agency
38 shop agreement may be negotiated between a public agency and
39 a recognized public employee organization that has been
40 recognized as the exclusive or majority bargaining agent pursuant

1 to reasonable rules and regulations, ordinances, and enactments,
2 in accordance with this chapter. As used in this chapter, “agency
3 shop” means an arrangement that requires an employee, as a
4 condition of continued employment, either to join the recognized
5 employee organization or to pay the organization a service fee in
6 an amount not to exceed the standard initiation fee, periodic dues,
7 and general assessments of the organization.

8 (b) In addition to the procedure prescribed in subdivision (a),
9 an agency shop arrangement between the public agency and a
10 recognized employee organization that has been recognized as the
11 exclusive or majority bargaining agent shall be placed in effect,
12 without a negotiated agreement, upon (1) a signed petition of 30
13 percent of the employees in the applicable bargaining unit
14 requesting an agency shop agreement and an election to implement
15 an agency fee arrangement, and (2) the approval of a majority of
16 employees who cast ballots and vote in a secret ballot election in
17 favor of the agency shop agreement. The petition may be filed
18 only after the recognized employee organization has requested the
19 public agency to negotiate on an agency shop arrangement and,
20 beginning seven working days after the public agency received
21 this request, the two parties have had 30 calendar days to attempt
22 good faith negotiations in an effort to reach agreement. An election
23 that may not be held more frequently than once a year shall be
24 conducted by the ~~Division of Conciliation of the Department of~~
25 ~~Industrial Relations~~ *California State Mediation and Conciliation*
26 *Service* in the event that the public agency and the recognized
27 employee organization cannot agree within 10 days from the filing
28 of the petition to select jointly a neutral person or entity to conduct
29 the election. In the event of an agency fee arrangement outside of
30 an agreement that is in effect, the recognized employee
31 organization shall indemnify and hold the public agency harmless
32 against any liability arising from a claim, demand, or other action
33 relating to the public agency’s compliance with the agency fee
34 obligation.

35 (c) An employee who is a member of a bona fide religion, body,
36 or sect that has historically held conscientious objections to joining
37 or financially supporting public employee organizations shall not
38 be required to join or financially support a public employee
39 organization as a condition of employment. The employee may
40 be required, in lieu of periodic dues, initiation fees, or agency shop

1 fees, to pay sums equal to the dues, initiation fees, or agency shop
2 fees to a nonreligious, nonlabor charitable fund exempt from
3 taxation under Section 501(c)(3) of the Internal Revenue Code,
4 chosen by the employee from a list of at least three of these funds,
5 designated in a memorandum of understanding between the public
6 agency and the public employee organization, or if the
7 memorandum of understanding fails to designate the funds, then
8 to a fund of that type chosen by the employee. Proof of the
9 payments shall be made on a monthly basis to the public agency
10 as a condition of continued exemption from the requirement of
11 financial support to the public employee organization.

12 (d) An agency shop provision in a memorandum of
13 understanding that is in effect may be rescinded by a majority vote
14 of all the employees in the unit covered by the memorandum of
15 understanding, provided that: (1) a request for that type of vote is
16 supported by a petition containing the signatures of at least 30
17 percent of the employees in the unit, (2) the vote is by secret ballot,
18 and (3) the vote may be taken at any time during the term of the
19 memorandum of understanding, but in no event shall there be more
20 than one vote taken during that term. Notwithstanding the above,
21 the public agency and the recognized employee organization may
22 negotiate, and by mutual agreement provide for, an alternative
23 procedure or procedures regarding a vote on an agency shop
24 agreement. The procedures in this subdivision are also applicable
25 to an agency shop agreement placed in effect pursuant to
26 subdivision (b).

27 (e) An agency shop arrangement shall not apply to management
28 employees.

29 (f) A recognized employee organization that has agreed to an
30 agency shop provision or is a party to an agency shop arrangement
31 shall keep an adequate itemized record of its financial transactions
32 and shall make available annually, to the public agency with which
33 the agency shop provision was negotiated, and to the employees
34 who are members of the organization, within 60 days after the end
35 of its fiscal year, a detailed written financial report thereof in the
36 form of a balance sheet and an operating statement, certified as to
37 accuracy by its president and treasurer or corresponding principal
38 officer, or by a certified public accountant. An employee
39 organization required to file financial reports under the federal
40 Labor-Management Reporting and Disclosure Act of 1959 (29

1 U.S.C. Sec. 401 et seq.) covering employees governed by this
2 chapter, or required to file financial reports under Section 3546.5,
3 may satisfy the financial reporting requirement of this section by
4 providing the public agency with a copy of the financial reports.

5 *SEC. 5. Section 3507.1 of the Government Code is amended*
6 *to read:*

7 3507.1. (a) Unit determinations and representation elections
8 shall be determined and processed in accordance with rules adopted
9 by a public agency in accordance with this chapter. In a
10 representation election, a majority of the votes cast by the
11 employees in the appropriate bargaining unit shall be required.

12 (b) Notwithstanding subdivision (a) and rules adopted by a
13 public agency pursuant to Section 3507, a bargaining unit in effect
14 as of the effective date of this section shall continue in effect unless
15 changed under the rules adopted by a public agency pursuant to
16 Section 3507.

17 (c) A public agency shall grant exclusive or majority recognition
18 to an employee organization based on a signed petition,
19 authorization cards, or union membership cards showing that a
20 majority of the employees in an appropriate bargaining unit desire
21 the representation, unless another labor organization has previously
22 been lawfully recognized as exclusive or majority representative
23 of all or part of the same unit. Exclusive or majority representation
24 shall be determined by a neutral third party selected by the public
25 agency and the employee organization who shall review the signed
26 petition, authorization cards, or union membership cards to verify
27 the exclusive or majority status of the employee organization. In
28 the event the public agency and the employee organization cannot
29 agree on a neutral third party, ~~the Division of Conciliation of the~~
30 ~~Department of Industrial Relations~~ *California State Mediation and*
31 *Conciliation Service* shall be the neutral third party and shall verify
32 the exclusive or majority status of the employee organization. In
33 the event that the neutral third party determines, based on a signed
34 petition, authorization cards, or union membership cards, that a
35 second labor organization has the support of at least 30 percent of
36 the employees in the unit in which recognition is sought, the neutral
37 third party shall order an election to establish which labor
38 organization, if any, has majority status.

39 *SEC. 6. Section 3507.3 of the Government Code is amended*
40 *to read:*

1 3507.3. Professional employees shall not be denied the right
2 to be represented separately from nonprofessional employees by
3 a professional employee organization consisting of ~~such~~ those
4 professional employees. In the event of a dispute on the
5 appropriateness of a unit of representation for professional
6 employees, upon request of any of the parties, the dispute shall be
7 submitted to the ~~Division of Conciliation of the Department of~~
8 ~~Industrial Relations~~ *California State Mediation and Conciliation*
9 *Service* for mediation or for recommendation for resolving the
10 dispute.

11 “Professional employees,” for the purposes of this section, means
12 employees engaged in work requiring specialized knowledge and
13 skills attained through completion of a recognized course of
14 instruction, including, but not limited to, attorneys, physicians,
15 registered nurses, engineers, architects, teachers, and the various
16 types of physical, chemical, and biological scientists.

17 *SEC. 7. Section 3513 of the Government Code is amended to*
18 *read:*

19 3513. As used in this chapter:

20 (a) “Employee organization” means any organization that
21 includes employees of the state and that has as one of its primary
22 purposes representing these employees in their relations with the
23 state.

24 (b) “Recognized employee organization” means an employee
25 organization that has been recognized by the state as the exclusive
26 representative of the employees in an appropriate unit.

27 (c) “State employee” means any civil service employee of the
28 state, and the teaching staff of schools under the jurisdiction of the
29 State Department of Education or the Superintendent of Public
30 Instruction, except managerial employees, confidential employees,
31 supervisory employees, employees of the Department of Personnel
32 Administration, professional employees of the Department of
33 Finance engaged in technical or analytical state budget preparation
34 other than the auditing staff, professional employees in the
35 Personnel/Payroll Services Division of the Controller’s office
36 engaged in technical or analytical duties in support of the state’s
37 personnel and payroll systems other than the training staff,
38 employees of the Legislative Counsel Bureau, employees of the
39 Bureau of State Audits, employees of the office of the Inspector
40 General, employees of the board, conciliators employed by the

1 *California State Mediation and Conciliation Service* ~~within the~~
2 ~~Department of Industrial Relations~~, employees of the Office of the
3 State Chief Information Officer except as otherwise provided in
4 Section 11546.5, and intermittent athletic inspectors who are
5 employees of the State Athletic Commission.

6 (d) “Mediation” means effort by an impartial third party to assist
7 in reconciling a dispute regarding wages, hours and other terms
8 and conditions of employment between representatives of the
9 public agency and the recognized employee organization or
10 recognized employee organizations through interpretation,
11 suggestion and advice.

12 (e) “Managerial employee” means any employee having
13 significant responsibilities for formulating or administering agency
14 or departmental policies and programs or administering an agency
15 or department.

16 (f) “Confidential employee” means any employee who is
17 required to develop or present management positions with respect
18 to employer-employee relations or whose duties normally require
19 access to confidential information contributing significantly to the
20 development of management positions.

21 (g) “Supervisory employee” means any individual, regardless
22 of the job description or title, having authority, in the interest of
23 the employer, to hire, transfer, suspend, lay off, recall, promote,
24 discharge, assign, reward, or discipline other employees, or
25 responsibility to direct them, or to adjust their grievances, or
26 effectively to recommend this action, if, in connection with the
27 foregoing, the exercise of this authority is not of a merely routine
28 or clerical nature, but requires the use of independent judgment.
29 Employees whose duties are substantially similar to those of their
30 subordinates shall not be considered to be supervisory employees.

31 (h) “Board” means the Public Employment Relations Board.
32 The Educational Employment Relations Board established pursuant
33 to Section 3541 shall be renamed the Public Employment Relations
34 Board as provided in Section 3540. The powers and duties of the
35 board described in Section 3541.3 shall also apply, as appropriate,
36 to this chapter.

37 (i) “Maintenance of membership” means that all employees
38 who voluntarily are, or who voluntarily become, members of a
39 recognized employee organization shall remain members of that
40 employee organization in good standing for a period as agreed to

1 by the parties pursuant to a memorandum of understanding,
2 commencing with the effective date of the memorandum of
3 understanding. A maintenance of membership provision shall not
4 apply to any employee who within 30 days prior to the expiration
5 of the memorandum of understanding withdraws from the
6 employee organization by sending a signed withdrawal letter to
7 the employee organization and a copy to the Controller's office.

8 (j) "State employer," or "employer," for the purposes of
9 bargaining or meeting and conferring in good faith, means the
10 Governor or his or her designated representatives.

11 (k) "Fair share fee" means the fee deducted by the state
12 employer from the salary or wages of a state employee in an
13 appropriate unit who does not become a member of and financially
14 support the recognized employee organization. The fair share fee
15 shall be used to defray the costs incurred by the recognized
16 employee organization in fulfilling its duty to represent the
17 employees in their employment relations with the state, and shall
18 not exceed the standard initiation fee, membership dues, and
19 general assessments of the recognized employee organization.

20 *SEC. 8. Section 3527 of the Government Code is amended to*
21 *read:*

22 3527. As used in this chapter:

23 (a) "Employee" means a civil service employee of the State of
24 California. The "State of California" as used in this chapter
25 includes ~~such~~ *those* state agencies, boards, and commissions as
26 may be designated by law that employ civil service employees,
27 except the University of California, Hastings College of the Law,
28 and the California State University.

29 (b) "Excluded employee," means all managerial employees, as
30 defined in subdivision (e) of Section 3513, all confidential
31 employees, as defined in subdivision (f) of Section 3513, and all
32 supervisory employees, as defined in subdivision (g) of Section
33 3513, and all civil service employees of the Department of
34 Personnel Administration, professional employees of the
35 Department of Finance engaged in technical or analytical state
36 budget preparation other than the auditing staff, professional
37 employees in the Personnel/Payroll Services Division of the
38 Controller's office engaged in technical or analytical duties in
39 support of the state's personnel and payroll systems other than the
40 training staff, employees of the Legislative Counsel Bureau,

1 employees of the Bureau of State Audits, employees of the Public
2 Employment Relations Board, conciliators employed by the
3 *California State Mediation and Conciliation Service* ~~within the~~
4 ~~Department of Industrial Relations~~, employees of the office of the
5 State Chief Information Officer except as provided in Section
6 11546.5, and intermittent athletic inspectors who are employees
7 of the State Athletic Commission.

8 (c) “Supervisory employee organization” means an organization
9 that represents members who are supervisory employees under
10 subdivision (g) of Section 3513.

11 (d) “Excluded employee organization” means an organization
12 that includes excluded employees of the state, as defined in
13 subdivision (b), and that has as one of its primary purposes
14 representing its members in employer-employee relations.
15 Excluded employee organization includes supervisory employee
16 organizations.

17 (e) “State employer” or “employer,” for purposes of meeting
18 and conferring on matters relating to supervisory
19 employer-employee relations, means the Governor or his or her
20 designated representatives.

21 *SEC. 9. Section 3541.3 of the Government Code is amended*
22 *to read:*

23 3541.3. The board shall have all of the following powers and
24 duties:

25 (a) To determine in disputed cases, or otherwise approve,
26 appropriate units.

27 (b) To determine in disputed cases whether a particular item is
28 within or without the scope of representation.

29 (c) To arrange for and supervise representation elections that
30 shall be conducted by means of secret ballot elections, and certify
31 the results of the elections.

32 (d) To establish lists of persons broadly representative of the
33 public and qualified by experience to be available to serve as
34 mediators, arbitrators, or factfinders. ~~In no case shall these lists~~
35 ~~include persons who are on the staff of the board.~~

36 (e) To establish by regulation appropriate procedures for review
37 of proposals to change unit determinations.

38 (f) Within its discretion, to conduct studies relating to
39 employer-employee relations, including the collection, analysis,
40 and making available of data relating to wages, benefits, and

1 employment practices in public and private employment, and,
2 when it appears necessary in its judgment to the accomplishment
3 of the purposes of this chapter, recommend legislation. The board
4 shall report to the Legislature by October 15 of each year on its
5 activities during the immediately preceding fiscal year. The board
6 may enter into contracts to develop and maintain research and
7 training programs designed to assist public employers and
8 employee organizations in the discharge of their mutual
9 responsibilities under this chapter.

10 (g) To adopt, pursuant to Chapter 3.5 (commencing with Section
11 11340) of Part 1 of Division 3 of Title 2, rules and regulations to
12 carry out the provisions and effectuate the purposes and policies
13 of this chapter.

14 (h) To hold hearings, subpoena witnesses, administer oaths,
15 take the testimony or deposition of any person, and, in connection
16 therewith, to issue subpoenas duces tecum to require the production
17 and examination of any employer's or employee organization's
18 records, books, or papers relating to any matter within its
19 jurisdiction. Notwithstanding Section 11425.10, Chapter 4.5
20 (commencing with Section 11400) of Part 1 of Division 3 of Title
21 2 does not apply to a hearing by the board under this chapter,
22 except a hearing to determine an unfair practice charge.

23 (i) To investigate unfair practice charges or alleged violations
24 of this chapter, and take any action and make any determinations
25 in respect of these charges or alleged violations as the board deems
26 necessary to effectuate the policies of this chapter, except that in
27 an action to recover damages due to an unlawful strike, the board
28 shall have no authority to award strike-preparation expenses as
29 damages, and shall have no authority to award damages for costs,
30 expenses, or revenue losses incurred during, or as a consequence
31 of, an unlawful strike.

32 (j) To bring an action in a court of competent jurisdiction to
33 enforce any of its orders, decisions, or rulings, or to enforce the
34 refusal to obey a subpoena. Upon issuance of a complaint charging
35 that any person has engaged in or is engaging in an unfair practice,
36 the board may petition the court for appropriate temporary relief
37 or restraining order.

38 (k) To delegate its powers to any member of the board or to any
39 person appointed by the board for the performance of its functions,
40 except that no fewer than two board members may participate in

1 the determination of any ruling or decision on the merits of any
2 dispute coming before it, and except that a decision to refuse to
3 issue a complaint shall require the approval of two board members.

4 (l) To decide contested matters involving recognition,
5 certification, or decertification of employee organizations.

6 (m) To consider and decide issues relating to rights, privileges,
7 and duties of an employee organization in the event of a merger,
8 amalgamation, or transfer of jurisdiction between two or more
9 employee organizations.

10 (n) To take any other action as the board deems necessary to
11 discharge its powers and duties and otherwise to effectuate the
12 purposes of this chapter.

13 *SEC. 10. Section 3563 of the Government Code is amended to*
14 *read:*

15 3563. This chapter shall be administered by the Public
16 Employment Relations Board. In administering this chapter the
17 board shall have all of the following rights, powers, duties and
18 responsibilities:

19 (a) To determine in disputed cases, or otherwise approve,
20 appropriate units.

21 (b) To determine in disputed cases whether a particular item is
22 within or without the scope of representation.

23 (c) To arrange for and supervise representation elections which
24 shall be conducted by means of secret ballot elections, and to
25 certify the results of the elections.

26 (d) To establish lists of persons broadly representative of the
27 public and qualified by experience to be available to serve as
28 mediators, arbitrators, or factfinders. ~~In no case shall the lists~~
29 ~~include persons who are on the staff of the board.~~

30 (e) To establish by regulation appropriate procedures for review
31 of proposals to change unit determinations.

32 (f) To adopt, pursuant to Chapter 3.5 (commencing with Section
33 11340) of Part 1 of Division 3 of Title 2, rules and regulations to
34 carry out the provisions and effectuate the purposes and policies
35 of this chapter.

36 (g) To hold hearings, subpoena witnesses, administer oaths,
37 take the testimony or deposition of any person, and, in connection
38 therewith, to issue subpoenas duces tecum to require the production
39 and examination of any employer's or employee organization's
40 records, books, or papers relating to any matter within its

1 jurisdiction, except for those records, books, or papers confidential
2 under statute. Notwithstanding Section 11425.10, Chapter 4.5
3 (commencing with Section 11400) of Part 1 of Division 3 of Title
4 2 does not apply to a hearing by the board under this section, except
5 a hearing to determine an unfair practice charge.

6 (h) To investigate unfair practice charges or alleged violations
7 of this chapter, and to take any action and make any determinations
8 in respect of these charges or alleged violations as the board deems
9 necessary to effectuate the policies of this chapter.

10 (i) To bring an action in a court of competent jurisdiction to
11 enforce any of its orders, decisions or rulings or to enforce the
12 refusal to obey a subpoena. Upon issuance of a complaint charging
13 that any person has engaged in or is engaging in an unfair practice,
14 the board may petition the court for appropriate temporary relief
15 or restraining order.

16 (j) To delegate its powers to any member of the board or to any
17 person appointed by the board for the performance of its functions,
18 except that no fewer than two board members may participate in
19 the determination of any ruling or decision on the merits of any
20 dispute coming before it and except that a decision to refuse to
21 issue a complaint shall require the approval of two board members.

22 (k) To decide contested matters involving recognition,
23 certification, or decertification of employee organizations.

24 (l) To consider and decide issues relating to rights, privileges,
25 and duties of an employee organization in the event of a merger,
26 amalgamation, or transfer of jurisdiction between two or more
27 employee organizations.

28 (m) To take any other action as the board deems necessary to
29 discharge its powers and duties and otherwise to effectuate the
30 purposes of this chapter.

31 *SEC. 11. Division 4.5 (commencing with Section 3600) is added*
32 *to Title 1 of the Government Code, to read:*

33

34 *DIVISION 4.5. MEDIATION AND CONCILIATION SERVICE*

35

36 *CHAPTER 1. GENERAL PROVISIONS*

37

38 *3600. There is within the Public Employment Relations Board*
39 *a division known as the California State Mediation and*
40 *Conciliation Service, which shall conduct the services provided*

1 pursuant to Section 3601 and carryout the functions vested by any
2 other statute in the California State Mediation and Conciliation
3 Service, the State Mediation and Conciliation Service, the State
4 Conciliation Service, or the Division of Conciliation of the
5 Department of Industrial Relations.

6 3601. The board may investigate and mediate labor disputes
7 providing any bona fide party to this type of dispute requests
8 intervention by the board and the board may proffer its services
9 to both parties when work stoppage is threatened and neither party
10 requests intervention. In the interest of preventing labor disputes,
11 the board shall endeavor to promote sound union-employer
12 relationships. The board may arbitrate or arrange for the selection
13 of boards of arbitration on those terms that as all of the bona fide
14 parties to the dispute may agree upon. Any decision or award
15 arising out of an arbitration conducted pursuant to this section is
16 a public record. Section 703.5 and Chapter 2 (commencing with
17 Section 1115) of Division 9 of the Evidence Code apply to a
18 mediation conducted by the California State Mediation and
19 Conciliation Service, and any person conducting the mediation.
20 All other records of the California State Mediation and
21 Conciliation Service relating to labor disputes are confidential.

22 3602. Notwithstanding any other law, the board may seek and
23 collect reimbursement from private and public sector employers,
24 labor unions, and employee organizations for election, arbitration,
25 training, and facilitation services provided by the California State
26 Mediation and Conciliation Service pursuant to Section 3601 and
27 for representation services, including the provision of hearing
28 officers, related to public transit labor relations provided by the
29 California State Mediation and Conciliation Service pursuant to
30 the Public Utilities Code.

31
32 *CHAPTER 2. SUCCESSION TO FUNCTIONS AND RESPONSIBILITIES*

33
34 3603. (a) The Public Employment Relations Board succeeds
35 to and is vested with all of the powers, duties, purposes,
36 responsibilities, and jurisdiction vested in the Department of
37 Industrial Relations and exercised or carried out through the
38 California State Mediation and Conciliation Service.

39 (b) All powers, duties, and responsibilities of the Director of
40 Industrial Relations or the Department of Industrial Relations

1 *under Sections 19455 and 19604 of the Business and Professions*
2 *Code, Section 89542.5 of the Education Code, Section 57031 of*
3 *the Food and Agricultural Code, Sections 3502.5, 3507.1, 3507.3,*
4 *71632.5, 71636.1, 71636.3, 71637, 71802 to 71806, inclusive, and*
5 *71814 of the Government Code, Sections 1164 and 2686 of the*
6 *Labor Code, and Sections 25051, 25052, 28850, 28851, 30750,*
7 *30751, 30756, 40120, 40122, 50120, 50121, 70120, 70122, 90300,*
8 *95650, 95651, 98162.5, 100301 to 100306, inclusive, 101341,*
9 *101342, 101344, 102401, 102403, 103401 to 103406, inclusive,*
10 *105142, 120502 to 120505, inclusive, and 125521 to 125526,*
11 *inclusive, of the Public Utilities Code, Section 4.2 (as repealed*
12 *and added by Chapter 1335 of the Regular Session of the Statutes*
13 *of 1971) and Section 4.4 (as added by the Chapter 1335 of the*
14 *Regular Session of the Statutes of 1971) of the Fresno Metropolitan*
15 *Transit District Act of 1961, and Sections 13.90 to 13.96, inclusive,*
16 *of the West Bay Rapid Transit Authority Act (as added by Chapter*
17 *104 of the First Extraordinary Session of the Statutes of 1964) are*
18 *hereby transferred to the Public Employment Relations Board.*

19 *(c) The regulations of the Director of Industrial Relations at*
20 *Subchapter 2.2 (Sections 15800 to 15875.1, inclusive) and*
21 *Subchapter 7 (Section 17300) of Chapter 8 of Division 1 of Title*
22 *8 of the California Code of Regulations shall remain in effect and*
23 *shall be deemed to be regulations of the Public Employment*
24 *Relations Board.*

25 *(d) All persons serving in the state civil service, other than*
26 *temporary employees, in the California State Mediation and*
27 *Conciliation Service in the Department of Industrial Relations,*
28 *and engaged in the performance of functions transferred to the*
29 *Public Employment Relations Board, are transferred to the Public*
30 *Employment Relations Board. The status, positions, and rights of*
31 *those persons shall not be affected by their transfer and shall*
32 *continue to be retained by them pursuant to the State Civil Service*
33 *Act (Part 2 (commencing with Section 18500) of Division 5 of Title*
34 *2), except as to positions the duties of which are vested in a position*
35 *exempt from civil service. The personnel records of all transferred*
36 *employees shall be transferred to the Public Employment Relations*
37 *Board.*

38 *(e) The property of the Department of Industrial Relations that*
39 *is used exclusively or primarily for the functions transferred to the*
40 *Public Employment Relations Board is transferred to the Public*

1 *Employment Relations Board. If any doubt arises as to whether*
 2 *or where property is to be transferred, the Department of General*
 3 *Services shall determine whether or where the property is to be*
 4 *transferred.*

5 (f) *All unexpended balances of appropriations or other funds*
 6 *available for use in connection with any function or the*
 7 *administration of any law transferred to the Public Employment*
 8 *Relations Board shall be transferred to the Public Employment*
 9 *Relations Board. If any doubt arises as to whether or where those*
 10 *balances and funds are to be transferred, the Department of*
 11 *Finance shall determine whether or where those balances and*
 12 *funds are to be transferred.*

13

14 *CHAPTER 3. PUBLIC TRANSPORTATION LABOR DISPUTES*

15

16 3610. *The definitions set forth in this section shall govern the*
 17 *construction and meaning of the terms used in this chapter:*

18 (a) *“Local agency” means any city, county, special district, or*
 19 *other public entity in the state. It includes a charter city or a*
 20 *charter county.*

21 (b) *“Public transit employee” means an employee of any transit*
 22 *district of the state, an employee of the Golden Gate Bridge,*
 23 *Highway and Transportation District, and an employee of any*
 24 *local agency who is employed to work for transit service provided*
 25 *by that agency.*

26 3611. *Notwithstanding any other law, the following provisions*
 27 *shall govern disputes between exclusive bargaining representatives*
 28 *of public transit employees and local agencies:*

29 (a) *The disputes shall not be subject to any fact-finding*
 30 *procedure otherwise provided by law.*

31 (b) *Each party shall exchange contract proposals not less than*
 32 *90 days before the expiration of a contract, and shall be in formal*
 33 *collective bargaining not less than 60 days before that expiration.*

34 (c) *Each party shall supply to the other party all reasonable*
 35 *data as requested by the other party.*

36 (d) *At the request of either party to a dispute, a conciliator from*
 37 *the California State Mediation and Conciliation Service shall be*
 38 *assigned to mediate the dispute and shall have access to all formal*
 39 *negotiations.*

1 *The provisions of this section shall not apply to any local agency*
2 *subject to the provisions of Chapter 10 (commencing with Section*
3 *3500) of Division 4.*

4 3612. (a) *Whenever in the opinion of the Governor, a*
5 *threatened or actual strike or lockout will, if permitted to occur*
6 *or continue, significantly disrupt public transportation services*
7 *and endanger the public's health, safety, or welfare, and upon the*
8 *request of either party to the dispute, the Governor may appoint*
9 *a board to investigate the issues involved in the dispute and to*
10 *make a written report to him or her within seven days. The report*
11 *shall include a statement of the facts with respect to the dispute,*
12 *including the respective positions of the parties, but shall not*
13 *contain recommendations. The report shall be made available to*
14 *the public.*

15 (b) *Any strike or lockout during the period of investigation of*
16 *the board appointed pursuant to this section is prohibited.*

17 3613. *The board of investigation shall be composed of no more*
18 *than five members, one of whom shall be designated by the*
19 *Governor as chairperson. Members of the board shall receive one*
20 *hundred dollars (\$100) for each day actually spent by them in the*
21 *work of the board and shall receive their actual and necessary*
22 *expenses incurred in the performance of their duties.*

23 *The board may hold public hearings to ascertain the facts with*
24 *respect to the causes and circumstances of the dispute. For the*
25 *purpose of any hearing or investigation, the board may summon*
26 *and subpoena witnesses, require the production of papers, books,*
27 *accounts, reports, documents, records, and papers of any kind and*
28 *description, to issue subpoenas, and to take all necessary means*
29 *to compel the attendance of witnesses and procure testimony.*

30 3614. *Upon receiving a report from a board of investigation,*
31 *the Governor may request the Attorney General to, and he or she*
32 *shall, petition any court of competent jurisdiction to enjoin the*
33 *strike or lockout or the continuing thereof, for a period of 60 days.*
34 *The court shall issue an order enjoining the strike or lockout, or*
35 *the continuation thereof, if the court finds that the threatened or*
36 *actual strike or lockout, if permitted to occur or continue, will*
37 *significantly disrupt public transportation services and endanger*
38 *the public's health, safety, or welfare.*

39 3615. *If the charter or establishing legislation of the local*
40 *agency establishes a time period for the negotiating or meeting*

1 *and conferring process which is shorter than 60 days, the*
 2 *provisions of this chapter shall not be applicable to any disputes*
 3 *which may arise between the exclusive bargaining representative*
 4 *of public transit employees and the local agency.*

5 *3616. Except as expressly provided by subdivision (b) of Section*
 6 *3612 and Section 3614, nothing in this chapter shall be construed*
 7 *to grant or deprive employees of a right to strike.*

8 *SEC. 12. Section 8240 of the Government Code is amended to*
 9 *read:*

10 8240. The Legislature finds and declares that despite the fact
 11 that women apparently have greater equality in California than in
 12 many states, they still are not able to contribute to society according
 13 to their full potential. With a view to developing recommendations
 14 which will enable women to make the maximum contribution to
 15 society, the Legislature has created the Commission on the Status
 16 of Women *and Girls*.

17 *SEC. 13. Section 8241 of the Government Code is amended to*
 18 *read:*

19 8241. (a) There is in the state government the Commission
 20 on the Status of Women *and Girls*. The commission shall consist
 21 of ~~17 members;~~ *three members to be appointed as follows:*

22 (1) *Three* Members of the Senate and one public member
 23 appointed by the Senate Committee on Rules, ~~three.~~

24 (2) *Three* Members of the Assembly and one public member
 25 appointed by the Speaker, ~~the.~~

26 (3) *One public member appointed by the Superintendent of*
 27 *Public Instruction, and the Chief of the Division of Industrial*
 28 *Welfare in the Department of Industrial Relations,* ~~and seven.~~

29 (4) *Seven* public members appointed by the Governor, with the
 30 consent of the Senate. ~~The~~

31 (b) *The* Members of the Legislature shall serve at the pleasure
 32 of the appointing powers.

33 ~~Public~~

34 (c) *Public* member appointees of the Speaker and the Senate
 35 Committee on Rules, and appointees of the Governor shall serve
 36 four-year terms. All persons appointed pursuant to Section 2 of
 37 Chapter 1378 of the Statutes of 1965, as amended by Chapter 382
 38 of the Statutes of 1973, shall continue in office until the expiration
 39 of their term and the appointment of their successors. The
 40 appointing powers may reappoint a member whose term has

1 expired, and shall immediately fill any vacancy for the unexpired
2 portion of the term in which it occurs. *The appointing powers shall,*
3 *in making appointments of public members to the commission,*
4 *make every effort to ensure that there is a geographic balance of*
5 *representation on the commission.*

6 ~~AH~~

7 (d) All appointees shall hold office until the appointment of their
8 successors.

9 *SEC. 14. Section 8245 of the Government Code is amended to*
10 *read:*

11 8245. (a) The commission shall study ~~the following:~~ *the*
12 *following policy areas, including, but not limited to, for the purpose*
13 *of examining any laws, practices, or conditions concerning or*
14 *affecting women and girls which impose special limitations or*
15 *burdens upon them or upon society, or which limit or tend to limit*
16 *opportunities available to women and girls:*

17 (1) *Gender equity in the media.*

18 (2) *Educational needs of women and girls.*

19 (3) *Gender in the workplace and employment.*

20 (4) *Health and safety of women and girls.*

21 (5) *Women in the military, women veterans, and military*
22 *families.*

23 ~~(1) Women's educational and employment problems, needs,~~
24 ~~and opportunities.~~

25 ~~(2)~~

26 (6) State laws in regard to the civil and political rights of women,
27 including pensions, tax requirements, property rights, marriage
28 and dissolution of marriage provisions, and similar matters.

29 ~~(3)~~

30 (7) The effect of social attitudes and pressures and economic
31 considerations in shaping the roles to be assumed by women in
32 the society.

33 ~~(4) Any laws, practices, or conditions concerning or affecting~~
34 ~~women which impose special limitations or burdens upon them or~~
35 ~~upon society, or which limit or tend to limit opportunities available~~
36 ~~to women.~~

37 (b) The commission shall act as an information center on ~~the~~
38 ~~status of women and women's educational, employment, and other~~
39 ~~related needs issues that affect the lives of women and girls.~~

1 (c) The commission shall recommend, develop, prepare, or
2 coordinate materials, projects, or other activities, and shall give
3 technical and consultative advice to public or private groups or
4 persons concerned with any of the following:

5 (1) Preventing or minimizing problems brought about by the
6 changing roles and responsibilities of women.

7 (2) Developing programs to encourage and enable women to
8 be fully contributing members of society.

9 (d) *The commission shall develop a strategy to attract financial*
10 *support from private donors in order to reduce the commission's*
11 *dependence on state funding.*

12 ~~(e)~~

13 (e) A prime function of the commission shall be to encourage
14 women's *and girls'* organizations and other groups to institute
15 local self-help activities designed to meet women's educational,
16 employment, and related needs. The commission shall make reports
17 on its activities, findings, and recommendations to the Legislature
18 from time to time, but not less often than every odd-numbered
19 year.

20 *SEC. 15. Article 1 (commencing with Section 8260) of Chapter*
21 *3.5 of Division 1 of Title 2 of the Government Code is repealed.*

22 *SEC. 16. Section 10210 of the Government Code is amended*
23 *to read:*

24 10210. ~~Neither~~ *Subject to Article 3 (commencing with Section*
25 *10270), neither the Legislative Counsel nor any employee of the*
26 *bureau shall oppose or urge legislation.*

27 *SEC. 17. Article 3 (commencing with Section 10270) is added*
28 *to Chapter 1 of Part 2 of Division 2 of Title 2 of the Government*
29 *Code, to read:*

30

31 *Article 3. Commission on Uniform State Laws*

32

33 *10270. There is, in the Legislative Counsel Bureau, the*
34 *Commission on Uniform State Laws.*

35 *10271. (a) The commission consists of one Member of the*
36 *Senate, appointed by the Senate Committee on Rules; one Member*
37 *of the Assembly, appointed by the Speaker of the Assembly; six*
38 *additional members, appointed by the Governor; the Legislative*
39 *Counsel; any person, not otherwise a member of the commission,*
40 *elected as a life member of the National Conference of*

1 *Commissioners on Uniform State Laws based upon service as a*
2 *member of the commission; and any person, not otherwise a*
3 *member of the commission, who served as a member of the*
4 *commission, other than as an appointee of the Governor, for a*
5 *period of at least five years.*

6 *(b) The Members of the Legislature appointed to the commission*
7 *shall serve at the pleasure of the appointing power and shall*
8 *participate in the activities of the commission to the extent that*
9 *the participation is not incompatible with their positions as*
10 *Members of the Legislature. For the purposes of this article, the*
11 *Members of the Legislature shall constitute a joint interim*
12 *investigating committee on the subject of this article, and shall*
13 *have the powers and duties imposed upon those committees by the*
14 *Joint Rules of the Senate and Assembly.*

15 *10272. Each appointed member of the commission shall be*
16 *any of the following:*

17 *(a) A member in good standing of the State Bar of California.*

18 *(b) A person admitted to practice before the highest court of*
19 *any other state of the United States.*

20 *(c) A judge of a court of record in this state.*

21 *10273. Each member appointed by the Governor to the*
22 *commission shall hold office for a term of four years and until the*
23 *appointment and qualification of a successor.*

24 *10274. When a vacancy occurs in an office filled by*
25 *appointment by the Governor, the Governor shall appoint a person*
26 *to the office for the balance of the unexpired term.*

27 *10275. A member of the commission is eligible for*
28 *reappointment.*

29 *10276. A member of the commission shall not receive*
30 *compensation for services as a member, but shall receive one*
31 *hundred dollars (\$100) for each day while on official business of*
32 *the commission. In addition, each member shall be allowed actual*
33 *expenses incurred in the discharge of his or her duties, including*
34 *actual and necessary travel expenses.*

35 *10277. The commission may participate in the work of the*
36 *National Conference of Commissioners on Uniform State Laws,*
37 *and the Legislative Counsel may allocate funds to cover the*
38 *commission's proportionate share of the expenses of the National*
39 *Conference of Commissioners on Uniform State Laws. This*

1 *proportionate share shall be based upon the population of the*
2 *state in comparison to that of other states.*

3 *10278. The commission shall meet at some place in the state*
4 *at least once every two years. The commission shall elect one of*
5 *its members as chairperson and another as secretary, who shall*
6 *hold their respective offices for a term of two years, and until their*
7 *successors are elected and qualified.*

8 *10279. The members of the commission shall attend the*
9 *meetings of the National Conference of Commissioners on Uniform*
10 *State Laws. The attendance of a member at this meeting is an*
11 *excused or authorized absence from employment.*

12 *10280. The commission shall do all in its power to promote*
13 *uniformity in state laws upon all subjects where uniformity is*
14 *deemed desirable and practicable.*

15 *10281. The commission shall bring about, as far as practicable,*
16 *the passage of the various uniform acts recommended by the*
17 *National Conference of Commissioners on Uniform State Laws,*
18 *and shall devise and recommend additional legislation or other*
19 *course of action as is deemed necessary to accomplish the purposes*
20 *of this article.*

21 *10282. The commission shall report to the Legislature from*
22 *time to time as the commission deems desirable and practicable,*
23 *giving an account of its transactions and its advice and*
24 *recommendations for legislation.*

25 *SEC. 18. Section 11139.5 of the Government Code is amended*
26 *to read:*

27 *11139.5. The Secretary of ~~the Health and Welfare Agency~~*
28 *California Health and Human Services, with the advice and*
29 *concurrence of the Fair Employment and Housing Council of the*
30 *Department of Fair Employment and Housing ~~Commission~~,*
31 *shall establish standards for determining which persons are protected*
32 *by this article and standards for determining what practices are*
33 *discriminatory. The secretary, with the cooperation of the Fair*
34 *Employment and Housing Council of the Department of Fair*
35 *Employment and Housing ~~Commission~~, shall assist state agencies*
36 *in coordinating their programs and activities and shall consult with*
37 *such agencies, as necessary, so that consistent policies, practices,*
38 *and procedures are adopted with respect to the enforcement of the*
39 *provisions of the article.*

1 *SEC. 19. Section 11532 of the Government Code is amended*
2 *to read:*

3 11532. For purposes of this chapter, the following terms shall
4 have the following meanings, unless the context requires otherwise:

5 ~~(a) “Board member” means a member of the Technology~~
6 ~~Services Board.~~

7 ~~(b) “Board” means the Technology Services Board created~~
8 ~~pursuant to Section 11535.~~

9 ~~(c)~~

10 ~~(a) “Director” means the Director of the Office of Technology~~
11 ~~Services.~~

12 ~~(d)~~

13 ~~(b) “Technology” includes, but is not limited to, all electronic~~
14 ~~technology systems and services, automated information handling,~~
15 ~~system design and analysis, conversion of data, computer~~
16 ~~programming, information storage and retrieval, and business~~
17 ~~telecommunications systems and services.~~

18 ~~(e)~~

19 ~~(c) “Business telecommunications systems and services”~~
20 ~~includes, but is not limited to, wireless or wired systems for~~
21 ~~transport of voice, video, and data communications, network~~
22 ~~systems, requisite facilities, equipment, system controls, simulation,~~
23 ~~electronic commerce, and all related interactions between people~~
24 ~~and machines. Public safety communications are excluded from~~
25 ~~this definition.~~

26 ~~(f)~~

27 ~~(d) “Public agencies” include, but are not limited to, all state~~
28 ~~and local governmental agencies in the state, including cities,~~
29 ~~counties, other political subdivisions of the state, state departments,~~
30 ~~agencies, boards, and commissions, and departments, agencies,~~
31 ~~boards, and commissions of other states and federal agencies.~~

32 *SEC. 20. Section 11535 of the Government Code is repealed.*

33 ~~11535. (a) There is, in the Office of Technology Services, the~~
34 ~~Technology Services Board.~~

35 ~~(b) The board shall consist of 13 members, as follows:~~

36 ~~(1) The Secretary of California Technology, who shall serve as~~
37 ~~the chair of the board.~~

38 ~~(2) The Director of Finance, who shall serve as vice chair of~~
39 ~~the board.~~

40 ~~(3) The Controller.~~

1 ~~(4) The Secretary of Food and Agriculture, the Secretary of~~
2 ~~Business, Transportation and Housing, the Secretary of the~~
3 ~~Department of Corrections and Rehabilitation, the Secretary for~~
4 ~~Environmental Protection, the Secretary of California Health and~~
5 ~~Human Services, the Secretary of Labor and Workforce~~
6 ~~Development, the Secretary of the Natural Resources Agency, the~~
7 ~~Secretary of State and Consumer Services, and the Secretary of~~
8 ~~Veterans Affairs.~~

9 ~~(5) The Secretary of California Emergency Management.~~

10 *SEC. 21. Section 11536 of the Government Code is repealed.*

11 ~~11536. The board shall meet not less than once each quarter.~~
12 ~~A quorum shall consist of seven members of the board. All~~
13 ~~decisions of the board shall be made by a majority vote of a quorum~~
14 ~~of the board.~~

15 *SEC. 22. Section 11537 of the Government Code is repealed.*

16 ~~11537. (a) The Secretary of California Technology shall~~
17 ~~engage an independent firm of certified public accountants to~~
18 ~~conduct an annual financial audit of all accounts and transactions~~
19 ~~of the Office of Technology Services. The audit shall be conducted~~
20 ~~in accordance with generally accepted government auditing~~
21 ~~standards. The audited financial statements shall be presented to~~
22 ~~the board, the Governor, and the Legislature not more than 120~~
23 ~~days after the submittal of the annual financial statements.~~

24 ~~(b) The Secretary of California Technology may arrange for~~
25 ~~other audits as are necessary or prudent to ensure proper oversight~~
26 ~~and management of the Office of Technology Services.~~

27 *SEC. 23. Section 11538 of the Government Code is amended*
28 *to read:*

29 11538. The director shall be appointed by, and serve at the
30 pleasure of, the Governor, subject to Senate confirmation. ~~The~~
31 ~~director shall act as executive officer of the board.~~

32 *SEC. 24. Section 11540 of the Government Code is amended*
33 *to read:*

34 ~~11540. (a) The director shall propose for board consideration~~
35 ~~and approval an annual budget for the Office of Technology~~
36 ~~Services' operations.~~

37 ~~(b)~~

38 11540. The Secretary of California Technology shall propose
39 ~~for board consideration to the Director of Finance~~ rates for Office
40 of Technology Services' services based on a formal rate

1 methodology approved by the board. At least 60 days before
2 submitting proposed rates to the board, the Secretary of California
3 Technology shall submit the proposed rates to the Department of
4 Finance. Submittal of the rates to the Department of Finance shall
5 be in a format and timeframe determined by the Department of
6 Finance. The Department of Finance shall prepare a report for the
7 board evaluating the reasonableness of the proposed rates and any
8 significant impact the Office of Technology Services' rates are
9 likely to have upon the budgets of other departments. *The Director*
10 *of Finance shall approve the proposal based on the reasonableness*
11 *of the rates and any significant impact on departmental budgets.*
12 *The secretary and the Director of Finance shall coordinate to*
13 *develop policies and procedures to implement this section,*
14 *including, but not limited to, the format and timeframe of the rate*
15 *proposal.*

16 *SEC. 25. Section 11543 of the Government Code is repealed.*

17 11543. (a) ~~The Secretary of California Technology shall confer~~
18 ~~as frequently as necessary or desirable, but not less than once every~~
19 ~~quarter, with the board, on the operation and administration of the~~
20 ~~Office of Technology Services. The Secretary of California~~
21 ~~Technology shall make available for inspection by the board or~~
22 ~~any board member, upon request, all books, records, files, and~~
23 ~~other information and documents of the Office of Technology~~
24 ~~Services and recommend any matters as he or she deems necessary~~
25 ~~and advisable to improve the operation and administration of the~~
26 ~~Office of Technology Services.~~

27 (b) ~~The Secretary of California Technology shall make and keep~~
28 ~~books and records to permit preparation of financial statements in~~
29 ~~conformity with generally accepted accounting principles and any~~
30 ~~state policy requirements.~~

31 *SEC. 26. Section 11544 of the Government Code is amended*
32 *to read:*

33 11544. (a) The Technology Services Revolving Fund, hereafter
34 known as the fund, is hereby created within the State Treasury.
35 The fund shall be administered by the ~~State Chief Information~~
36 ~~Officer~~ *Secretary of California Technology* to receive all revenues
37 from the sale of technology or technology services provided for
38 in this chapter, for other services rendered by the ~~office of the State~~
39 ~~Chief Information Officer~~ *California Technology Agency*, and all
40 other moneys properly credited to the ~~office of the State Chief~~

1 ~~Information Officer California Technology Agency~~ from any other
2 source, to pay, upon appropriation by the Legislature, all costs
3 arising from this chapter and rendering of services to state and
4 other public agencies, including, but not limited to, employment
5 and compensation of necessary personnel and expenses, such as
6 operating and other expenses of the ~~board and the office of the~~
7 ~~State Chief Information Officer California Technology Agency,~~
8 and costs associated with approved information technology
9 projects, and to establish reserves. At the discretion of the ~~State~~
10 ~~Chief Information Officer Secretary of California Technology,~~
11 segregated, dedicated accounts within the fund may be established.
12 The amendments made to this section by the act adding this
13 sentence shall apply to all revenues earned on or after July 1, 2010.

14 (b) The fund shall consist of all of the following:

15 (1) Moneys appropriated and made available by the Legislature
16 for the purposes of this chapter.

17 (2) Any other moneys that may be made available to the ~~office~~
18 ~~of the State Chief Information Officer California Technology~~
19 ~~Agency~~ from any other source, including the return from
20 investments of moneys by the Treasurer.

21 (c) ~~The office of the State Chief Information Officer California~~
22 ~~Technology Agency~~ may collect payments from public agencies
23 for providing services to those agencies that the agencies have
24 requested from the ~~office of the State Chief Information Officer~~
25 ~~California Technology Agency.~~ The ~~office of the State Chief~~
26 ~~Information Officer California Technology Agency~~ may require
27 monthly payments by client agencies for the services the agencies
28 have requested. Pursuant to Section 11255, the Controller shall
29 transfer any amounts so authorized by the ~~office of the State Chief~~
30 ~~Information Officer California Technology Agency,~~ consistent
31 with the annual budget of each department, to the fund. The ~~office~~
32 ~~of the State Chief Information Officer California Technology~~
33 ~~Agency~~ shall notify each affected state agency upon requesting the
34 Controller to make the transfer.

35 (d) At the end of any fiscal year, if the balance remaining in the
36 fund at the end of that fiscal year exceeds 25 percent of the portion
37 of the ~~office of the State Chief Information Officer's California~~
38 ~~Technology Agency's~~ current fiscal year budget used for support
39 of data center and other client services, the excess amount shall

1 be used to reduce the billing rates for services rendered during the
2 following fiscal year.

3 *SEC. 27. Section 12804 of the Government Code is amended*
4 *to read:*

5 12804. The Agriculture and Services Agency is hereby renamed
6 the State and Consumer Services Agency.

7 The State and Consumer Services Agency consists of the
8 following: the Department of General Services; the Department
9 of Consumer Affairs; the Franchise Tax Board; the Public
10 Employees' Retirement System; the State Teachers' Retirement
11 System; the Department of Fair Employment and Housing; ~~the~~
12 ~~Fair Employment and Housing Commission;~~ the California Science
13 Center; the California Victim Compensation and Government
14 Claims Board; the California African American Museum; the
15 California Building and Standards Commission; the Alfred E.
16 Alquist Seismic Safety Commission; and the Office of Privacy
17 Protection.

18 *SEC. 28. Section 12901 of the Government Code is amended*
19 *to read:*

20 12901. (a) There is in the state government, in the State and
21 Consumer Services Agency, the Department of Fair Employment
22 and Housing. The department is under the direction of an executive
23 officer known as the Director of Fair Employment and Housing,
24 who is appointed by the Governor, subject to confirmation by the
25 Senate, and who holds office at the pleasure of the Governor. The
26 annual salary of the director is provided for by Chapter 6
27 (commencing with Section 11550) of Part 1 of Division 3 of Title
28 2.

29 (b) *Unless the context clearly requires otherwise, whenever the*
30 *term "Fair Employment and Housing Commission" appears in*
31 *any regulation, or contract, it shall be deemed to refer to the Fair*
32 *Employment and Housing Council of the Department of Fair*
33 *Employment and Housing.*

34 *SEC. 29. Section 12903 of the Government Code is amended*
35 *to read:*

36 12903. There is in the ~~State and Consumer Services Agency~~
37 ~~Department of Fair Employment and Housing~~ the Fair Employment
38 and Housing ~~Commission~~ Council. The ~~commission~~ council shall
39 consist of seven members, to be known as ~~commissioners~~ council
40 members, who shall be appointed by the Governor, by and with

1 the advice and consent of the Senate, and one of whom shall be
 2 designated as chairperson by the Governor. The term of office of
 3 each member of the ~~commission~~ *council* shall be for four years.
 4 *The Director of the Department of Fair Employment and Housing*
 5 *shall serve as a nonvoting ex-officio member of the council.*

6 *SEC. 30. Section 12904 of the Government Code is amended*
 7 *to read:*

8 12904. Any member chosen to fill a vacancy on the ~~commission~~
 9 *council* occurring otherwise than by expiration of term shall be
 10 appointed for the unexpired term of the member whom he or she
 11 is to succeed. Four members of the ~~commission~~ *council* shall
 12 constitute a quorum for the purpose of conducting the business
 13 thereof.

14 *SEC. 31. Section 12905 of the Government Code is amended*
 15 *to read:*

16 12905. Each member of the ~~commission~~ *council* shall serve
 17 without compensation but shall receive one hundred dollars (\$100)
 18 for each day actually spent in the performance of his or her duties
 19 under this part and shall also be entitled to his or her expenses
 20 actually and necessarily incurred in the performance of his or her
 21 duties.

22 *SEC. 32. Section 12906 of the Government Code is amended*
 23 *to read:*

24 12906. Any member of the ~~commission~~ *council* may be
 25 removed by the Governor for inefficiency, for neglect of duty,
 26 misconduct or malfeasance in office, after being given a written
 27 statement of the charges and an opportunity to be heard thereon.

28 *SEC. 33. Section 12907 is added to the Government Code, to*
 29 *read:*

30 12907. (a) *The Fair Employment and Housing Enforcement*
 31 *and Litigation Fund is hereby established in the State Treasury,*
 32 *to be administered by the Department of Fair Employment and*
 33 *Housing.*

34 (b) *The fund shall consist of attorney’s fees and costs awarded*
 35 *by a court to the Department of Fair Employment and Housing*
 36 *when the department is the prevailing party in a civil action*
 37 *brought under the California Fair Employment and Housing Act.*

38 (c) *Upon appropriation by the Legislature in the annual Budget*
 39 *Act, moneys in the fund may be used to offset the costs of the*
 40 *department.*

1 *SEC. 34. Section 12925 of the Government Code is amended*
2 *to read:*

3 12925. As used in this part, unless a different meaning clearly
4 appears from the context:

5 (a) ~~“Commission”~~ “*Council*” means the Fair Employment and
6 Housing ~~Commission~~ *Council* and ~~“commissioner”~~ “*council*
7 *member*” means a member of the ~~commission~~ *council*.

8 (b) “Department” means the Department of Fair Employment
9 and Housing.

10 (c) “Director” means the Director of Fair Employment and
11 Housing.

12 (d) “Person” includes one or more individuals, partnerships,
13 associations, corporations, limited liability companies, legal
14 representatives, trustees, trustees in bankruptcy, and receivers or
15 other fiduciaries.

16 *SEC. 35. Section 12930 of the Government Code is amended*
17 *to read:*

18 12930. The department shall have the following functions,
19 powers, and duties:

20 (a) To establish and maintain a principal office and any other
21 offices within the state as are necessary to carry out the purposes
22 of this part.

23 (b) To meet and function at any place within the state.

24 (c) To appoint attorneys, investigators, conciliators, *mediators*,
25 and other employees as it may deem necessary, fix their
26 compensation within the limitations provided by law, and prescribe
27 their duties.

28 (d) To obtain upon request and utilize the services of all
29 governmental departments and agencies and, in addition, with
30 respect to housing discrimination, of conciliation councils.

31 (e) To adopt, promulgate, amend, and rescind suitable
32 *procedural* rules and regulations to carry out the *investigation*,
33 *prosecution*, and *dispute resolution* functions and duties of the
34 department pursuant to this part.

35 (f) (1) To receive, investigate, ~~and~~ conciliate, *mediate*, and
36 *prosecute* complaints alleging practices made unlawful pursuant
37 to Chapter 6 (commencing with Section 12940).

38 (2) To receive, investigate, ~~and~~ conciliate, *mediate*, and
39 *prosecute* complaints alleging a violation of Section 51, 51.5, 51.7,
40 54, 54.1, or 54.2 of the Civil Code. The remedies and procedures

1 of this part shall be independent of any other remedy or procedure
 2 that might apply.

3 (g) In connection with any matter under investigation or in
 4 question before the department pursuant to a complaint filed under
 5 Section 12960, 12961, or 12980:

6 (1) To issue subpoenas to require the attendance and testimony
 7 of witnesses and the production of books, records, documents, and
 8 physical materials.

9 (2) To administer oaths, examine witnesses under oath and take
 10 evidence, and take depositions and affidavits.

11 (3) To issue written interrogatories.

12 (4) To request the production for inspection and copying of
 13 books, records, documents, and physical materials.

14 (5) To petition the superior courts to compel the appearance
 15 and testimony of witnesses, the production of books, records,
 16 documents, and physical materials, and the answering of
 17 interrogatories.

18 (h) ~~To issue accusations~~ *bring civil actions* pursuant to Section
 19 12965 or 12981 and to prosecute those ~~accusations~~ *civil actions*
 20 before ~~the commission~~ *state and federal trial courts*.

21 (i) To issue those publications and those results of investigations
 22 and research as in its judgment will tend to promote good will and
 23 minimize or eliminate discrimination in employment on the bases
 24 enumerated in this part and discrimination in housing because of
 25 race, religious creed, color, sex, gender, gender identity, gender
 26 expression, marital status, national origin, ancestry, familial status,
 27 disability, genetic information, or sexual orientation.

28 (j) To investigate, approve, certify, decertify, monitor, and
 29 enforce nondiscrimination programs proposed by a contractor to
 30 be engaged in pursuant to Section 12990.

31 (k) To render annually to the Governor and to the Legislature
 32 a written report of its activities and of its recommendations.

33 (l) *To conduct mediations at any time after a complaint is filed*
 34 *pursuant to Section 12960, 12961, or 12980. The department may*
 35 *end mediation at any time.*

36 (m) *The following shall apply with respect to any accusation*
 37 *pending before the former Fair Employment and Housing*
 38 *Commission on or after January 1, 2013:*

39 (1) *If an accusation issued under former Section 12965 includes*
 40 *a prayer either for damages for emotional injuries as a component*

1 of actual damages, or for administrative fines, or both, or if an
2 accusation is amended for the purpose of adding a prayer either
3 for damages for emotional injuries as a component of actual
4 damages, or for administrative fines, or both, with the consent of
5 the party accused of engaging in unlawful practices, the department
6 may withdraw an accusation and bring a civil action in superior
7 court.

8 (2) If an accusation was issued under former Section 12981,
9 with the consent of the aggrieved party filing the complaint an
10 aggrieved person on whose behalf a complaint is filed, or the party
11 accused of engaging in unlawful practices, the department may
12 withdraw the accusation and bring a civil action in superior court.

13 (3) Where removal to court is not feasible, the department shall
14 retain the services of the Office of Administrative Hearings to
15 adjudicate the administrative action pursuant to Sections 11370.3
16 and 11502.

17 (n) On any Section 1094.5 Code of Civil Procedure challenge
18 to a decision of the former Fair Employment and Housing
19 Commission pending on or after January 1, 2013, the director or
20 his or her designee shall consult with the Attorney General
21 regarding the defense of that writ petition.

22 SEC. 36. Section 12935 of the Government Code is amended
23 to read:

24 12935. The ~~commission~~ council shall have the following
25 functions, powers, and duties:

26 (a) To adopt, promulgate, amend, and rescind suitable rules,
27 regulations, and standards ~~(1) to interpret, implement, and apply~~
28 ~~all provisions of this part, (2) to regulate the conduct of hearings~~
29 ~~held pursuant to Sections 12967 and 12981, and (3) to carry out~~
30 ~~all other functions and duties of the commission pursuant to this~~
31 ~~part.~~ that do either of the following:

32 (1) Interpret, implement, and apply all provisions of this part.

33 (2) Carry out all other functions and duties of the council
34 pursuant to this part.

35 (3) To meet at any place within the state and function in any
36 office of the department.

37 ~~(b) To conduct hearings pursuant to Sections 12967 and 12981.~~

38 ~~(c) To conduct mediations at the request of the department at~~
39 ~~any time after a complaint is filed pursuant to Section 12960;~~

1 ~~12961, or 12980. The department may withdraw a request for~~
2 ~~mediation at any time to pursue an investigation.~~

3 ~~(d) To establish and maintain a principal office within the state~~
4 ~~and to meet and function at any place within the state.~~

5 ~~(e) To appoint an executive secretary, and any attorneys and~~
6 ~~other employees as it may deem necessary, fix their compensation~~
7 ~~within the limitations provided by law, and prescribe their duties.~~

8 ~~(f) To hold hearings, subpoena witnesses, compel their~~
9 ~~attendance, administer oaths, examine any person under oath and,~~
10 ~~in connection therewith, to require the production of any books or~~
11 ~~papers relating to any matter under investigation or in question~~
12 ~~before the commission.~~

13 ~~(g)~~

14 ~~(b) To create or provide financial or technical assistance to any~~
15 ~~advisory agencies and conciliation councils, local or otherwise, as~~
16 ~~in its judgment will aid in effectuating the purposes of this part,~~
17 ~~and to empower them to study the problems of discrimination in~~
18 ~~all or specific fields of human relationships or in particular~~
19 ~~instances of employment discrimination on the bases enumerated~~
20 ~~in this part or in specific instances of housing discrimination~~
21 ~~because of race, religious creed, color, national origin, ancestry,~~
22 ~~familial status, disability, genetic information, marital status, sex,~~
23 ~~gender, gender identity, gender expression, or sexual orientation~~
24 ~~on the bases enumerated in this part and to foster, through~~
25 ~~community effort or otherwise, good will, cooperation, and~~
26 ~~conciliation among the groups and elements of the population of~~
27 ~~the state and to make recommendations to the commission *Fair*~~
28 ~~*Employment and Housing Council* for the development of policies~~
29 ~~and procedures in general *except for procedural rules and*~~
30 ~~*regulations that carry out the investigation, prosecution, and*~~
31 ~~*dispute resolution functions and duties of the department.* These~~
32 ~~advisory agencies and conciliation councils shall be composed of~~
33 ~~representative citizens, serving without pay.~~

34 ~~(h) With respect to findings and orders made pursuant to this~~
35 ~~part, to establish a system of published opinions that shall serve~~
36 ~~as precedent in interpreting and applying the provisions of this~~
37 ~~part. Commission findings, orders, and opinions in an adjudicative~~
38 ~~proceeding are subject to Section 11425.60.~~

39 ~~(i)~~

1 (c) To hold hearings, issue publications and, results of inquiries
2 and research, and reports to the Governor and the Legislature that,
3 in its judgment, will tend to aid in the effectuating the purpose of
4 this part, promote good will and, cooperation and conciliation,
5 and minimize or eliminate unlawful discrimination, or advance
6 civil rights in the State of California. ~~These publications shall~~
7 ~~include an annual report to the Governor and the Legislature of its~~
8 ~~activities and recommendations.~~

9 (j) ~~Notwithstanding Sections 11370.3 and 11502, to appoint~~
10 ~~administrative law judges, as it may deem necessary, to conduct~~
11 ~~hearings and mediations. Each administrative law judge shall~~
12 ~~possess the qualifications established by the State Personnel Board~~
13 ~~for the particular class of position involved. The hearing officers~~
14 ~~of the commission shall become administrative law judges on~~
15 ~~January 1, 2005.~~

16 SEC. 37. Section 12944 of the Government Code is amended
17 to read:

18 12944. (a) It shall be unlawful for a licensing board to require
19 any examination or establish any other qualification for licensing
20 that has an adverse impact on any class by virtue of its race, creed,
21 color, national origin or ancestry, sex, gender, gender identity,
22 gender expression, age, medical condition, genetic information,
23 physical disability, mental disability, or sexual orientation, unless
24 the practice can be demonstrated to be job related.

25 ~~Where the commission, after hearing, determines that an~~
26 ~~examination is unlawful under this subdivision, the licensing board~~
27 ~~may continue to use and rely on the examination until such time~~
28 ~~as judicial review by the superior court of the determination is~~
29 ~~exhausted.~~

30 If an examination or other qualification for licensing is
31 determined to be unlawful under this section, that determination
32 shall not void, limit, repeal, or otherwise affect any right, privilege,
33 status, or responsibility previously conferred upon any person by
34 the examination or by a license issued in reliance on the
35 examination or qualification.

36 (b) It shall be unlawful for a licensing board to fail or refuse to
37 make reasonable accommodation to an individual's mental or
38 physical disability or medical condition.

39 (c) It shall be unlawful for any licensing board, unless
40 specifically acting in accordance with federal equal employment

1 opportunity guidelines or regulations approved by the ~~commission~~
 2 *council*, to print or circulate or cause to be printed or circulated
 3 any publication, or to make any non-job-related inquiry, either
 4 verbal or through use of an application form, which expresses,
 5 directly or indirectly, any limitation, specification, or discrimination
 6 as to race, religious creed, color, national origin, ancestry, physical
 7 disability, mental disability, medical condition, genetic information,
 8 sex, gender, gender identity, gender expression, age, or sexual
 9 orientation or any intent to make any such limitation, specification,
 10 or discrimination. Nothing in this subdivision shall prohibit any
 11 licensing board from making, in connection with prospective
 12 licensure or certification, an inquiry as to, or a request for
 13 information regarding, the physical fitness of applicants if that
 14 inquiry or request for information is directly related and pertinent
 15 to the license or the licensed position the applicant is applying for.
 16 Nothing in this subdivision shall prohibit any licensing board, in
 17 connection with prospective examinations, licensure, or
 18 certification, from inviting individuals with physical or mental
 19 disabilities to request reasonable accommodations or from making
 20 inquiries related to reasonable accommodations.

21 (d) It is unlawful for a licensing board to discriminate against
 22 any person because the person has filed a complaint, testified, or
 23 assisted in any proceeding under this part.

24 (e) It is unlawful for any licensing board to fail to keep records
 25 of applications for licensing or certification for a period of two
 26 years following the date of receipt of the applications.

27 (f) As used in this section, “licensing board” means any state
 28 board, agency, or authority in the State and Consumer Services
 29 Agency that has the authority to grant licenses or certificates which
 30 are prerequisites to employment eligibility or professional status.

31 *SEC. 38. Section 12946 of the Government Code is amended*
 32 *to read:*

33 12946. It shall be an unlawful practice for employers, labor
 34 organizations, and employment agencies subject to the provisions
 35 of this part to fail to maintain and preserve any and all applications,
 36 personnel, membership, or employment referral records and files
 37 for a minimum period of two years after the records and files are
 38 initially created or received, or for employers to fail to retain
 39 personnel files of applicants or terminated employees for a
 40 minimum period of two years after the date of the employment

1 action taken. For the purposes of this section, the State Personnel
2 Board is exempt from the two-year retention requirement and shall
3 instead, maintain the records and files for a period of one year.
4 Upon notice that a verified complaint against it has been filed
5 under this part, any such employer, labor organization, or
6 employment agency shall maintain and preserve any and all records
7 and files until the complaint is fully and finally disposed of and
8 all appeals or related proceedings terminated. The ~~commission~~
9 *council* shall adopt suitable rules, regulations, and standards to
10 carry out the purposes of this section. Where necessary, the
11 department, pursuant to its powers under Section 12974, may seek
12 temporary or preliminary judicial relief to enforce this section.

13 *SEC. 39. Section 12947.5 of the Government Code is amended*
14 *to read:*

15 12947.5. (a) It shall be an unlawful employment practice for
16 an employer to refuse to permit an employee to wear pants on
17 account of the sex of the employee.

18 (b) Nothing in this section shall prohibit an employer from
19 requiring employees in a particular occupation to wear a uniform.

20 (c) Nothing in this section shall prohibit an employer from
21 requiring an employee to wear a costume while that employee is
22 portraying a specific character or dramatic role.

23 (d) The ~~commission~~ *council* may exempt an employer from the
24 requirements of this section for good cause shown and shall adopt
25 standards and procedures for granting exemptions.

26 *SEC. 40. Section 12950 of the Government Code is amended*
27 *to read:*

28 12950. In addition to employer responsibilities set forth in
29 subdivisions (j) and (k) of Section 12940 and in rules adopted by
30 the department and the ~~commission~~ *council*, every employer shall
31 act to ensure a workplace free of sexual harassment by
32 implementing the following minimum requirements:

33 (a) The department shall amend its current poster on
34 discrimination in employment to include information relating to
35 the illegality of sexual harassment. This amended poster shall be
36 distributed to employers when the supply of the current poster is
37 exhausted. One copy of the amended poster shall be provided by
38 the department to an employer upon request. The amended poster
39 shall be available at each office of the department, and shall be
40 mailed if the request includes a self-addressed envelope with

1 postage affixed. Multiple copies of the amended poster shall be
2 made available online by the Department of Fair Employment and
3 Housing. Each employer shall post the amended poster in a
4 prominent and accessible location in the workplace.

5 (b) Each employer shall obtain from the department its
6 information sheet on sexual harassment, which the department
7 shall make available to employers for reproduction and distribution
8 to employees. One copy of the information sheet shall be provided
9 by the department to an employer upon request. The information
10 sheets shall be available at each office of the department, and shall
11 be mailed if the request includes a self-addressed envelope with
12 postage affixed. Multiple copies of the information sheet shall be
13 made available online by the Department of Fair Employment and
14 Housing. Each employer shall distribute this information sheet to
15 its employees, unless the employer provides equivalent information
16 to its employees that contains, at a minimum, components on the
17 following:

18 (1) The illegality of sexual harassment.

19 (2) The definition of sexual harassment under applicable state
20 and federal law.

21 (3) A description of sexual harassment, utilizing examples.

22 (4) The internal complaint process of the employer available to
23 the employee.

24 (5) The legal remedies and complaint process available through
25 the department ~~and the commission~~.

26 (6) Directions on how to contact the department ~~and the~~
27 ~~commission~~.

28 (7) The protection against retaliation provided by ~~Section 7287.8~~
29 ~~of~~ Title 2 of the California Code of Regulations for opposing the
30 practices prohibited by this article or for filing a complaint with,
31 or otherwise participating in an investigation, proceeding, or
32 hearing conducted by, the department or the ~~commission~~ *council*.

33 (c) The information sheet or information required to be
34 distributed to employees pursuant to subdivision (b) shall be
35 delivered in a manner that ensures distribution to each employee,
36 such as including the information sheet or information with an
37 employee's pay.

38 (d) Notwithstanding subdivisions (j) and (k) of Section 12940,
39 a claim that the information sheet or information required to be
40 distributed pursuant to this section did not reach a particular

1 individual or individuals shall not in and of itself result in the
2 liability of any employer to any present or former employee or
3 applicant in any action alleging sexual harassment. Conversely,
4 an employer's compliance with this section does not insulate the
5 employer from liability for sexual harassment of any current or
6 former employee or applicant.

7 (e) If an employer violates the requirements of this section, the
8 ~~commission shall issue~~ *department may seek* an order requiring
9 the employer to comply with these requirements.

10 *SEC. 41. Section 12950.1 of the Government Code is amended*
11 *to read:*

12 12950.1. (a) By January 1, 2006, an employer having 50 or
13 more employees shall provide at least two hours of classroom or
14 other effective interactive training and education regarding sexual
15 harassment to all supervisory employees in California who are
16 employed as of July 1, 2005, and to all new supervisory employees
17 within six months of their assumption of a supervisory position.
18 Any employer who has provided this training and education to a
19 supervisory employee after January 1, 2003, is not required to
20 provide training and education by the January 1, 2006, deadline.
21 After January 1, 2006, each employer covered by this section shall
22 provide sexual harassment training and education to each
23 supervisory employee in California once every two years. The
24 training and education required by this section shall include
25 information and practical guidance regarding the federal and state
26 statutory provisions concerning the prohibition against and the
27 prevention and correction of sexual harassment and the remedies
28 available to victims of sexual harassment in employment. The
29 training and education shall also include practical examples aimed
30 at instructing supervisors in the prevention of harassment,
31 discrimination, and retaliation, and shall be presented by trainers
32 or educators with knowledge and expertise in the prevention of
33 harassment, discrimination, and retaliation.

34 (b) The state shall incorporate the training required by
35 subdivision (a) into the 80 hours of training provided to all new
36 supervisory employees pursuant to subdivision (b) of Section
37 19995.4, using existing resources.

38 (c) For purposes of this section only, "employer" means any
39 person regularly employing 50 or more persons or regularly
40 receiving the services of 50 or more persons providing services

1 pursuant to a contract, or any person acting as an agent of an
2 employer, directly or indirectly, the state, or any political or civil
3 subdivision of the state, and cities.

4 (d) Notwithstanding subdivisions (j) and (k) of Section 12940,
5 a claim that the training and education required by this section did
6 not reach a particular individual or individuals shall not in and of
7 itself result in the liability of any employer to any present or former
8 employee or applicant in any action alleging sexual harassment.
9 Conversely, an employer's compliance with this section does not
10 insulate the employer from liability for sexual harassment of any
11 current or former employee or applicant.

12 (e) If an employer violates this section, ~~the commission shall~~
13 ~~issue~~ *department may seek* an order requiring the employer to
14 comply with these requirements.

15 (f) The training and education required by this section is intended
16 to establish a minimum threshold and should not discourage or
17 relieve any employer from providing for longer, more frequent,
18 or more elaborate training and education regarding workplace
19 harassment or other forms of unlawful discrimination in order to
20 meet its obligations to take all reasonable steps necessary to prevent
21 and correct harassment and discrimination.

22 *SEC. 42. Section 12961 of the Government Code is amended*
23 *to read:*

24 12961. Where an unlawful practice alleged in a verified
25 complaint adversely affects, in a similar manner, a group or class
26 of persons of which the aggrieved person filing the complaint is
27 a member, or where such an unlawful practice raises questions of
28 law or fact which are common to such a group or class, the
29 aggrieved person or the director may file the complaint on behalf
30 and as representative of such a group or class. Any complaint so
31 filed may be investigated as a group or class complaint, and, if in
32 the judgment of the director circumstances warrant, shall be treated
33 as such for purposes of conciliation ~~and accusation~~. ~~Where an~~
34 ~~accusation is issued as a group or class accusation, the case shall~~
35 ~~be treated as a group or class case for all other purposes of this~~
36 ~~part, including, but not limited to, hearing, determination,~~
37 ~~reconsideration, and judicial proceedings.,~~ *dispute resolution, and*
38 *civil action.*

39 *SEC. 43. Section 12963.5 of the Government Code is amended*
40 *to read:*

1 12963.5. (a) The superior courts shall have jurisdiction to
2 compel the attendance and testimony of witnesses, the production
3 of books, records, documents, and physical materials, and the
4 answering of interrogatories. If an individual or organization fails
5 to comply with a subpoena, interrogatory, request for production,
6 or examination under oath by refusing to respond fully or objecting
7 thereto, or by obstructing any proceeding before the department,
8 the department may file with a superior court a petition for an order
9 compelling compliance, naming as respondent the individual or
10 organization that has failed to comply. Such an action may be
11 brought in any county in which the department's investigation or
12 inquiry takes place, but if the respondent is not found within any
13 such county, such an action may be brought in the county of the
14 respondent's residence or principal office.

15 (b) The petition shall describe the inquiry or investigation before
16 the department, the basis for its jurisdiction therein, and state facts
17 showing that the subpoena, interrogatory, request for production,
18 or examination under oath was issued or carried out in accordance
19 with the requirements of this part, that the information sought was
20 identified with sufficient particularity to permit response and is
21 reasonably relevant to the inquiry or investigation before the
22 department, and that the respondent has failed to comply. If the
23 petition sets forth good cause for relief, the court shall issue an
24 order to show cause to the respondent; otherwise the court shall
25 enter an order denying the petition. The order to show cause shall
26 be served, along with the department's petition, on the respondent
27 in the same manner as summons must be served in civil actions,
28 and the order shall be returnable not less than 10 days from its
29 issuance nor later than 45 days after the filing of the petition. The
30 respondent shall have the right to serve and file a written answer
31 or other response to the petition and order to show cause.

32 (c) Unless otherwise stipulated by the parties, the court shall no
33 later than 30 days after the filing of the petition file its order
34 granting or denying the petition. However, the court may on its
35 own motion for good cause extend such time an additional 30 days.
36 If the order grants the petition in whole or part, the order shall set
37 forth the manner in which the respondent shall comply and the
38 period of time following the effective date of the order within
39 which such compliance is required. A copy of the order shall be
40 served by mail by the clerk upon the parties. If the order grants

1 the petition in whole or in part, the order shall not become effective
2 until 10 days after it is served. If the order denies the petition, it
3 shall become effective on the date it is served.

4 (d) The order of the superior court shall be final and not subject
5 to review by appeal. A party aggrieved by such order, or any part
6 thereof, may within 15 days after the service of the superior court's
7 order, serve and file in the appropriate court of appeal a petition
8 for a writ of mandamus to compel the superior court to set aside
9 or otherwise modify its order. If or whenever such review is sought
10 from an order granting discovery, the order of the trial court shall
11 be stayed upon the filing of the petition for a writ of mandamus,
12 provided, however, the court of appeal may dissolve or modify
13 the stay thereafter if it is in the public interest to do so. If or
14 whenever such review is sought from a denial of discovery, the
15 trial court's order shall not be stayed by the court of appeal except
16 upon a clear showing of probable error.

17 (e) Within 15 days after the end of the compliance period
18 specified in the final order of the superior court, after the
19 exhaustion of any challenges to the order in higher courts, the
20 department shall in writing certify to the court either that the order
21 has been complied with or that the respondent has failed to comply.
22 A copy of the certified statement shall be served on the respondent
23 by personal delivery or certified mail. After receipt of a certified
24 statement indicating the respondent's failure to comply with the
25 order, the court may compel obedience to its order by contempt
26 proceedings, and by making such additional orders as may be
27 appropriate. Following such proceedings, the department shall,
28 within 15 days after the respondent complies with the original
29 order of the court, certify in writing to the court that such order
30 has been complied with. A copy of the certified statement shall be
31 served on the respondent by personal delivery or certified mail.

32 (f) The period of time within which the department is directed
33 ~~to file an accusation~~ *initiate a civil action* by Section 12965 shall
34 be extended by the length of the period between the filing of a
35 petition under this section and either (1) the final effective date,
36 after the exhaustion of any challenges to the original order in higher
37 courts, of an order of the superior court denying the petition, or
38 (2) the filing by the department of a certified statement, pursuant
39 to subdivision (e), indicating the respondent's compliance with

1 the order of the superior court granting the petition in whole or in
2 part, whichever occurs later.

3 *SEC. 44. Section 12964 of the Government Code is amended*
4 *to read:*

5 12964. Any agreement entered into by conference, conciliation
6 ~~and~~, persuasion, or other dispute resolution shall be reduced to
7 writing, signed by all parties, and, *where the department is a*
8 *signatory*, approved by the director or the authorized representative
9 of the director. Within one year of the effective date of every
10 agreement *signed by the department*, the department shall conduct
11 a compliance review to determine whether the agreement has been
12 fully obeyed and implemented. Whenever the department believes,
13 on the basis of evidence presented to it, that any person is violating
14 or about to violate any agreement, the department may bring an
15 action in the superior court against the person to enjoin him or her
16 from continuing or engaging in the violation, or from doing
17 anything in furtherance of the violation. In the action an order or
18 judgment may be entered awarding a temporary restraining order
19 or a preliminary or final injunction as may be proper. The action
20 may be brought in any county in which actions may be brought
21 under subdivision ~~(b)~~ (a) of Section 12965. In resolving allegedly
22 unlawful practices through conciliation the resolutions may be in
23 the nature of, but are not limited to, types of remedies that might
24 be ordered after ~~accusation and hearing~~ *in a civil action.*

25 *SEC. 45. Section 12965 of the Government Code is amended*
26 *to read:*

27 12965. (a) In the case of failure to eliminate an unlawful
28 practice under this part through conference, conciliation, *mediation*,
29 or persuasion, or in advance thereof if circumstances warrant, the
30 director in his or her discretion may *bring a civil action* in the
31 name of the department ~~a written accusation. The accusation on~~
32 *behalf of the person claiming to be aggrieved. Prior to filing a*
33 *civil action, the department shall require all parties to participate*
34 *in mandatory dispute resolution in the department's internal*
35 *dispute resolution division free of charge to the parties in an effort*
36 *to resolve the dispute without litigation. In any civil action, the*
37 *person claiming to be aggrieved shall be the real party in interest*
38 *and shall have the right to participate as a party and be*
39 *represented by his or her own counsel. The civil action shall*
40 *contain the name of the person, employer, labor organization, or*

1 employment agency accused, which shall be known as the
 2 respondent, shall set forth the nature of the charges, shall be served
 3 upon the respondent together with a copy of the verified complaint,
 4 as amended, and shall require the respondent to answer the charges
 5 at a hearing *be brought in any county in which unlawful practices*
 6 *are alleged to have been committed, in the county in which records*
 7 *relevant to the alleged unlawful practices are maintained and*
 8 *administered, or in the county in which the person claiming to be*
 9 *aggrieved would have worked or would have had access to public*
 10 *accommodation, but for the alleged unlawful practices. If the*
 11 *defendant is not found in any of these counties, the action may be*
 12 *brought within the county of the defendant's residence or principal*
 13 *office.*

14 For any complaint treated by the director as a group or class
 15 complaint for purposes of investigation, conciliation, ~~and~~
 16 ~~accusation~~ *mediation, or civil action* pursuant to Section 12961,
 17 ~~an accusation~~ *a civil action* shall be ~~issued~~ *brought*, if at all, within
 18 two years after the filing of the complaint. For any complaint
 19 alleging a violation of Section 51.7 of the Civil Code, ~~an accusation~~
 20 *a civil action* shall be ~~issued~~ *brought*, if at all, within two years
 21 after the filing of the complaint. For all other complaints, ~~an~~
 22 ~~accusation~~ *a civil action* shall be ~~issued~~ *brought*, if at all, within
 23 one year after the filing of a complaint. If the director determines,
 24 pursuant to Section 12961, that a complaint investigated as a group
 25 or class complaint under Section 12961 is to be treated as a group
 26 or class complaint for purposes of conciliation ~~and~~ ~~accusation~~,
 27 *mediation, or civil action* as well, that determination shall be made
 28 and shall be communicated in writing within one year after the
 29 filing of the complaint to each person, employer, labor
 30 organization, employment agency, or public entity alleged in the
 31 complaint to have committed an unlawful practice.

32 (b) ~~If an accusation~~ *a civil action* is not ~~issued~~ *brought by the*
 33 *department* within 150 days after the filing of a complaint, or if
 34 the department earlier determines that ~~no accusation~~ *civil action*
 35 ~~will issue~~ *be brought*, the department shall promptly notify, in
 36 writing, the person claiming to be aggrieved that the department
 37 shall issue, on his or her request, the right-to-sue notice. This notice
 38 shall indicate that the person claiming to be aggrieved may bring
 39 a civil action under this part against the person, employer, labor
 40 organization, or employment agency named in the verified

1 complaint within one year from the date of that notice. If the person
2 claiming to be aggrieved does not request a right-to-sue notice,
3 the department shall issue the notice upon completion of its
4 investigation, and not later than one year after the filing of the
5 complaint. A city, county, or district attorney in a location having
6 an enforcement unit established on or before March 1, 1991,
7 pursuant to a local ordinance enacted for the purpose of prosecuting
8 HIV/AIDS discrimination claims, acting on behalf of any person
9 claiming to be aggrieved due to HIV/AIDS discrimination, may
10 also bring a civil action under this part against the person,
11 employer, labor organization, or employment agency named in
12 the notice. The superior courts of the State of California shall have
13 jurisdiction of those actions, and the aggrieved person may file in
14 these courts. An action may be brought in any county in the state
15 in which the unlawful practice is alleged to have been committed,
16 in the county in which the records relevant to the practice are
17 maintained and administered, or in the county in which the
18 aggrieved person would have worked or would have had access
19 to the public accommodation but for the alleged unlawful practice,
20 but if the defendant is not found within any of these counties, an
21 action may be brought within the county of the defendant's
22 residence or principal office. A copy of any complaint filed
23 pursuant to this part shall be served on the principal offices of the
24 department ~~and of the commission~~. The remedy for failure to send
25 a copy of a complaint is an order to do so. Those actions may not
26 be filed as class actions or may not be maintained as class actions
27 by the person or persons claiming to be aggrieved where those
28 persons have filed a civil class action in the federal courts alleging
29 a comparable claim of employment discrimination against the
30 same defendant or defendants. In *civil* actions brought under this
31 section, the court, in its discretion, may award to the prevailing
32 party, *including the department*, reasonable attorney's fees and
33 costs, including expert witness fees, ~~except where the action is~~
34 ~~filed by a public agency or a public official, acting in an official~~
35 ~~capacity.~~

36 ~~(e) (1) If an accusation includes a prayer either for damages~~
37 ~~for emotional injuries as a component of actual damages, or for~~
38 ~~administrative fines, or for both, or if an accusation is amended~~
39 ~~for the purpose of adding a prayer either for damages for emotional~~
40 ~~injuries as a component of actual damages, or for administrative~~

1 fines, or both, the respondent may within 30 days after service of
2 the accusation or amended accusation, elect to transfer the
3 proceedings to a court in lieu of a hearing pursuant to subdivision
4 (a) by serving a written notice to that effect on the department, the
5 commission, and the person claiming to be aggrieved. The
6 commission shall prescribe the form and manner of giving written
7 notice.

8 (2) No later than 30 days after the completion of service of the
9 notice of election pursuant to paragraph (1), the department shall
10 dismiss the accusation and shall, either itself or, at its election,
11 through the Attorney General, file in the appropriate court an action
12 in its own name on behalf of the person claiming to be aggrieved
13 as the real party in interest. In this action, the person claiming to
14 be aggrieved shall be the real party in interest and shall have the
15 right to participate as a party and be represented by his or her own
16 counsel. Complaints filed pursuant to this section shall be filed in
17 the superior court in any county in which unlawful practices are
18 alleged to have been committed, in the county in which records
19 relevant to the alleged unlawful practices are maintained and
20 administered, or in the county in which the person claiming to be
21 aggrieved would have worked or would have had access to public
22 accommodation, but for the alleged unlawful practices. If the
23 defendant is not found in any of these counties, the action may be
24 brought within the county of the defendant's residence or principal
25 office. Those actions shall be assigned to the court's delay
26 reduction program, or otherwise given priority for disposition by
27 the court in which the action is filed.

28 (3)

29 (c) A court may grant as relief in any action filed pursuant to
30 ~~this~~ subdivision (a) any relief a court is empowered to grant in a
31 civil action brought pursuant to subdivision (b), in addition to any
32 other relief that, in the judgment of the court, will effectuate the
33 purpose of this part. This relief may include a requirement that the
34 employer conduct training for all employees, supervisors, and
35 management on the requirements of this part, the rights and
36 remedies of those who allege a violation of this part, and the
37 employer's internal grievance procedures. *In addition, in order to*
38 *vindicate the purposes and policies of this part, a court may assess*
39 *against the defendant, if the civil complaint or amended civil*
40 *complaint so prays, a civil penalty of up to twenty-five thousand*

1 *dollars (\$25,000) to be awarded to a person denied any right*
2 *provided for by Section 51.7 of the Civil Code, as an unlawful*
3 *practice prohibited under this part.*

4 ~~(4) The department may amend an accusation to pray for either~~
5 ~~damages for emotional injury or for administrative fines, or both,~~
6 ~~provided that the amendment is made within 30 days of the~~
7 ~~issuance of the original accusation.~~

8 (d) (1) Notwithstanding subdivision (b), the one-year statute
9 of limitations, commencing from the date of the right-to-sue notice
10 by the Department of Fair Employment and Housing, to the person
11 claiming to be aggrieved, shall be tolled when all of the following
12 requirements have been met:

13 (A) A charge of discrimination or harassment is timely filed
14 concurrently with the Equal Employment Opportunity Commission
15 and the Department of Fair Employment and Housing.

16 (B) The investigation of the charge is deferred by the
17 Department of Fair Employment and Housing to the Equal
18 Employment Opportunity Commission.

19 (C) A right-to-sue notice is issued to the person claiming to be
20 aggrieved upon deferral of the charge by the Department of Fair
21 Employment and Housing to the Equal Employment Opportunity
22 Commission.

23 (2) The time for commencing an action for which the statute of
24 limitations is tolled under paragraph (1) expires when the federal
25 right-to-sue period to commence a civil action expires, or one year
26 from the date of the right-to-sue notice by the Department of Fair
27 Employment and Housing, whichever is later.

28 (3) This subdivision is intended to codify the holding in *Downs*
29 *v. Department of Water and Power of City of Los Angeles* (1997)
30 58 Cal.App.4th 1093.

31 (e) (1) Notwithstanding subdivision (b), the one-year statute
32 of limitations, commencing from the date of the right-to-sue notice
33 by the Department of Fair Employment and Housing, to the person
34 claiming to be aggrieved, shall be tolled when all of the following
35 requirements have been met:

36 (A) A charge of discrimination or harassment is timely filed
37 concurrently with the Equal Employment Opportunity Commission
38 and the Department of Fair Employment and Housing.

1 (B) The investigation of the charge is deferred by the Equal
2 Employment Opportunity Commission to the Department of Fair
3 Employment and Housing.

4 (C) After investigation and determination by the Department
5 of Fair Employment and Housing, the Equal Employment
6 Opportunity Commission agrees to perform a substantial weight
7 review of the determination of the department or conducts its own
8 investigation of the claim filed by the aggrieved person.

9 (2) The time for commencing an action for which the statute of
10 limitations is tolled under paragraph (1) shall expire when the
11 federal right-to-sue period to commence a civil action expires, or
12 one year from the date of the right-to-sue notice by the Department
13 of Fair Employment and Housing, whichever is later.

14 *SEC. 46. Section 12966 of the Government Code is amended*
15 *to read:*

16 12966. Where the department ~~issues an accusation~~ *initiates a*
17 *civil action*, or is about to do so, and the ~~respondent party~~ *accused*
18 *of engaging in unlawful practices under this part is a state*
19 *contractor or is a supplier of goods and services to the state, the*
20 *director shall send a written notice of the issuance of the accusation*
21 *civil action and a copy of the ~~accusation civil complaint~~ to the*
22 *appropriate awarding agency and request a report of any action*
23 *which the awarding agency takes in response to the department's*
24 *notification and ~~issuance of accusation filing of a civil action.~~*

25 *SEC. 47. Section 12967 of the Government Code is repealed.*

26 ~~12967. The commission shall hold hearings on accusations~~
27 ~~issued pursuant to Section 12965 and shall determine the issues~~
28 ~~raised therein.~~

29 *SEC. 48. Section 12968 of the Government Code is repealed.*

30 ~~12968. Hearings shall take place not more than 90 days after~~
31 ~~the issuance of the accusation upon which they are based.~~

32 *SEC. 49. Section 12969 of the Government Code is repealed.*

33 ~~12969. The case in support of the accusation shall be presented~~
34 ~~before the commission by the attorneys or agents of the department.~~
35 ~~Any commissioner who, in regard to a particular case, shall have~~
36 ~~previously been assigned to engage in investigation or conciliation~~
37 ~~endeavors or shall otherwise have been or be personally or~~
38 ~~professionally connected with the parties or factual situation of~~
39 ~~the original complaint upon which the accusation is based, shall~~
40 ~~not participate in the hearing except as a witness and shall not give~~

1 his or her opinion of the merits of the case, nor shall he or she
2 participate in the deliberations of the commission in such case. In
3 connection with complaints initiated by the director, the personal
4 or professional association of the commissioners with the director
5 shall not prohibit the commissioners from participating in the
6 deliberations of such cases. In any hearing, the content of
7 discussions or endeavors at conciliation shall not be received in
8 evidence.

9 *SEC. 50. Section 12970 of the Government Code is repealed.*

10 12970. (a) If the commission finds that a respondent has
11 engaged in any unlawful practice under this part, it shall state its
12 findings of fact and determination and shall issue and cause to be
13 served on the parties an order requiring the respondent to cease
14 and desist from the unlawful practice and to take action, including,
15 but not limited to, any of the following:

16 (1) The hiring, reinstatement, or upgrading of employees, with
17 or without backpay.

18 (2) The admission or restoration to membership in any
19 respondent labor organization.

20 (3) The payment of actual damages as may be available in civil
21 actions under this part, except as otherwise provided in this section.
22 Actual damages include, but are not limited to, damages for
23 emotional injuries if the accusation or amended accusation prays
24 for those damages. Actual damages awarded under this section for
25 emotional pain, suffering, inconvenience, mental anguish, loss of
26 enjoyment of life, and other nonpecuniary losses shall not exceed,
27 in combination with the amounts of any administrative fines
28 imposed pursuant to subdivision (c), one hundred fifty thousand
29 dollars (\$150,000) per aggrieved person per respondent.

30 (4) Notwithstanding paragraph (3), the payment of actual
31 damages up to one hundred fifty thousand dollars (\$150,000)
32 assessed against a respondent for a violation of Section 51.7 of the
33 Civil Code, as an unlawful practice under this part.

34 (5) Affirmative or prospective relief to prevent the recurrence
35 of the unlawful practice.

36 (6) A report to the commission as to the manner of compliance
37 with the commission's order.

38 (b) An unlawful practice under this part alone is not sufficient
39 to sustain an award of actual damages pursuant to this section. The
40 department is required to prove, by a preponderance of the

1 evidence, that an aggrieved person has sustained actual injury. In
2 determining whether to award damages for emotional injuries, and
3 the amount of any award for these damages, the commission shall
4 consider relevant evidence of the effects of discrimination on the
5 aggrieved person with respect to any or all of the following:

- 6 (1) ~~Physical and mental well-being.~~
- 7 (2) ~~Personal integrity, dignity, and privacy.~~
- 8 (3) ~~Ability to work, earn a living, and advance in his or her~~
9 ~~career.~~
- 10 (4) ~~Personal and professional reputation.~~
- 11 (5) ~~Family relationships.~~
- 12 (6) ~~Access to the job and ability to associate with peers and~~
13 ~~coworkers.~~

14 The commission shall also consider the duration of the emotional
15 injury, and whether that injury was caused or exacerbated by an
16 aggrieved person’s knowledge of a respondent’s failure to respond
17 adequately to, or to correct, the discriminatory practice or by the
18 egregiousness of the discriminatory practice.

19 (e) ~~In addition to the foregoing, in order to vindicate the~~
20 ~~purposes and policies of this part, the commission may assess~~
21 ~~against the respondent, if the accusation or amended accusation~~
22 ~~so prays, an administrative fine per aggrieved person per~~
23 ~~respondent, the amount of which shall be determined in accordance~~
24 ~~with the combined amount limitation of paragraph (3) of~~
25 ~~subdivision (a).~~

26 (d) ~~In determining whether to assess an administrative fine~~
27 ~~pursuant to this section, the commission shall find that the~~
28 ~~respondent has been guilty of oppression, fraud, or malice,~~
29 ~~expressed or implied, as required by Section 3294 of the Civil~~
30 ~~Code. In determining the amount of fines, the commission shall~~
31 ~~consider relevant evidence of, including, but not limited to, the~~
32 ~~following:~~

- 33 (1) ~~Willful, intentional, or purposeful conduct.~~
- 34 (2) ~~Refusal to prevent or eliminate discrimination.~~
- 35 (3) ~~Conscious disregard for the rights of employees.~~
- 36 (4) ~~Commission of unlawful conduct.~~
- 37 (5) ~~Intimidation or harassment.~~
- 38 (6) ~~Conduct without just cause or excuse.~~
- 39 (7) ~~Multiple violations of the Fair Employment and Housing~~
40 ~~Act.~~

1 The moneys derived from an administrative fine assessed
2 pursuant to this subdivision shall be deposited in the General Fund.
3 No administrative fine shall be assessed against a public entity.
4 The commission shall have no authority to award punitive damages
5 as a remedy for a finding of employment discrimination.

6 (e) In addition to the foregoing, in order to vindicate the
7 purposes and policies of this part, the commission may assess
8 against the respondent if the accusation or amended accusation so
9 prays, a civil penalty of up to twenty-five thousand dollars
10 (\$25,000) to be awarded to a person denied any right provided for
11 by Section 51.7 of the Civil Code, as an unlawful practice
12 prohibited under this part.

13 (f) If the commission finds the respondent has engaged in an
14 unlawful practice under this part, and the respondent is licensed
15 or granted a privilege by an agency of the state to do business,
16 provide a service, or conduct activities, and the unlawful practice
17 is determined to have occurred in connection with the exercise of
18 that license or privilege, the commission shall provide the licensing
19 or privilege granting agency with a copy of its decision or order.

20 (g) If the commission finds that a respondent has not engaged
21 in an unlawful practice under this part, the commission shall state
22 its findings of fact and determination and issue and cause to be
23 served on the parties an order dismissing the accusation as to that
24 respondent.

25 (h) Any findings and determination made or any order issued
26 pursuant to this section shall be written and shall indicate the
27 identity of the members of the commission who participated
28 therein.

29 (i) Any order issued by the commission shall have printed on
30 its face references to the rights of appeal of any party to the
31 proceeding to whose position the order is adverse.

32 (j) If the commission finds that a respondent has engaged in an
33 unlawful practice under this part, and it appears that this practice
34 consisted of acts described in Section 243.4, 261, 262, 286, 288,
35 288a, or 289 of the Penal Code, the commission, with the consent
36 of the complainant, shall provide the local district attorney's office
37 with a copy of its decision and order.

38 (k) Notwithstanding Section 12960, if the commission finds
39 that a respondent has engaged in unlawful discrimination in
40 housing under Section 12948, the remedies afforded in Section

1 ~~12987 or any other provision in this part pertaining to housing~~
2 ~~discrimination, shall apply.~~

3 *SEC. 51. Section 12972 of the Government Code is repealed.*

4 ~~12972. (a) The commission shall conduct all actions and~~
5 ~~procedures in accordance with its procedural regulations.~~

6 ~~(b) (1) If the commission does not have a procedural regulation~~
7 ~~on a particular issue, the commission shall rely upon pertinent~~
8 ~~provisions of the Administrative Procedure Act (Chapter 4~~
9 ~~(commencing with Section 11370) of Part 1).~~

10 ~~(2) Notwithstanding paragraph (1), the Administrative~~
11 ~~Adjudication Bill of Rights set forth in Article 6 (commencing~~
12 ~~with Section 11425.10) of Chapter 4.5 of Part 1, and the rules for~~
13 ~~judicial review set forth in Section 11523, shall apply to the~~
14 ~~commission.~~

15 ~~(c) In addition to the discovery available to each party pursuant~~
16 ~~to subdivision (a), the department and the respondent may each~~
17 ~~cause a single deposition to be taken in the manner prescribed by~~
18 ~~law for depositions in civil actions in the superior courts of this~~
19 ~~state under Title 4 (commencing with Section 2016.010) of Part~~
20 ~~4 of the Code of Civil Procedure.~~

21 *SEC. 52. Section 12973 of the Government Code is amended*
22 *to read:*

23 ~~12973. (a) Within one year of the effective date of every final~~
24 ~~order or decision issued pursuant to this part, the department shall~~
25 ~~conduct a compliance review to determine whether the order or~~
26 ~~decision has been fully obeyed and implemented.~~

27 ~~(b) If the time for judicial review of a final commission order~~
28 ~~or decision has lapsed, or if all means of judicial review have been~~
29 ~~exhausted, the department may apply to the superior court in any~~
30 ~~county in which an action could have been brought under~~
31 ~~subdivision (b) of Section 12965 for the enforcement of the order~~
32 ~~or decision or order as modified in accordance with a decision on~~
33 ~~judicial review. If, after a hearing, the court determines that an~~
34 ~~order or decision has been issued by the commission and that either~~
35 ~~the time limits for judicial review have lapsed, or the order or~~
36 ~~decision was upheld in whole or in part on judicial review, the~~
37 ~~court shall issue a judgment and order enforcing the order or~~
38 ~~decision or order as modified in accordance with a decision on~~
39 ~~judicial review. The court shall not review the merits of the order~~
40 ~~or decision. The court's judgment shall be nonappealable and shall~~

1 have the same force and effect as, and shall be subject to all the
2 provisions of law relating to, a judgment in a civil action.

3 ~~(e) Notwithstanding subdivisions (a) and (b), where the~~
4 ~~reviewing court denies a petition for writ of mandate seeking~~
5 ~~review of a commission order or decision, the court shall enter~~
6 ~~judgment denying the petition and enforcing the commission's~~
7 ~~final order or decision.~~

8 ~~(d) If the commission has found that a respondent has engaged~~
9 ~~in an unlawful practice under this part and is liable for actual~~
10 ~~damages, an administrative fine, or a civil penalty, any amount~~
11 ~~due to that respondent by a state agency may be offset to satisfy~~
12 ~~the commission's final order or decision.~~

13 ~~(e) Notwithstanding any other provision of law, the commission~~
14 ~~is not liable for attorney's fees of parties to the administrative~~
15 ~~adjudication of cases brought before the commission, including~~
16 ~~proceedings brought pursuant to Section 11523 of this code and~~
17 ~~Section 1094.5 of the Code of Civil Procedure.~~

18 *SEC. 53. Section 12974 of the Government Code is amended*
19 *to read:*

20 12974. Whenever a complaint is filed with the department and
21 the department concludes on the basis of a preliminary
22 investigation that prompt judicial action is necessary to carry out
23 the purposes of this part, the director or his authorized
24 representative may bring a civil action for appropriate temporary
25 or preliminary relief pending final disposition of such complaint.
26 Any temporary restraining order or other order granting preliminary
27 or temporary relief shall be issued in accordance with Section 527
28 of the Code of Civil Procedure. An action seeking such temporary
29 or preliminary relief may be brought in any county in which actions
30 may be brought under subdivision (b) of Section 12965. *In civil*
31 *actions brought under this section, the court, in its discretion, may*
32 *award to the department reasonable attorney's fees and costs,*
33 *including expert witness fees, when it is the prevailing party for*
34 *the purposes of the order granting temporary or preliminary relief.*

35 *SEC. 54. Section 12975 of the Government Code is amended*
36 *to read:*

37 12975. Any person who shall willfully resist, prevent, impede,
38 or interfere with any member of the department or the ~~commission~~
39 *council* or any of its agents or employees in the performance of
40 duties pursuant to the provisions of this part relating to employment

1 discrimination, or who shall in any manner willfully violate an
2 order of the ~~commission~~ court relating to such matter, is guilty of
3 a misdemeanor, punishable by imprisonment in a county jail, not
4 exceeding six months, or by a fine not exceeding one thousand
5 dollars (\$1,000), or both.

6 *SEC. 55. Section 12980 of the Government Code is amended*
7 *to read:*

8 12980. This article governs the procedure for the prevention
9 and elimination of discrimination in housing made unlawful
10 pursuant to Article 2 (commencing with Section 12955) of Chapter
11 6.

12 (a) Any person claiming to be aggrieved by an alleged violation
13 of Section 12955, 12955.1, or 12955.7 may file with the department
14 a verified complaint in writing that shall state the name and address
15 of the person alleged to have committed the violation complained
16 of, and that shall set forth the particulars of the alleged violation
17 and contain any other information required by the department.

18 The filing of a complaint and pursuit of conciliation or remedy
19 under this part shall not prejudice the complainant's right to pursue
20 effective judicial relief under other applicable laws, but if a civil
21 action has been filed under Section 52 of the Civil Code, the
22 department shall terminate proceedings upon notification of the
23 entry of final judgment unless the judgment is a dismissal entered
24 at the complainant's request.

25 (b) The Attorney General or the director may, in a like manner,
26 make, sign, and file complaints citing practices that appear to
27 violate the purpose of this part or any specific provisions of this
28 part relating to housing discrimination.

29 No complaint may be filed after the expiration of one year from
30 the date upon which the alleged violation occurred or terminated.

31 (c) The department may thereupon proceed upon the complaint
32 in the same manner and with the same powers as provided in this
33 part in the case of an unlawful practice, except that where the
34 provisions of this article provide greater rights and remedies to an
35 aggrieved person than the provisions of Article 1 (commencing
36 with Section 12960), the provisions of this article shall prevail.

37 (d) Upon the filing of a complaint, the department shall serve
38 notice upon the complainant of the time limits, rights of the parties,
39 and choice of forums provided for under the law.

1 (e) The department shall commence proceedings with respect
2 to a complaint within 30 days of filing of the complaint.

3 (f) An investigation of allegations contained in any complaint
4 filed with the department shall be completed within 100 days after
5 receipt of the complaint, unless it is impracticable to do so. If the
6 investigation is not completed within 100 days, the complainant
7 and respondent shall be notified, in writing, of the department's
8 reasons for not doing so.

9 (g) Upon the conclusion of each investigation, the department
10 shall prepare a final investigative report containing all of the
11 following:

12 (1) The names of any witnesses and the dates of any contacts
13 with those witnesses.

14 (2) A summary of the dates of any correspondence or other
15 contacts with the aggrieved persons or the respondent.

16 (3) A summary of witness statements.

17 (4) Answers to interrogatories.

18 (5) A summary description of other pertinent records.

19 A final investigative report may be amended if additional
20 evidence is later discovered.

21 (h) If ~~an accusation~~ *a civil action* is not ~~issued~~ *brought by the*
22 *department* within 100 days after the filing of a complaint, or if
23 the department earlier determines that no ~~accusation~~ *civil action*
24 ~~will issue~~ *be brought*, the department shall promptly notify the
25 person claiming to be aggrieved. This notice shall, in any event,
26 be issued no more than 30 days after the date of the determination
27 or 30 days after the date of the expiration of the 100-day period,
28 whichever date first occurs. The notice shall indicate that the person
29 claiming to be aggrieved may bring a civil action under this part
30 against the person named in the verified complaint within the time
31 period specified in Section 12989.1. The notice shall also indicate,
32 unless the department has determined that no ~~accusation~~ *civil action*
33 ~~will be issued~~ *brought*, that the person claiming to be aggrieved
34 has the option of continuing to seek redress for the alleged
35 discrimination through the procedures of the department if he or
36 she does not desire to file a civil action. The superior courts of the
37 State of California shall have jurisdiction of these actions, and the
38 aggrieved person may file in these courts. The action may be
39 brought in any county in the state in which the violation is alleged
40 to have been committed, or in the county in which the records

1 relevant to the alleged violation are maintained and administered,
 2 but if the defendant is not found within that county, the action may
 3 be brought within the county of the defendant’s residence or
 4 principal office. A copy of any complaint filed pursuant to this
 5 part shall be served on the principal offices of the department ~~and~~
 6 ~~of the commission~~. The remedy for failure to send a copy of a
 7 complaint is an order to do so. In a civil action brought under this
 8 section, the court, in its discretion, may award to the prevailing
 9 party reasonable attorney’s fees.

10 (i) All agreements reached in settlement of any housing
 11 discrimination complaint filed pursuant to this section shall be
 12 made public, unless otherwise agreed by the complainant and
 13 respondent, and the department determines that the disclosure is
 14 not required to further the purposes of the act.

15 (j) All agreements reached in settlement of any housing
 16 discrimination complaint filed pursuant to this section shall be
 17 agreements between the respondent and complainant, and shall be
 18 subject to approval by the department.

19 *SEC. 56. Section 12981 of the Government Code is amended*
 20 *to read:*

21 12981. (a) In the case of failure to eliminate a violation of
 22 Section 12955, 12955.1, or 12955.7 that has occurred, or is about
 23 to occur, through conference, conciliation, ~~and mediation, or~~
 24 persuasion, or in advance thereof if circumstances warrant, the
 25 director shall ~~cause to be issued~~ *bring a civil action* in the name
 26 of the department *on behalf of the aggrieved person as a real party*
 27 *in interest*, notwithstanding Section 12971, ~~a written accusation~~,
 28 in the same manner and with the same powers as provided in
 29 Section 12965, except that where the provisions of this article
 30 provide greater rights and remedies to an aggrieved person than
 31 Section 12965, the provisions of this article shall prevail. ~~An~~
 32 ~~accusation~~ *Prior to filing a civil action, the department shall*
 33 *require all parties to participate in the department’s mandatory*
 34 *dispute resolution division free of charge to the parties in an effort*
 35 *to resolve the dispute without litigation. A civil action* alleging an
 36 unfair housing practice shall be issued within 100 days after the
 37 filing of a complaint unless it is impracticable to do so. The
 38 ~~accusation~~ *civil action shall require the respondent to answer the*
 39 ~~charges at an administrative hearing or civil trial as elected by the~~
 40 ~~parties pursuant to Section 12989~~ *be filed in any county in the state*

1 *in which the unlawful practice is alleged to have been committed,*
2 *in the county in which the records relevant to that practice are*
3 *maintained and administered, or in the county in which the*
4 *aggrieved person would have resided in the housing*
5 *accommodation. If the defendant is not found within that county,*
6 *the action may be filed in the county of the defendant's residence*
7 *or principal office. Any aggrieved person may intervene as a matter*
8 *of right in the proceeding, and the appeal or other judicial review*
9 *of that proceeding.*

10 (b) If the department determines that an allegation concerns the
11 legality of any zoning or other land use law or ordinance, the
12 department or the Attorney General shall take appropriate action
13 with respect to the complaint according to the procedures
14 established in this part for other complaints of housing
15 discrimination.

16 ~~(e) The commission shall hold hearings on accusations issued~~
17 ~~pursuant to subdivision (a) in the same manner and with the same~~
18 ~~powers as provided in Sections 12967 to 12972, inclusive, except~~
19 ~~that where the provisions of this article provide greater rights and~~
20 ~~remedies to an aggrieved person than do Sections 12967 to 12972,~~
21 ~~inclusive, the provisions of this article shall prevail. The~~
22 ~~commission shall make final administrative disposition of a~~
23 ~~complaint alleging unfair housing practices within one year of the~~
24 ~~date of filing of the complaint, unless it is impracticable to do so.~~
25 ~~If the department is unable to make final administrative disposition~~
26 ~~of a complaint within one year, it shall notify the complainant and~~
27 ~~the respondent, in writing, of its reasons for not doing so.~~

28 ~~(d)~~

29 (c) Within one year of the effective date of every final order or
30 decision issued pursuant to this part, the department shall conduct
31 a compliance review to determine whether the order or decision
32 has been fully obeyed and implemented.

33 ~~(e)~~

34 (d) Whenever the department has reasonable cause to believe
35 that a respondent has breached a conciliation agreement *signed by*
36 *the department*, the department shall ~~refer the matter to the~~
37 ~~Attorney General with a recommendation that a~~ *initiate a* civil
38 ~~action be filed for the enforcement of~~ *to enforce* the agreement.

39 ~~(f) If the time for judicial review of a final commission order~~
40 ~~or decision has lapsed, or if all means of judicial review have been~~

1 exhausted, the department may apply to the superior court in any
2 county in which an action could have been brought under
3 subdivision (b) of Section 12965 for the enforcement of the order
4 or decision or order as modified in accordance with a decision on
5 judicial review. If, after a hearing, the court determines that an
6 order or decision has been issued by the commission and that either
7 the time limits for judicial review have lapsed, or the order or
8 decision was upheld in whole or in part on judicial review, the
9 court shall issue a judgment and order enforcing the order or
10 decision or order as modified in accordance with a decision on
11 judicial review. The court shall not review the merits of the order
12 or decision. The court's judgment shall be nonappealable and shall
13 have the same force and effect as, and shall be subject to all the
14 provisions of law relating to, a judgment in a civil action.

15 *SEC. 57. Section 12981.1 of the Government Code is amended*
16 *to read:*

17 12981.1. The department shall not dismiss a complaint or an
18 accusation unless the complainant withdraws the complaint or the
19 department determines after a thorough investigation that, based
20 on the facts, no reasonable cause exists to believe that an unlawful
21 housing practice, as prohibited by this part, has occurred or is about
22 to occur.

23 *SEC. 58. Section 12983 of the Government Code is amended*
24 *to read:*

25 12983. The department, or at its election the Attorney General,
26 at any time after a complaint is filed with it and it has been
27 determined that probable cause exists for believing that the
28 allegations of the complaint are true and constitute a violation of
29 this part, may bring an action in the superior court to enjoin the
30 owner of the property from taking further action with respect to
31 the rental, lease, or sale of the property, as well as to require
32 compliance with Section 12956, until the department has completed
33 its investigation and made its determination; but a temporary
34 restraining order obtained under this section shall not, in any event,
35 be in effect for more than 20 days. In this action an order or
36 judgment may be entered awarding the temporary restraining order
37 or the preliminary or final injunction in accordance with Section
38 527 of the Code of Civil Procedure. *In civil actions brought under*
39 *this section, the court, in its discretion, may award to the*
40 *department reasonable attorney's fees and costs, including expert*

1 *witness fees, when it is the prevailing party for the purposes of the*
2 *order granting temporary or preliminary relief.*

3 *SEC. 59. Section 12985 of the Government Code is amended*
4 *to read:*

5 12985. When a person is contacted by the department, a
6 ~~commissioner~~, or a member of the department's staff, following
7 the filing of a complaint against that person, the person shall be
8 informed whether the contact is for the purpose of investigation
9 or conference, conciliation, ~~or persuasion~~, *or mediation*, and if it
10 is for conference, conciliation, ~~or persuasion~~, *or mediation*, the
11 person shall be informed that all matters relating thereto are
12 *privileged and confidential.*

13 *SEC. 60. Section 12987 of the Government Code is repealed.*

14 ~~12987. (a) If the commission, after hearing, finds that a~~
15 ~~respondent has engaged in any unlawful practice as defined in this~~
16 ~~part, the commission shall state its findings of fact and shall issue~~
17 ~~and cause to be served on the respondent an order requiring the~~
18 ~~respondent to cease and desist from the practice and to take those~~
19 ~~actions, as, in the judgment of the commission, will effectuate the~~
20 ~~purpose of this part, including, but not limited to, any of the~~
21 ~~following:~~

22 (1) ~~The sale or rental of the housing accommodation if it is still~~
23 ~~available, or the sale or rental of a like housing accommodation,~~
24 ~~if one is available, or the provision of financial assistance, terms,~~
25 ~~conditions, or privileges previously denied in violation of~~
26 ~~subdivision (f) of Section 12955 in the purchase, organization, or~~
27 ~~construction of the housing accommodation, if available.~~

28 (2) ~~Affirmative or prospective relief, including injunctive or~~
29 ~~other equitable relief.~~

30 (3) ~~The payment to the complainant of a civil penalty against~~
31 ~~any named respondent, not to exceed sixteen thousand dollars~~
32 ~~(\$16,000), unless, in a separate accusation, the respondent has~~
33 ~~been adjudged to have, with intent, committed a prior violation of~~
34 ~~Section 12955. If the respondent has, in a separate accusation,~~
35 ~~been adjudged to have committed a prior violation of Section~~
36 ~~12955 within the five years preceding the filing of the complaint,~~
37 ~~the amount of the civil penalty may exceed sixteen thousand dollars~~
38 ~~(\$16,000), but may not exceed thirty-seven thousand five hundred~~
39 ~~dollars (\$37,500). If the respondent, in separate accusations, has~~
40 ~~been adjudged to have, with intent, violated Section 12955 two or~~

1 more times within the seven-year period preceding the filing of
2 the complaint, the civil penalty may exceed thirty-seven thousand
3 five hundred dollars (\$37,500), but may not exceed sixty-five
4 thousand dollars (\$65,000). All civil penalties awarded under this
5 provision shall be collected by the department. The commission
6 may award the prevailing party, other than the state, reasonable
7 attorney's fees and costs against any party other than the state,
8 including expert witness fees.

9 (4) ~~The payment of actual damages to the complainant.~~

10 (b) ~~In determining whether to assess a civil penalty pursuant to~~
11 ~~this section, the commission shall find that the respondent has been~~
12 ~~guilty of oppression, fraud, or malice, expressed or implied, as~~
13 ~~required by Section 3294 of the Civil Code. In determining the~~
14 ~~amount of a civil penalty, the commission shall consider Section~~
15 ~~12955.6 and relevant evidence of, including, but not limited to,~~
16 ~~the following:~~

17 (1) ~~Willful, intentional, or purposeful conduct.~~

18 (2) ~~Refusal to prevent or eliminate discrimination.~~

19 (3) ~~Conscious disregard for fair housing rights.~~

20 (4) ~~Commission of unlawful conduct.~~

21 (5) ~~Intimidation or harassment.~~

22 (6) ~~Conduct without just cause or excuse.~~

23 (7) ~~Multiple violations of the Fair Employment and Housing~~
24 ~~Act.~~

25 (e) ~~If the commission finds that the respondent has engaged in~~
26 ~~an unlawful practice under this part, and the respondent is licensed~~
27 ~~or granted a privilege by an agency of the state or the federal~~
28 ~~government to do business, provide a service, or conduct activities,~~
29 ~~and the unlawful practice is determined to have occurred in~~
30 ~~connection with the exercise of that license or privilege, the~~
31 ~~commission shall provide the licensing or privilege granting agency~~
32 ~~with a copy of its decision or order.~~

33 (d) ~~If the commission finds that the respondent has engaged in~~
34 ~~an unlawful practice under this part and is liable for actual damages~~
35 ~~or a civil penalty, any amount due to the respondent by a state~~
36 ~~agency may be offset to satisfy the commission's final order or~~
37 ~~decision.~~

38 (e) ~~No remedy shall be available to the aggrieved person unless~~
39 ~~the aggrieved person waives any and all rights or claims under~~

1 Section 52 of the Civil Code prior to receiving a remedy, and signs
2 a written waiver to that effect.

3 ~~(f) The commission may require a report of the manner of~~
4 ~~compliance.~~

5 ~~(g) If the commission finds that a respondent has not engaged~~
6 ~~in any practice which constitutes a violation of this part, the~~
7 ~~commission shall state its findings of fact and shall issue and cause~~
8 ~~to be served on the complainant an order dismissing the accusation~~
9 ~~as to that respondent.~~

10 ~~(h) Any order issued by the commission shall have printed on~~
11 ~~its face references to the provisions of the Administrative Procedure~~
12 ~~Act which prescribe the rights of appeal of any party to the~~
13 ~~proceeding to whose position the order is adverse.~~

14 *SEC. 61. Section 12987.1 of the Government Code is repealed.*

15 ~~12987.1. (a) Any party aggrieved by the commission's final~~
16 ~~order for relief may obtain a review of that order in accordance~~
17 ~~with the provisions of Section 11523 of this code and Section~~
18 ~~1094.5 of the Code of Civil Procedure except that the limitations~~
19 ~~on the court's remedial powers as described in subdivision (f) of~~
20 ~~Section 1094.5 of the Code of Civil Procedure shall not apply.~~

21 ~~(b) The superior court, in reviewing the commission's final~~
22 ~~order, may award the following relief:~~

23 ~~(1) Grant to the petitioner, or any other party, temporary relief,~~
24 ~~including, but not limited to, a restraining order, or other order as~~
25 ~~the court deems just and proper.~~

26 ~~(2) Affirm, modify, or set aside, in whole or in part, the order,~~
27 ~~or remand the order for further proceedings, and enforce the order~~
28 ~~to the extent that it is affirmed or modified.~~

29 ~~(c) Any party to the proceeding before the commission or~~
30 ~~aggrieved person may intervene as a matter of right in the superior~~
31 ~~court proceeding.~~

32 ~~(d) When the time for petitioning a court for review of the~~
33 ~~commission's order has expired, the department or any party to~~
34 ~~the commission proceeding may petition a court for a decree~~
35 ~~enforcing the commission's order. The court may grant any relief~~
36 ~~necessary to ensure compliance with the commission's order.~~

37 ~~(e) Notwithstanding subdivisions (a) to (d), inclusive, where~~
38 ~~the reviewing court denies a petition for writ of mandate seeking~~
39 ~~review of a commission order or decision, the court shall enter~~

1 judgment denying the petition and enforcing the commission's
2 order or decision.

3 *SEC. 62. Section 12988 of the Government Code is amended*
4 *to read:*

5 12988. The commission and the department may engage in
6 affirmative actions with owners in furtherance of the purpose of
7 this part as expressed in Section 12920.

8 *SEC. 63. Section 12989 of the Government Code is repealed.*

9 ~~12989. (a) If an accusation is issued under Section 12981, a~~
10 ~~complainant, a respondent, or an aggrieved person on whose behalf~~
11 ~~a complaint is filed may elect, in lieu of an administrative~~
12 ~~proceeding under Section 12981, to have the claims asserted in~~
13 ~~the charge adjudicated in a civil action under this part.~~

14 ~~(b) An election under this section may be made within 20 days~~
15 ~~after the service of the accusation, and not later than 20 days after~~
16 ~~service of the complaint to the respondent. A notice of election~~
17 ~~shall be filed with the department, and the department shall serve~~
18 ~~a copy of the notice to the director, the respondent, and the~~
19 ~~aggrieved person on whose behalf the complaint is filed. The notice~~
20 ~~shall be filed and served on all parties to the complaint in~~
21 ~~accordance with the procedures established by Section 12962.~~

22 ~~(c) If either party serves a notice of election upon the~~
23 ~~department, as prescribed, the department shall, within 30 days~~
24 ~~after service of the notice of the election, dismiss the accusation.~~
25 ~~The department shall itself, or at its election through the Attorney~~
26 ~~General, within 30 days of receipt of the notice of election, file a~~
27 ~~civil action with the proper superior court in its name or on behalf~~
28 ~~of the aggrieved person as a real party in interest. In bringing a~~
29 ~~civil or administrative action, or pursuing subsequent appeals of~~
30 ~~those actions, the department or the Attorney General shall, in its~~
31 ~~representation of an aggrieved person's interests, comply with the~~
32 ~~Rules of Professional Conduct of the State Bar of California. The~~
33 ~~action may be filed in any county in the state in which the unlawful~~
34 ~~practice is alleged to have been committed, in the county in which~~
35 ~~the records relevant to that practice are maintained and~~
36 ~~administered, or in the county in which the aggrieved person would~~
37 ~~have resided in the housing accommodation. If the respondent is~~
38 ~~not found within that county, the action may be filed in the county~~
39 ~~of the respondent's residence or principal office.~~

1 ~~(d) Any person aggrieved with respect to the issues to be~~
2 ~~determined in a civil action filed under this part may intervene as~~
3 ~~of right in that civil action.~~

4 ~~(e) If an election is not made pursuant to this section, the director~~
5 ~~shall maintain an administrative proceeding based on the charges~~
6 ~~in the complaint in accordance with the procedures set forth in~~
7 ~~Section 12981.~~

8 ~~(f) The director or his or her designated representative shall be~~
9 ~~available for consultation concerning any legal issues raised by~~
10 ~~the Attorney General that relate to evidentiary or tactical matters~~
11 ~~relevant to any civil action brought under this part.~~

12 *SEC. 64. Section 12989.1 of the Government Code is amended*
13 *to read:*

14 12989.1. An aggrieved person may commence a civil action
15 in an appropriate court not later than two years after the occurrence
16 or the termination of an alleged discriminatory housing practice,
17 or the breach of a conciliation agreement entered into, whichever
18 occurs last, to obtain appropriate relief with respect to the
19 discriminatory housing practice or breach. The computation of the
20 two-year period shall not include any time during which an
21 administrative proceeding under this part was pending with respect
22 to a complaint ~~or accusation~~ under this part based upon the
23 discriminatory housing practice or breach.

24 An aggrieved person may commence a civil action whether or
25 not a complaint has been filed under this part and without regard
26 to the status of any complaint. Any aggrieved person who is
27 aggrieved with respect to the issues to be determined in a civil
28 action filed under this part, may intervene in that civil action.
29 However, if the department has obtained a conciliation agreement
30 with the consent of an aggrieved person, no action may be filed
31 under this part by the aggrieved person with respect to the alleged
32 discriminatory housing practice that forms the basis for the
33 complaint, except for the purpose of enforcing the terms of the
34 agreement.

35 An aggrieved person may not commence a civil action with
36 respect to an alleged discriminatory housing practice that forms
37 the basis of ~~an accusation~~ *issued a civil action brought* by the
38 department ~~if the department has commenced a hearing on the~~
39 ~~accusation.~~

1 SEC. 65. Section 12989.2 of the Government Code is amended
2 to read:

3 12989.2. ~~(a) In a civil action brought under Section 12989~~
4 ~~12981 or 12989.1, if the court finds that a discriminatory housing~~
5 ~~practice has occurred or is about to occur, the court may award~~
6 ~~the plaintiff or complainant actual and punitive damages and may~~
7 ~~grant other relief, including the issuance of a temporary or~~
8 ~~permanent injunction, or temporary restraining order, or other~~
9 ~~order, as it deems appropriate to prevent any defendant from~~
10 ~~engaging in or continuing to engage in an unlawful practice. The~~
11 ~~In a civil action brought under this section, the court may, at its~~
12 ~~discretion, award the prevailing party, other than the state,~~
13 ~~including the department, reasonable attorney’s fees and costs,~~
14 ~~including expert witness fees, against any party other than the~~
15 ~~state. If the court finds that the defendant has engaged in an~~
16 ~~unlawful practice under this part and is liable for actual or punitive~~
17 ~~damages any amount due to the defendant by a state agency may~~
18 ~~be offset to satisfy the court’s final order or decision.~~

19 ~~(b) Notwithstanding any other provision of law, the commission~~
20 ~~is not liable for the attorney’s fees of parties to the administrative~~
21 ~~adjudication of cases brought before the commission, including~~
22 ~~proceedings under Sections 11523 and 12987.1 of this code and~~
23 ~~Section 1094.5 of the Code of Civil Procedure.~~

24 SEC. 66. Section 12990 of the Government Code is amended
25 to read:

26 12990. (a) Any employer who is, or wishes to become, a
27 contractor with the state for public works or for goods or services
28 is subject to the provisions of this part relating to discrimination
29 in employment and to the nondiscrimination requirements of this
30 section and any rules and regulations that implement it.

31 (b) Prior to becoming a contractor or subcontractor with the
32 state, an employer may be required to submit a nondiscrimination
33 program to the department for approval and certification and may
34 be required to submit periodic reports of its compliance with that
35 program.

36 (c) Every state contract and subcontract for public works or for
37 goods or services shall contain a nondiscrimination clause
38 prohibiting discrimination on the bases enumerated in this part by
39 contractors or subcontractors. The nondiscrimination clause shall
40 contain a provision requiring contractors and subcontractors to

1 give written notice of their obligations under that clause to labor
2 organizations with which they have a collective bargaining or other
3 agreement. These contractual provisions shall be fully and
4 effectively enforced. This subdivision does not apply to a credit
5 card purchase of goods of two thousand five hundred dollars
6 (\$2,500) or less. The total amount of exemption authorized herein
7 shall not exceed seven thousand five hundred dollars (\$7,500) per
8 year for each company from which a state agency is purchasing
9 goods by credit card. It shall be the responsibility of each state
10 agency to monitor the use of this exemption and adhere to these
11 restrictions on these purchases.

12 (d) The department shall periodically develop rules and
13 regulations for the application and implementation of this section,
14 and submit them to the ~~commission~~ *council* for consideration and
15 adoption in accordance with the provisions of Chapter 3.5
16 (commencing with Section 11340) of Part 1. Those rules and
17 regulations shall describe and include, but not be limited to, all of
18 the following:

19 (1) Procedures for the investigation, approval, certification,
20 decertification, monitoring, and enforcement of nondiscrimination
21 programs.

22 (2) The size of contracts or subcontracts below which any
23 particular provision of this section shall not apply.

24 (3) The circumstances, if any, under which a contractor or
25 subcontractor is not subject to this section.

26 (4) Criteria for determining the appropriate plant, region,
27 division, or other unit of a contractor's or subcontractor's operation
28 for which a nondiscrimination program is required.

29 (5) Procedures for coordinating the nondiscrimination
30 requirements of this section and its implementing rules and
31 regulations with the California Plan for Equal Opportunity in
32 Apprenticeship, with the provisions and implementing regulations
33 of Article 9.5 (commencing with Section 11135) of Chapter 1 of
34 Part 1, and with comparable federal laws and regulations
35 concerning nondiscrimination, equal employment opportunity,
36 and affirmative action by those who contract with the United States.

37 (6) The basic principles and standards to guide the department
38 in administering and implementing this section.

39 (e) Where a contractor or subcontractor is required to prepare
40 an affirmative action, equal employment, or nondiscrimination

1 program subject to review and approval by a federal compliance
 2 agency, that program may be filed with the department, instead of
 3 any nondiscrimination program regularly required by this section
 4 or its implementing rules and regulations. Such a program shall
 5 constitute a prima facie demonstration of compliance with this
 6 section. Where the department or a federal compliance agency has
 7 required the preparation of an affirmative action, equal
 8 employment, or nondiscrimination program subject to review and
 9 approval by the department or a federal compliance agency,
 10 evidence of such a program shall also constitute prima facie
 11 compliance with an ordinance or regulation of any city, city and
 12 county, or county that requires an employer to submit such a
 13 program to a local awarding agency for its approval prior to
 14 becoming a contractor or subcontractor with that agency.

15 (f) Where the department determines and certifies that the
 16 provisions of this section or its implementing rules and regulations
 17 are violated or ~~where the commission, after hearing an accusation~~
 18 ~~pursuant to Section 12967,~~ determines a contractor or subcontractor
 19 is engaging in practices made unlawful under this part, the
 20 department ~~or the commission~~ may recommend appropriate
 21 sanctions to the awarding agency. Any such recommendation shall
 22 take into account the severity of the violation or violations and
 23 any other penalties, sanctions, or remedies previously imposed.

24 *SEC. 67. Chapter 1 (commencing with Section 14995) of Part*
 25 *5.6 of Division 3 of Title 2 of the Government Code is repealed.*

26 *SEC. 68. Section 19704 of the Government Code is amended*
 27 *to read:*

28 19704. (a) It is unlawful to require, permit, or suffer any
 29 notation or entry to be made upon or in any application,
 30 examination paper, or other paper, book, document, or record used
 31 under this part indicating or in any way suggesting or pertaining
 32 to any basis listed in subdivision (a) of Section 12940, as those
 33 bases are defined in Sections 12926 and 12926.1.

34 (b) Notwithstanding subdivision (a), subsequent to employment,
 35 ethnic, marital status, and gender data may be obtained and
 36 maintained for research and statistical purposes when safeguards
 37 preventing misuse of the information exist as approved by the Fair
 38 Employment and Housing ~~Commission~~ *Council*, except that in no
 39 event shall any notation, entry, or record of that data be made on

1 papers or records relating to the examination, appointment, or
2 promotion of an individual.

3 *SEC. 69. Section 19815 of the Government Code is amended*
4 *to read:*

5 19815. As used in this part:

6 (a) "Department" means the Department of Personnel
7 Administration.

8 (b) "Director" means the Director of the Department of
9 Personnel Administration.

10 (c) "Division" means the Division of Labor Relations.

11 (d) "Employee" or "state employee," except where otherwise
12 indicated, means employees subject to the Ralph C. Dills Act
13 (Chapter 10.3 (commencing with Section 3512), Division 4, Title
14 1), supervisory employees as defined in subdivision (g) of Section
15 3513, managerial employees as defined in subdivision (e) of
16 Section 3513, confidential employees as defined in subdivision
17 (f) of Section 3513, employees of the Legislative Counsel Bureau,
18 employees of the Bureau of State Audits, employees of the office
19 of the Inspector General, employees of the Public Employment
20 Relations Board, conciliators employed by the *California State*
21 *Mediation and Conciliation Service* ~~within the Department of~~
22 ~~Industrial Relations~~, employees of the Department of Personnel
23 Administration, professional employees of the Department of
24 Finance engaged in technical or analytical state budget preparation
25 other than audit staff, intermittent athletic inspectors who are
26 employees of the State Athletic Commission, professional
27 employees in the Personnel/Payroll Services Division of the
28 Controller's office and all employees of the executive branch of
29 government who are not elected to office.

30 *SEC. 70. Section 50085.5 of the Government Code is amended*
31 *to read:*

32 50085.5. (a) Every local agency shall provide to the Fair
33 Employment and Housing ~~Commission~~ *Council* a copy of any
34 affirmative action plan and subsequent amendments to such plan
35 adopted by the local agency.

36 (b) Every local agency ~~which~~ *that* is required by federal law,
37 rule or regulation to submit an annual statistical survey of the
38 employment of the agency to the United States Equal Employment
39 Opportunity Commission shall annually, commencing with January

1 1, ~~1975~~, 2013, submit a copy of ~~such~~ the survey to the Fair
2 Employment and Housing ~~Commission~~ Council.

3 (c) ~~Such~~ These reports and information shall constitute public
4 records.

5 SEC. 71. Section 71632.5 of the Government Code is amended
6 to read:

7 71632.5. (a) Notwithstanding any other provision of law, rule,
8 or regulation, an agency shop agreement may be negotiated
9 between a trial court and a recognized employee organization that
10 has been recognized as the exclusive or majority bargaining agent
11 pursuant to reasonable rules and regulations, and enactments, in
12 accordance with this article. As used in this article, “agency shop”
13 means an arrangement that requires an employee, as a condition
14 of continued employment, either to join the recognized employee
15 organization, or to pay the organization a service fee in an amount
16 not to exceed the standard initiation fee, periodic dues, and general
17 assessments of that organization for the duration of the agreement
18 or a period of three years from the effective date of the agreement,
19 whichever comes first. However, any employee who is a member
20 of a bona fide religion, body, or sect that has historically held
21 conscientious objections to joining or financially supporting
22 recognized employee organizations shall not be required to join
23 or financially support any recognized employee organization as a
24 condition of employment. That employee may be required, in lieu
25 of periodic dues, initiation fees, or agency shop fees to pay sums
26 equal to those dues, initiation fees, or agency shop fees to a
27 nonreligious, nonlabor charitable organization fund exempt from
28 taxation under Section 501 (c)(3) of the Internal Revenue Code,
29 chosen by the employee from a list of at least three funds,
30 designated in a memorandum of understanding or agreement
31 between the trial court and the recognized employee organization,
32 or if the memorandum of understanding or agreement fails to
33 designate any funds, then to any fund chosen by the employee.
34 Proof of those payments shall be made on a monthly basis to the
35 trial court as a condition of continued exemption from the
36 requirement of financial support to the recognized employee
37 organization.

38 (b) An agency shop provision in a memorandum of
39 understanding or agreement which is in effect may be rescinded
40 by a majority vote of all the employees in the unit covered by the

1 memorandum of understanding or agreement, ~~provided that (1) a~~
2 *under the following circumstances:*

3 (1) A request for the vote is supported by a petition containing
4 the signatures of at least 30 percent of the employees in the unit;
5 ~~(2) the.~~

6 (2) *The vote is by secret ballot; and (3) the.*

7 (3) *The vote may be taken at any time during the term of the*
8 *memorandum of understanding or agreement, but in no event shall*
9 *there be more than one vote taken during that term.*

10 (c) In addition to the procedure prescribed in subdivision (a),
11 an agency shop arrangement between the trial court and a
12 recognized employee organization or recognized employee
13 organizations shall be placed in effect, without a negotiated
14 agreement, upon (1) a signed petition of at least 30 percent of the
15 employees in the applicable bargaining unit requesting an agency
16 shop agreement and an election to implement an agency fee
17 arrangement, and (2) the approval of a majority of employees who
18 cast ballots and vote in a secret ballot election in favor of the
19 agency shop agreement. The petition may only be filed after the
20 recognized employee organization has requested the trial court to
21 negotiate on an agency shop arrangement and, beginning seven
22 working days after the trial court received this request, the two
23 parties have had 30 calendar days to attempt good faith negotiations
24 in an effort to reach agreement. An election, that may not be held
25 more frequently than once a year, shall be conducted by the
26 ~~Division of Conciliation of the Department of Industrial Relations~~
27 *California State Mediation and Conciliation Service* in the event
28 that the trial court and the recognized employee organization cannot
29 agree within 10 days from the filing of the petition to select jointly
30 a neutral person or entity to conduct the election. In the event of
31 an agency fee arrangement outside of an agreement that was in
32 effect on January 1, 2002, the recognized employee organization
33 shall defend, indemnify, and hold the trial court harmless against
34 any liability arising from any claims, demands, or other action
35 relating to the trial court's compliance with the agency fee
36 obligation. Upon notification to the trial court by the recognized
37 employee organization, the amount of the fee shall be deducted
38 by the trial court from the wages or salary of the employee and
39 paid to the employee organization. This subdivision shall be
40 applicable on the operative date of this section, except that if a

1 memorandum of understanding or agreement between the trial
2 court and a recognized employee organization was in effect before
3 January 1, 2002, as to the employees covered by the memorandum
4 of understanding or agreement, the implementation date of this
5 subdivision shall be either the date a successor memorandum of
6 understanding or agreement is effective or, if no agreement for a
7 successor memorandum of understanding or agreement is reached,
8 90 days from the date of the expiration of the predecessor
9 memorandum of understanding or agreement. The trial court and
10 representatives of recognized employee organizations may mutually
11 agree to a different date on which this subdivision is applicable.

12 (d) Notwithstanding subdivisions (a), (b), and (c), the trial court
13 and the recognized employee organization may negotiate, and by
14 mutual agreement provide for, an alternative procedure or
15 procedures regarding a vote on any agency shop agreement.

16 (e) An agency shop agreement or arrangement does not apply
17 to management, confidential, or supervisory employees. If those
18 employees nonetheless choose to join the recognized employee
19 organization and pay dues or pay the organization a service fee,
20 Section 71638 shall apply to those employees, and the trial court
21 shall administer deductions for which the recognized employee
22 organization shall defend, indemnify, and hold the trial court
23 harmless.

24 (f) Every recognized employee organization that has agreed to
25 an agency shop provision, or is a party to an agency shop
26 arrangement, shall keep an adequate itemized record of its financial
27 transactions and shall make available annually, to the trial court
28 with which the agency shop provision was negotiated, and to the
29 employees who are members of the organization, within 60 days
30 after the end of its fiscal year, a detailed written financial report
31 thereof in the form of a balance sheet and an operating statement,
32 certified as to accuracy by its president and treasurer or
33 corresponding principal officer, or by a certified public accountant.
34 An employee organization required to file financial reports under
35 the federal Labor-Management Disclosure Act of 1959 covering
36 employees governed by this chapter or required to file financial
37 reports under Section 3546.5, may satisfy the financial reporting
38 requirement of this section by providing the trial court with a copy
39 of those financial reports.

1 (g) This section shall become operative only if Section 3502.5
2 is amended to provide that a 30-percent or greater showing of
3 interest by means of a petition requires an election regarding an
4 agency shop, and a vote at that election of 50 percent plus one of
5 those voting secures an agency shop arrangement.

6 (h) A trial court may not offer employees inducements or
7 benefits of any kind in return for employees opposing or rescinding
8 an agency shop arrangement.

9 *SEC. 72. Section 71636.1 of the Government Code is amended*
10 *to read:*

11 71636.1. In the absence of local procedures for resolving
12 disputes on the appropriateness of a unit of representation, upon
13 the request of any of the parties, the dispute shall be submitted to
14 ~~the Division of Conciliation of the Department of Industrial~~
15 ~~Relations~~ *California State Mediation and Conciliation Service* for
16 the mediation or for recommendation for resolving the dispute.

17 *SEC. 73. Section 71636.3 of the Government Code is amended*
18 *to read:*

19 71636.3. (a) Unit determinations and representation elections
20 shall be determined and processed in accordance with rules adopted
21 by a trial court in accordance with this chapter. In a representation
22 election, a majority of the votes cast by the employees in the
23 appropriate bargaining unit shall be required.

24 (b) Notwithstanding subdivision (a) and rules adopted by a trial
25 court pursuant to Section 71636, a bargaining unit in effect as of
26 January 1, 2002, shall continue in effect unless changed under the
27 rules adopted by the trial court pursuant to Section 71636.

28 (c) A trial court shall grant exclusive or majority recognition to
29 an employee organization based on a signed petition, authorization
30 cards, or union membership cards showing that a majority of the
31 employees in an appropriate bargaining unit desire the
32 representation, unless another labor organization has previously
33 been lawfully recognized as exclusive or majority representative
34 of all or part of the same unit. Exclusive or majority representation
35 shall be determined by a neutral third party, selected by the trial
36 court and the employee organization, who shall review the signed
37 petition, authorization cards, or union membership cards to verify
38 the exclusive or majority status of the employee organization. If
39 the trial court and the employee organization cannot agree on a
40 neutral third party, ~~the Division of Conciliation of the Department~~

1 ~~of Industrial Relations~~ *California State Mediation and Conciliation*
 2 *Service* shall be the neutral third party and shall verify the exclusive
 3 or majority status of the employee organization. If the neutral third
 4 party determines, based on a signed petition, authorization cards,
 5 or union membership cards, that a second labor organization has
 6 the support of at least 30 percent of the employees in the unit in
 7 which recognition is sought, the neutral third party shall order an
 8 election to establish which labor organization, if any, has majority
 9 status.

10 *SEC. 74. Section 71637 of the Government Code is amended*
 11 *to read:*

12 71637. (a) For purposes of this article, professional employees
 13 shall not be denied the right to be represented separately from
 14 nonprofessional employees by a professional employee
 15 organization consisting of those professional employees. In the
 16 event of a dispute on the appropriateness of a unit of representation
 17 for professional employees, upon request of any of the parties, the
 18 dispute shall be submitted to the ~~Division of Conciliation of the~~
 19 ~~Department of Industrial Relations~~ *California State Mediation and*
 20 *Conciliation Service* for mediation or for recommendation for
 21 resolving the dispute.

22 (b) For the purpose of this section, “professional employees”
 23 means employees engaged in work requiring specialized knowledge
 24 and skills attained through completion of a recognized course of
 25 instruction, including, but not limited to, attorneys.

26 *SEC. 75. Section 102346 of the Health and Safety Code is*
 27 *amended to read:*

28 102346. (a) The local registrar of births and deaths shall
 29 transmit each month to the ~~Division of Labor Statistics and~~
 30 ~~Research of the~~ Department of Industrial Relations a copy of each
 31 certificate of death for which the death has been marked as
 32 work-related and which was accepted for registration by him or
 33 her during the preceding month.

34 (b) This section shall become operative on January 1, 2003.

35 *SEC. 76. Section 11770 of the Insurance Code is amended to*
 36 *read:*

37 11770. (a) The State Compensation Insurance Fund is
 38 continued in existence, to be administered by its board of directors
 39 for the purpose of transacting workers’ compensation insurance,
 40 and insurance against the expense of defending any suit for serious

1 and willful misconduct, against an employer or his or her agent,
2 and insurance to employees and other persons of the compensation
3 fixed by the workers' compensation laws for employees and their
4 dependents. Any appropriation made therefrom or thereto before
5 the effective date of this code shall continue to be available for the
6 purposes for which it was made.

7 (b) (1) The Board of Directors of the State Compensation
8 Insurance Fund is composed of 11 members, nine of whom shall
9 be appointed by the Governor. The Governor shall appoint the
10 chairperson. One of the members appointed by the Governor shall
11 be from organized labor. The members appointed by the Governor,
12 other than the labor member, shall have substantial experience in
13 positions involving workers' compensation, legal, investment,
14 financial, corporate governance and management, accounting, or
15 auditing responsibilities with entities of sufficient size as to make
16 their qualifications relevant to an enterprise of the financial and
17 operational size of the State Compensation Insurance Fund. At all
18 times the board shall have a member with auditing background
19 for the purposes of fulfilling the responsibility of the chair of the
20 audit committee. A quorum is a majority of those appointed,
21 provided that at no time shall a quorum be established with ~~less~~
22 *fewer* than five members.

23 (2) The Speaker of the Assembly shall appoint one member
24 who shall represent organized labor, and the Senate Committee
25 on Rules shall appoint one member who shall have been a
26 policyholder of the State Compensation Insurance Fund, or an
27 officer or employee of a policyholder, for one year immediately
28 preceding the appointment, and must continue in this status during
29 the period of his or her membership.

30 (3) The Director of Industrial Relations shall be an ex officio,
31 nonvoting member of the board, and shall not be counted as
32 members of the board for quorum purposes or any other purpose.

33 (4) Notwithstanding subdivision (c), the initial term of the
34 members of the board added in the 2008 portion of the 2007–08
35 Regular Session shall be as follows:

36 (A) One of the members appointed by the Governor shall serve
37 an initial term of two years, one shall serve an initial term of four
38 years, and two shall serve an initial term of five years.

39 (B) The member appointed by the Senate Committee on Rules
40 shall serve an initial term of four years.

1 (C) The member appointed by the Speaker of the Assembly
2 shall serve an initial term of three years.

3 (c) The term of office of the members of the board, other than
4 that of the director, shall be five years and they shall hold office
5 until the appointment and qualification of their successors.

6 (d) (1) Each member of the board shall receive his or her actual
7 and necessary traveling expenses incurred in the performance of
8 his or her duties as a member and, with the exception of the ex
9 officio members, one hundred dollars (\$100) for each day of his
10 or her actual attendance at meetings of the board.

11 (2) (A) Each member of the board appointed pursuant to
12 paragraphs (1) and (2) of subdivision (b) shall receive the
13 compensation fixed pursuant to subparagraph (B).

14 (B) Each board member described in subparagraph (A) shall be
15 paid an annual compensation of fifty thousand dollars (\$50,000),
16 to be automatically adjusted beginning January 1, 2010, by
17 multiplying the compensation in effect the prior June 30 by the
18 percentage of inflation that occurred during the previous year,
19 adding this amount to the annual compensation from the previous
20 year, and rounding off the result to the nearest dollar. "Percentage
21 of inflation" means the percentage of inflation specified in the
22 Consumer Price Index for All Urban Consumers, as published by
23 the Department of Industrial Relations, ~~Division of Labor Statistics~~
24 ~~and Research~~, or its successor index.

25 (e) Each member of the board of directors shall attend training
26 approved by the board of directors that covers topics, including,
27 but not limited to, the duties and obligations of members of a board
28 of directors, corporate governance, ethics, board of director legal
29 issues, insurance, finance and investment, and information
30 technology. The training shall be conducted by persons or entities
31 not affiliated with the State Compensation Insurance Fund.

32 (f) No person who has had a direct or indirect interest in any
33 transaction with the State Compensation Insurance Fund since the
34 beginning of the last fiscal year of the fund, or who has a direct or
35 indirect material interest in any proposed transaction with the fund,
36 where the amount involved in the transaction exceeds one hundred
37 twenty thousand dollars (\$120,000) shall be eligible for
38 appointment as a member of the board of directors of the fund.
39 Once appointed, no member of the board of directors shall have a
40 financial conflict of interest, as defined in Chapter 7 of Title 9

1 (commencing with Section 87100) of the Government Code, and
2 every member shall be subject to Article 4 (commencing with
3 Section 1090) of Chapter 1 of Division 4 of Title 1 of the
4 Government Code, provided that the existence of a contract of
5 insurance between the State Compensation Insurance Fund and
6 the policyholder member appointed by the Senate Committee on
7 Rules shall not constitute a conflict of interest pursuant to this
8 subdivision. For purposes of board actions affecting generally
9 applicable rates, a member of the board of directors shall not be
10 deemed to have a financial interest, as defined in Article 4
11 (commencing with Section 1090) of Chapter 1 of Division 4 of
12 Title 1 of, or pursuant to Chapter 7 (commencing with Section
13 87100) of Title 9 of, the Government Code, in a contract of
14 insurance between the State Compensation Insurance Fund and
15 an organization of which any member of the board of directors is
16 an owner, officer, or employee.

17 (g) The appointing authority of a member of the board may
18 remove the member and make an appointment replacing the
19 member for the duration of the term if the member ceases to
20 discharge the duties of his or her office for the period of three
21 consecutive board meetings.

22 (h) The board of the State Compensation Insurance Fund shall
23 create, at a minimum, an audit committee, an investment
24 committee, a corporate governance committee, and other
25 committees as the board determines are necessary.

26 *SEC. 77. Section 56 of the Labor Code is amended to read:*

27 56. The work of the department shall be divided into at least
28 ~~six~~ five divisions known as the Division of Workers'
29 Compensation, the Division of Occupational Safety and Health,
30 the Division of Labor Standards Enforcement, ~~the Division of~~
31 ~~Labor Statistics and Research~~, the Division of Apprenticeship
32 Standards, and the State Compensation Insurance Fund.

33 *SEC. 78. Section 65 of the Labor Code is repealed.*

34 ~~65. The department may investigate and mediate labor disputes~~
35 ~~providing any bona fide party to this type of dispute requests~~
36 ~~intervention by the department and the department may proffer its~~
37 ~~services to both parties when work stoppage is threatened and~~
38 ~~neither party requests intervention. In the interest of preventing~~
39 ~~labor disputes the department shall endeavor to promote sound~~
40 ~~union-employer relationships. The department may arbitrate or~~

1 ~~arrange for the selection of boards of arbitration on such terms as~~
 2 ~~all of the bona fide parties to the dispute may agree upon. Any~~
 3 ~~decision or award arising out of an arbitration conducted pursuant~~
 4 ~~to this section is a public record. Section 703.5 and Chapter 2~~
 5 ~~(commencing with Section 1115) of Division 9 of the Evidence~~
 6 ~~Code apply to a mediation conducted by the California State~~
 7 ~~Mediation and Conciliation Service, and any person conducting~~
 8 ~~the mediation. All other records of the department relating to labor~~
 9 ~~disputes are confidential.~~

10 *SEC. 79. Chapter 4.5 (commencing with Section 108) is added*
 11 *to Division 1 of the Labor Code, to read:*

12

13 *CHAPTER 4.5. ELECTRICIAN CERTIFICATION*

14

15 *108. (a) The Division of Labor Standards Enforcement shall*
 16 *do all of the following:*

17 *(1) Maintain minimum standards for the competency and*
 18 *training of electricians through a system of testing and*
 19 *certification.*

20 *(2) Maintain an advisory committee and panels as necessary*
 21 *to carry out the functions under this section. There shall be*
 22 *contractor representation from both joint apprenticeship programs*
 23 *and unilateral nonunion programs in the electrical contracting*
 24 *industry.*

25 *(3) Establish and collect fees necessary to implement this*
 26 *section.*

27 *(4) Carry out the responsibilities of the Division of*
 28 *Apprenticeship Standards that are specified in Subchapter 4*
 29 *(commencing with Section 290) of Chapter 2 of Division 1 of Title*
 30 *8 of the California Code of Regulations. The Labor Commissioner*
 31 *may amend or repeal existing regulations or adopt new regulations*
 32 *as necessary to enforce this section. Pending amendments to*
 33 *conform to this section, any reference within the Subchapter 4*
 34 *regulations to the Chief of the Division of Apprenticeship Standards*
 35 *is deemed a reference to the Labor Commissioner, and references*
 36 *to prior statutory sections are deemed to refer to current statutory*
 37 *language as follows:*

38 *(A) References to former Section 3099 refer to current Section*
 39 *108.*

1 (B) References to former Section 3099.2 refer to current Section
2 108.2.

3 (C) References to former Section 3099.3 refer to current Section
4 108.3.

5 (D) References to former Section 3099.4 refer to current Section
6 108.4.

7 (E) References to former Section 3099.5 refer to current Section
8 108.5.

9 (5) Issue certification cards to electricians who have been
10 certified pursuant to this section. Notwithstanding Section 13340
11 of the Government Code, fees collected pursuant to paragraph (3)
12 are continuously appropriated in an amount sufficient to pay the
13 costs of issuing certification cards, and that amount may be
14 expended for that purpose by the division.

15 (6) Maintain an electrical certification curriculum committee
16 comprised of representatives of the State Department of Education,
17 the California Community Colleges, and the division. The electrical
18 certification curriculum committee shall do all of the following:

19 (A) Establish written educational curriculum standards for
20 enrollees in training programs established pursuant to Section
21 108.4.

22 (B) If an educational provider's curriculum meets the written
23 educational curriculum standards established in accordance with
24 subparagraph (A), designate that curriculum as an approved
25 curriculum of classroom instruction.

26 (C) At the committee's discretion, review the approved
27 curriculum of classroom instruction of any designated educational
28 provider. The committee may withdraw its approval of the
29 curriculum if the educational provider does not continue to meet
30 the established written educational curriculum standards.

31 (D) Require each designated educational provider to submit an
32 annual notice to the committee stating whether the educational
33 provider is continuing to offer the approved curriculum of
34 classroom instruction and whether any material changes have
35 been made to the curriculum since its approval.

36 (b) There shall be no discrimination for or against any person
37 based on membership or nonmembership in a union.

38 (c) As used in this section, "electricians" includes all persons
39 who engage in the connection of electrical devices for electrical
40 contractors licensed pursuant to Section 7058 of the Business and

1 *Professions Code, specifically, contractors classified as electrical*
2 *contractors in the Contractors' State License Board Rules and*
3 *Regulations. This section does not apply to electrical connections*
4 *under 100 volt-amperes. This section does not apply to persons*
5 *performing work to which Section 7042.5 of the Business and*
6 *Professions Code is applicable, or to electrical work ordinarily*
7 *and customarily performed by stationary engineers. This section*
8 *does not apply to electrical work in connection with the*
9 *installation, operation, or maintenance of temporary or portable*
10 *electrical equipment performed by technicians in the theatrical,*
11 *motion picture production, television, hotel, exhibition, or trade*
12 *show industries.*

13 *108.2. (a) Persons who perform work as electricians shall*
14 *become certified pursuant to Section 108. Uncertified persons*
15 *shall not perform electrical work for which certification is required.*

16 *(b) (1) Certification is required only for those persons who*
17 *perform work as electricians for contractors licensed as class C-10*
18 *electrical contractors under the Contractors' State License Board*
19 *Rules and Regulations.*

20 *(2) Certification is not required for persons performing work*
21 *for contractors licensed as class C-7 low voltage systems or class*
22 *C-45 electric sign contractors as long as the work performed is*
23 *within the scope of the class C-7 or class C-45 license, including*
24 *incidental and supplemental work as defined in Section 7059 of*
25 *the Business and Professions Code, and regardless of whether the*
26 *same contractor is also licensed as a class C-10 contractor.*

27 *(3) Certification is not required for work performed by a worker*
28 *on a high-voltage electrical transmission or distribution system*
29 *owned by a local publicly owned electric utility, as defined in*
30 *Section 224.3 of the Public Utilities Code; an electrical*
31 *corporation, as defined in Section 218 of the Public Utilities Code;*
32 *a person, as defined in Section 205 of the Public Utilities Code;*
33 *or a corporation, as defined in Section 204 of the Public Utilities*
34 *Code; when the worker is employed by the utility or a licensed*
35 *contractor principally engaged in installing or maintaining*
36 *transmission or distribution systems.*

37 *(4) Individuals desiring to be certified shall submit an*
38 *application for certification and examination that includes an*
39 *employment history report from the Social Security Administration.*

1 *The individual may redact his or her social security number from*
2 *the employment history report before it is submitted.*

3 *(c) The division shall maintain separate certifications for*
4 *general electrician, fire/life safety technician, residential*
5 *electrician, voice data video technician, and nonresidential lighting*
6 *technician.*

7 *(d) Notwithstanding subdivision (a), certification is not required*
8 *for registered apprentices performing electrical work as part of*
9 *an apprenticeship program approved under Chapter 4 of Division*
10 *3 (commencing with Section 3070), a federal Office of*
11 *Apprenticeship program, or a state apprenticeship program*
12 *authorized by the federal Office of Apprenticeship. An apprentice*
13 *who is within one year of completion of his or her term of*
14 *apprenticeship shall be permitted to take the certification*
15 *examination and, upon passing the examination, shall be certified*
16 *immediately upon completion of the term of apprenticeship.*

17 *(e) Notwithstanding subdivision (a), certification is not required*
18 *for any person employed pursuant to Section 108.4.*

19 *(f) Notwithstanding subdivision (a), certification is not required*
20 *for a nonresidential lighting trainee (1) who is enrolled in an*
21 *on-the-job instructional training program approved by the Chief*
22 *of the Division of Apprenticeship Standards pursuant to Section*
23 *3090, and (2) who is under the onsite supervision of a*
24 *nonresidential lighting technician certified pursuant to Section*
25 *108.*

26 *(g) Notwithstanding subdivision (a), the qualifying person for*
27 *a class C-10 electrical contractor license issued by the*
28 *Contractors' State License Board need not also be certified*
29 *pursuant to Section 108 to perform electrical work for that licensed*
30 *contractor or to supervise an uncertified person employed by that*
31 *licensed contractor pursuant to Section 108.4.*

32 *(h) The following shall constitute additional grounds for*
33 *disciplinary proceedings, including suspension or revocation of*
34 *the license of a class C-10 electrical contractor pursuant to Article*
35 *7 (commencing with Section 7090) of Chapter 9 of Division 3 of*
36 *the Business and Professions Code:*

37 *(1) The contractor willfully employs one or more uncertified*
38 *persons to perform work as electricians in violation of this section.*

1 (2) *The contractor willfully fails to provide the adequate*
2 *supervision of uncertified workers required by paragraph (3) of*
3 *subdivision (a) of Section 108.4.*

4 (3) *The contractor willfully fails to provide adequate supervision*
5 *of apprentices performing work pursuant to subdivision (d).*

6 (i) *The Labor Commissioner shall maintain a process for*
7 *referring cases to the Contractors' State License Board when it*
8 *has been determined that a violation of this section has likely*
9 *occurred. The Labor Commissioner shall have a memorandum of*
10 *understanding with the Registrar of Contractors in furtherance of*
11 *this section.*

12 (j) *Upon receipt of a referral by the Labor Commissioner*
13 *alleging a violation under this section, the Registrar of Contractors*
14 *shall open an investigation. Any disciplinary action against the*
15 *licensee shall be initiated within 60 days of the receipt of the*
16 *referral. The Registrar of Contractors may initiate disciplinary*
17 *action against any licensee upon his or her own investigation, the*
18 *filing of any complaint, or any finding that results from a referral*
19 *from the Labor Commissioner alleging a violation under this*
20 *section. Failure of the employer or employee to provide evidence*
21 *of certification or trainee status shall create a rebuttable*
22 *presumption of violation of this provision.*

23 (k) *For the purposes of this section, "electricians" has the same*
24 *meaning as the definition set forth in Section 108.*

25 108.3. *The Division of Labor Standards Enforcement shall do*
26 *all of the following:*

27 (a) *Make information about electrician certification available*
28 *in non-English languages spoken by a substantial number of*
29 *construction workers, as defined in Section 7296.2 of the*
30 *Government Code.*

31 (b) *Provide for the administration of certification tests in*
32 *Spanish and, to the extent practicable, other non-English languages*
33 *spoken by a substantial number of applicants, as defined in Section*
34 *7296.2 of the Government Code, except insofar as the ability to*
35 *understand warning signs, instructions, and certain other*
36 *information in English is necessary for safety reasons.*

37 (c) *Ensure, in conjunction with the California Apprenticeship*
38 *Council, that all electrician apprenticeship programs approved*
39 *under Chapter 4 (commencing with Section 3070) of Division 3*
40 *that impose minimum formal education requirements as a condition*

1 of entry provide for reasonable alternative means of satisfying
2 those requirements.

3 (d) Ensure, in conjunction with the California Apprenticeship
4 Council, that all electrician apprenticeship programs approved
5 under Chapter 4 (commencing with Section 3070) of Division 3
6 have adopted reasonable procedures for granting credit toward
7 a term of apprenticeship for other vocational training and
8 on-the-job training experience.

9 108.4. (a) An uncertified person may perform electrical work
10 for which certification is required under Section 108 in order to
11 acquire the necessary on-the-job experience for certification, if
12 all of the following requirements are met:

13 (1) The person is registered with the Labor Commissioner. A
14 list of current registrants shall be maintained by the division and
15 made available to the public upon request.

16 (2) The person either has completed or is enrolled in an
17 approved curriculum of classroom instruction.

18 (3) The employer attests that the person shall be under the direct
19 supervision of an electrician certified pursuant to Section 108 who
20 is responsible for supervising no more than one uncertified person.
21 An employer who is found by the division to have failed to provide
22 adequate supervision may be barred by the division from employing
23 uncertified individuals pursuant to this section in the future.

24 (b) For purposes of this section, “an approved curriculum of
25 classroom instruction” means a curriculum of classroom
26 instruction approved by the electrician certification curriculum
27 committee established pursuant to paragraph (6) of subdivision
28 (a) of Section 108 and provided under the jurisdiction of the State
29 Department of Education, the Board of Governors of the California
30 Community Colleges, or the Bureau for Private Postsecondary
31 and Vocational Education.

32 (c) The curriculum committee may grant approval to an
33 educational provider that presently offers only a partial curriculum
34 if the educational provider intends in the future to offer, or to
35 cooperate with other educational providers to offer, a complete
36 curriculum for the type of certification involved. The curriculum
37 committee may require an educational provider receiving approval
38 for a partial curriculum to periodically renew its approval with
39 the curriculum committee until a complete curriculum is offered
40 and approved. A partial curriculum means a combination of classes

1 *that does not include all classroom educational components of the*
2 *complete curriculum for one of the categories of certification*
3 *established in accordance with subdivision (c) of Section 108.2.*

4 *(d) An educational provider that receives approval for a partial*
5 *curriculum must disclose in all communications to students and*
6 *to the public that the educational provider has only received*
7 *approval for a partial curriculum and shall not make any*
8 *representations that the provider offers a complete approved*
9 *curriculum of classroom instruction as established by*
10 *subparagraph (A) of paragraph (6) of subdivision (a) of Section*
11 *108.*

12 *(e) For purposes of this section, a person is enrolled in an*
13 *approved curriculum of classroom instruction if the person is*
14 *attending classes on a full-time or part-time basis toward the*
15 *completion of an approved curriculum.*

16 *(f) Registration under this section shall be renewed annually*
17 *and the registrant shall provide to the division certification of the*
18 *classwork completed and on-the-job experience acquired since*
19 *the prior registration.*

20 *(g) For purposes of verifying the information provided by a*
21 *person registered with the division, an educational provider of an*
22 *approved curriculum of classroom instruction shall, upon the*
23 *division's request, provide the division with information regarding*
24 *the enrollment status and instruction completed by a person*
25 *registered. By registering with the division in accordance with this*
26 *section, a person consents to the release of this information.*

27 *(h) The division shall establish registration fees necessary to*
28 *implement this section, not to exceed twenty-five dollars (\$25) for*
29 *the initial registration. There shall be no fee for annual renewal*
30 *of registration. Notwithstanding Section 13340 of the Government*
31 *Code, fees collected are continuously appropriated in an amount*
32 *sufficient to administer this section and that amount may be*
33 *expended by the division for this purpose.*

34 *(i) The division shall issue regulations to implement this section.*

35 *(j) For purposes of Section 1773, persons employed pursuant*
36 *to this section do not constitute a separate craft, classification, or*
37 *type of worker.*

38 *(k) Notwithstanding any other provision of law, an uncertified*
39 *person who has completed an approved curriculum of classroom*
40 *instruction and is currently registered with the division may take*

1 *the certification examination. The person shall be certified upon*
2 *passing the examination and satisfactorily completing the requisite*
3 *number of on-the-job hours required for certification. A person*
4 *who passes the examination prior to completing the requisite hours*
5 *of on-the-job experience shall continue to comply with subdivision*
6 *(f).*

7 *108.5. (a) The Electrician Certification Fund is established*
8 *as a special account in the State Treasury. Proceeds of the fund*
9 *may be expended by the department, upon appropriation by the*
10 *Legislature, for the costs of the Division of Labor Standards*
11 *Enforcement program to validate and certify electricians as*
12 *provided by Section 108, and shall not be used for any other*
13 *purpose.*

14 *(b) The fund shall consist of the fees collected pursuant to*
15 *Section 108.*

16 *SEC. 80. Section 138.7 of the Labor Code, as amended by*
17 *Section 3 of Chapter 568 of the Statutes of 2011, is amended to*
18 *read:*

19 *138.7. (a) Except as expressly permitted in subdivision (b), a*
20 *person or public or private entity not a party to a claim for workers'*
21 *compensation benefits may not obtain individually identifiable*
22 *information obtained or maintained by the division on that claim.*
23 *For purposes of this section, "individually identifiable information"*
24 *means any data concerning an injury or claim that is linked to a*
25 *uniquely identifiable employee, employer, claims administrator,*
26 *or any other person or entity.*

27 *(b) (1) (A) The administrative director, or a statistical agent*
28 *designated by the administrative director, may use individually*
29 *identifiable information for purposes of creating and maintaining*
30 *the workers' compensation information system as specified in*
31 *Section 138.6.*

32 *(B) The administrative director may publish the identity of*
33 *claims administrators in the annual report disclosing the compliance*
34 *rates of claims administrators pursuant to subdivision (d) of Section*
35 *138.6.*

36 *(2) (A) The State Department of Public Health may use*
37 *individually identifiable information for purposes of establishing*
38 *and maintaining a program on occupational health and occupational*
39 *disease prevention as specified in Section 105175 of the Health*
40 *and Safety Code.*

1 (B) (i) The State Department of Health Care Services may use
2 individually identifiable information for purposes of seeking
3 recovery of Medi-Cal costs incurred by the state for treatment
4 provided to injured workers that should have been incurred by
5 employers and insurance carriers pursuant to Article 3.5
6 (commencing with Section 14124.70) of Chapter 7 of Part 3 of
7 Division 9 of the Welfare and Institutions Code.

8 (ii) The Department of Industrial Relations shall furnish
9 individually identifiable information to the State Department of
10 Health Care Services, and the State Department of Health Care
11 Services may furnish the information to its designated agent,
12 provided that the individually identifiable information shall not
13 be disclosed for use other than the purposes described in clause
14 (i). The administrative director may adopt regulations solely for
15 the purpose of governing access by the State Department of Health
16 Care Services or its designated agents to the individually
17 identifiable information as defined in subdivision (a).

18 (3) (A) Individually identifiable information may be used by
19 the Division of Workers' Compensation; *and* the Division of
20 Occupational Safety and Health; ~~and the Division of Labor~~
21 ~~Statistics and Research~~ as necessary to carry out their duties. The
22 administrative director shall adopt regulations governing the access
23 to the information described in this subdivision by these divisions.
24 Any regulations adopted pursuant to this subdivision shall set forth
25 the specific uses for which this information may be obtained.

26 (B) Individually identifiable information maintained in the
27 workers' compensation information system and the Division of
28 Workers' Compensation may be used by researchers employed by
29 or under contract to the Commission on Health and Safety and
30 Workers' Compensation as necessary to carry out the commission's
31 research. The administrative director shall adopt regulations
32 governing the access to the information described in this
33 subdivision by commission researchers. These regulations shall
34 set forth the specific uses for which this information may be
35 obtained and include provisions guaranteeing the confidentiality
36 of individually identifiable information. Individually identifiable
37 information obtained under this subdivision shall not be disclosed
38 to commission members. No individually identifiable information
39 obtained by researchers under contract to the commission pursuant
40 to this subparagraph may be disclosed to any other person or entity,

1 public or private, for a use other than that research project for
2 which the information was obtained. Within a reasonable period
3 of time after the research for which the information was obtained
4 has been completed, the data collected shall be modified in a
5 manner so that the subjects cannot be identified, directly or through
6 identifiers linked to the subjects.

7 (4) The administrative director shall adopt regulations allowing
8 reasonable access to individually identifiable information by other
9 persons or public or private entities for the purpose of bona fide
10 statistical research. This research shall not divulge individually
11 identifiable information concerning a particular employee,
12 employer, claims administrator, or any other person or entity. The
13 regulations adopted pursuant to this paragraph shall include
14 provisions guaranteeing the confidentiality of individually
15 identifiable information. Within a reasonable period of time after
16 the research for which the information was obtained has been
17 completed, the data collected shall be modified in a manner so that
18 the subjects cannot be identified, directly or through identifiers
19 linked to the subjects.

20 (5) (A) This section shall not operate to exempt from disclosure
21 any information that is considered to be a public record pursuant
22 to the California Public Records Act (Chapter 3.5 (commencing
23 with Section 6250) of Division 7 of Title 1 of the Government
24 Code) contained in an individual's file once an application for
25 adjudication has been filed pursuant to Section 5501.5.

26 ~~However~~

27 (B) *However*, individually identifiable information shall not be
28 provided to any person or public or private entity who is not a
29 party to the claim unless that person identifies himself or herself
30 or that public or private entity identifies itself and states the reason
31 for making the request. The administrative director may require
32 the person or public or private entity making the request to produce
33 information to verify that the name and address of the requester
34 is valid and correct. If the purpose of the request is related to
35 preemployment screening, the administrative director shall notify
36 the person about whom the information is requested that the
37 information was provided and shall include the following in
38 12-point type:

39

1 “IT MAY BE A VIOLATION OF FEDERAL AND STATE
2 LAW TO DISCRIMINATE AGAINST A JOB APPLICANT
3 BECAUSE THE APPLICANT HAS FILED A CLAIM FOR
4 WORKERS’ COMPENSATION BENEFITS.”

5

6 ~~Any~~

7 (C) *Any* residence address is confidential and shall not be
8 disclosed to any person or public or private entity except to a party
9 to the claim, a law enforcement agency, an office of a district
10 attorney, any person for a journalistic purpose, or other
11 governmental agency.

12 ~~Nothing~~

13 (D) *Nothing* in this paragraph shall be construed to prohibit the
14 use of individually identifiable information for purposes of
15 identifying bona fide lien claimants.

16 (c) Except as provided in subdivision (b), individually
17 identifiable information obtained by the division is privileged and
18 is not subject to subpoena in a civil proceeding unless, after
19 reasonable notice to the division and a hearing, a court determines
20 that the public interest and the intent of this section will not be
21 jeopardized by disclosure of the information. This section shall
22 not operate to restrict access to information by any law enforcement
23 agency or district attorney’s office or to limit admissibility of that
24 information in a criminal proceeding.

25 (d) It shall be unlawful for any person who has received
26 individually identifiable information from the division pursuant
27 to this section to provide that information to any person who is
28 not entitled to it under this section.

29 (e) This section shall remain in effect only until January 1, 2017,
30 and as of that date is repealed, unless a later enacted statute, that
31 is enacted before January 1, 2017, deletes or extends that date.

32 *SEC. 81. Section 138.7 of the Labor Code, as amended by*
33 *Section 4 of Chapter 568 of the Statutes of 2011, is amended to*
34 *read:*

35 138.7. (a) Except as expressly permitted in subdivision (b), a
36 person or public or private entity not a party to a claim for workers’
37 compensation benefits may not obtain individually identifiable
38 information obtained or maintained by the division on that claim.
39 For purposes of this section, “individually identifiable information”
40 means any data concerning an injury or claim that is linked to a

1 uniquely identifiable employee, employer, claims administrator,
2 or any other person or entity.

3 (b) (1) (A) The administrative director, or a statistical agent
4 designated by the administrative director, may use individually
5 identifiable information for purposes of creating and maintaining
6 the workers' compensation information system as specified in
7 Section 138.6.

8 (B) The administrative director may publish the identity of
9 claims administrators in the annual report disclosing the compliance
10 rates of claims administrators pursuant to subdivision (d) of Section
11 138.6.

12 (2) The State Department of Public Health may use individually
13 identifiable information for purposes of establishing and
14 maintaining a program on occupational health and occupational
15 disease prevention as specified in Section 105175 of the Health
16 and Safety Code.

17 (3) (A) Individually identifiable information may be used by
18 the Division of Workers' Compensation; *and* the Division of
19 Occupational Safety and Health; ~~and the Division of Labor~~
20 ~~Statistics and Research~~ as necessary to carry out their duties. The
21 administrative director shall adopt regulations governing the access
22 to the information described in this subdivision by these divisions.
23 Any regulations adopted pursuant to this subdivision shall set forth
24 the specific uses for which this information may be obtained.

25 (B) Individually identifiable information maintained in the
26 workers' compensation information system and the Division of
27 Workers' Compensation may be used by researchers employed by
28 or under contract to the Commission on Health and Safety and
29 Workers' Compensation as necessary to carry out the commission's
30 research. The administrative director shall adopt regulations
31 governing the access to the information described in this
32 subdivision by commission researchers. These regulations shall
33 set forth the specific uses for which this information may be
34 obtained and include provisions guaranteeing the confidentiality
35 of individually identifiable information. Individually identifiable
36 information obtained under this subdivision shall not be disclosed
37 to commission members. No individually identifiable information
38 obtained by researchers under contract to the commission pursuant
39 to this subparagraph may be disclosed to any other person or entity,
40 public or private, for a use other than that research project for

1 which the information was obtained. Within a reasonable period
2 of time after the research for which the information was obtained
3 has been completed, the data collected shall be modified in a
4 manner so that the subjects cannot be identified, directly or through
5 identifiers linked to the subjects.

6 (4) The administrative director shall adopt regulations allowing
7 reasonable access to individually identifiable information by other
8 persons or public or private entities for the purpose of bona fide
9 statistical research. This research shall not divulge individually
10 identifiable information concerning a particular employee,
11 employer, claims administrator, or any other person or entity. The
12 regulations adopted pursuant to this paragraph shall include
13 provisions guaranteeing the confidentiality of individually
14 identifiable information. Within a reasonable period of time after
15 the research for which the information was obtained has been
16 completed, the data collected shall be modified in a manner so that
17 the subjects cannot be identified, directly or through identifiers
18 linked to the subjects.

19 (5) (A) This section shall not operate to exempt from disclosure
20 any information that is considered to be a public record pursuant
21 to the California Public Records Act (Chapter 3.5 (commencing
22 with Section 6250) of Division 7 of Title 1 of the Government
23 Code) contained in an individual's file once an application for
24 adjudication has been filed pursuant to Section 5501.5.

25 ~~However,~~

26 (B) *However*, individually identifiable information shall not be
27 provided to any person or public or private entity who is not a
28 party to the claim unless that person identifies himself or herself
29 or that public or private entity identifies itself and states the reason
30 for making the request. The administrative director may require
31 the person or public or private entity making the request to produce
32 information to verify that the name and address of the requester
33 is valid and correct. If the purpose of the request is related to
34 preemployment screening, the administrative director shall notify
35 the person about whom the information is requested that the
36 information was provided and shall include the following in
37 12-point type:

38
39 "IT MAY BE A VIOLATION OF FEDERAL AND STATE
40 LAW TO DISCRIMINATE AGAINST A JOB APPLICANT

1 BECAUSE THE APPLICANT HAS FILED A CLAIM FOR
2 WORKERS' COMPENSATION BENEFITS.”

3

4 ~~Any~~

5 (C) *Any* residence address is confidential and shall not be
6 disclosed to any person or public or private entity except to a party
7 to the claim, a law enforcement agency, an office of a district
8 attorney, any person for a journalistic purpose, or other
9 governmental agency.

10 ~~Nothing~~

11 (D) *Nothing* in this paragraph shall be construed to prohibit the
12 use of individually identifiable information for purposes of
13 identifying bona fide lien claimants.

14 (c) Except as provided in subdivision (b), individually
15 identifiable information obtained by the division is privileged and
16 is not subject to subpoena in a civil proceeding unless, after
17 reasonable notice to the division and a hearing, a court determines
18 that the public interest and the intent of this section will not be
19 jeopardized by disclosure of the information. This section shall
20 not operate to restrict access to information by any law enforcement
21 agency or district attorney's office or to limit admissibility of that
22 information in a criminal proceeding.

23 (d) It shall be unlawful for any person who has received
24 individually identifiable information from the division pursuant
25 to this section to provide that information to any person who is
26 not entitled to it under this section.

27 (e) This section shall become operative on January 1, 2017.

28 *SEC. 82. The heading of Chapter 7 (commencing with Section*
29 *150) of Division 1 of the Labor Code is amended to read:*

30

31 CHAPTER 7. ~~DIVISION OF~~ LABOR STATISTICS AND RESEARCH

32

33 *SEC. 83. Section 150 of the Labor Code is amended to read:*

34 150. (a) ~~The Division of Labor Statistics and Research,~~
35 ~~hereafter in this chapter referred to as the division,~~ *department*
36 shall collect, compile, and present facts and statistics relating to
37 the condition of labor in the state, including information as to cost
38 of living, labor supply and demand, industrial relations, industrial
39 disputes, industrial accidents and safety, labor productivity, sanitary
40 and other conditions, prison labor, and such other matters in

1 relation to labor as the Director of Industrial Relations deems
 2 desirable. ~~Except for statistics relating to internal administration,~~
 3 ~~all statistical functions of the department shall be performed by~~
 4 ~~the division.~~

5 (b) *To the extent not in conflict with this or any other section,*
 6 *on the date this subdivision becomes operative, the responsibilities*
 7 *of the Division of Labor Statistics and Research that are specified*
 8 *in Subchapter 1 (commencing with Section 14000) and Subchapter*
 9 *2 (commencing with Section 14900) of Chapter 7 of Division 1 of*
 10 *Title 8 of the California Code of Regulations are reassigned to the*
 11 *Division of Occupational Safety and Health and the responsibilities*
 12 *of the Division of Labor Statistics and Research that are specified*
 13 *in Subchapter 3 (commencing with Section 16000) of Chapter 8*
 14 *of Division 1 of Title 8 of the California Code of Regulations are*
 15 *reassigned to the Division of Labor Standards Enforcement.*

16 SEC. 84. *Section 151 of the Labor Code is amended to read:*

17 151. (a) ~~The division~~ department shall conduct an annual
 18 survey of the ethnic derivation of the individuals who are parties
 19 to apprentice agreements described in Section 3077 ~~of this code.~~
 20 In conducting this survey, the division shall use any pertinent data
 21 which the federal government may provide to avoid duplication
 22 of effort.

23 ~~The~~
 24 (b) *The* Division of Apprenticeship Standards shall cooperate
 25 in the accomplishment of the survey required by this section ~~as~~
 26 ~~the division may request.~~ The occasion of this survey may be used
 27 to gather such additional current data as may be of benefit to
 28 apprenticeship programs.

29 ~~Data~~
 30 (c) *Data* gathered pursuant to this section shall not be evidence
 31 per se of an unlawful employment practice.

32 ~~Nothing~~
 33 (d) *Nothing* in this section shall be construed to authorize any
 34 state agency to require an employer to employ a specified
 35 percentage of individuals of any particular ethnic derivation
 36 irrespective of such individuals' qualifications for employment.

37 SEC. 85. *Section 152 of the Labor Code is amended to read:*

38 152. ~~The Chief of the Division of Labor Statistics and Research~~
 39 *Director of Industrial Relations* and *authorized* employees of the
 40 ~~division authorized by him~~ department may issue subpoenas to

1 compel the attendance of witnesses and production of books,
2 papers, and records; administer oaths; examine witnesses under
3 oath; take the verification or proof of written instruments; and take
4 depositions and affidavits for the purpose of carrying out the
5 provisions of this code and performing the duties ~~which the division~~
6 ~~is required to perform~~ *by this chapter*. They shall have free access
7 to all places of labor. Any person, or agent or officer thereof, who
8 willfully neglects or refuses to furnish statistics requested by the
9 division, which are in his *or her* possession, or under his *or her*
10 control, or who refuses to admit the ~~chief director~~ or his *or her*
11 authorized employee to a place of labor, is guilty of a misdemeanor.
12 ~~The Director of Industrial Relations~~ *director* may direct the chief
13 and the employees of other divisions of the department to transmit
14 ~~to the Division of Labor Statistics and Research~~ any statistical
15 information in their possession, or to conduct investigations and
16 otherwise assist ~~the Division of Labor Statistics and Research~~ in
17 the gathering of whatever statistics the director deems desirable.

18 *SEC. 86. Section 153 of the Labor Code is amended to read:*

19 153. Except as provided in Section 151 no use shall be made
20 in the *statistical or other reports of the division prepared pursuant*
21 *to this chapter* of the names of persons supplying the information
22 required under this code. Any agent or employee of the ~~division~~
23 *department* who violates this section is guilty of a misdemeanor.

24 *SEC. 87. Section 156 of the Labor Code is amended to read:*

25 156. An annual report containing statistics on California work
26 injuries and occupational diseases and fatalities by industry
27 classifications shall be completed and published by the ~~Division~~
28 ~~of Labor Statistics and Research~~ *department* no later than
29 December 31 of the following calendar year. All of the reports and
30 statistics shall be available to the public.

31 *SEC. 88. Section 511 of the Labor Code is amended to read:*

32 511. (a) Upon the proposal of an employer, the employees of
33 an employer may adopt a regularly scheduled alternative workweek
34 that authorizes work by the affected employees for no longer than
35 10 hours per day within a 40-hour workweek without the payment
36 to the affected employees of an overtime rate of compensation
37 pursuant to this section. A proposal to adopt an alternative
38 workweek schedule shall be deemed adopted only if it receives
39 approval in a secret ballot election by at least two-thirds of affected
40 employees in a readily identifiable work unit. The regularly

1 scheduled alternative workweek proposed by an employer for
2 adoption by employees may be a single work schedule that would
3 become the standard schedule for workers in the work unit, or a
4 menu of work schedule options, from which each employee in the
5 unit would be entitled to choose. Notwithstanding subdivision (c)
6 of Section 500, the menu of work schedule options may include a
7 regular schedule of eight-hour days that are compensated in
8 accordance with subdivision (a) of Section 510. Employees who
9 adopt a menu of work schedule options may, with employer
10 consent, move from one schedule option to another on a weekly
11 basis.

12 (b) An affected employee working longer than eight hours but
13 not more than 12 hours in a day pursuant to an alternative
14 workweek schedule adopted pursuant to this section shall be paid
15 an overtime rate of compensation of no less than one and one-half
16 times the regular rate of pay of the employee for any work in excess
17 of the regularly scheduled hours established by the alternative
18 workweek agreement and for any work in excess of 40 hours per
19 week. An overtime rate of compensation of no less than double
20 the regular rate of pay of the employee shall be paid for any work
21 in excess of 12 hours per day and for any work in excess of eight
22 hours on those days worked beyond the regularly scheduled
23 workdays established by the alternative workweek agreement.
24 Nothing in this section requires an employer to combine more than
25 one rate of overtime compensation in order to calculate the amount
26 to be paid to an employee for any hour of overtime work.

27 (c) An employer shall not reduce an employee's regular rate of
28 hourly pay as a result of the adoption, repeal, or nullification of
29 an alternative workweek schedule.

30 (d) An employer shall make a reasonable effort to find a work
31 schedule not to exceed eight hours in a workday, in order to
32 accommodate any affected employee who was eligible to vote in
33 an election authorized by this section and who is unable to work
34 the alternative schedule hours established as the result of that
35 election. An employer shall be permitted to provide a work
36 schedule not to exceed eight hours in a workday to accommodate
37 any employee who was hired after the date of the election and who
38 is unable to work the alternative schedule established as the result
39 of that election. An employer shall explore any available reasonable
40 alternative means of accommodating the religious belief or

1 observance of an affected employee that conflicts with an adopted
2 alternative workweek schedule, in the manner provided by
3 subdivision (j) of Section 12940 of the Government Code.

4 (e) The results of any election conducted pursuant to this section
5 shall be reported by an employer to the Division of Labor ~~Statistics~~
6 ~~and Research~~ *Standards Enforcement* within 30 days after the
7 results are final.

8 (f) Any type of alternative workweek schedule that is authorized
9 by this code and that was in effect on January 1, 2000, may be
10 repealed by the affected employees pursuant to this section. Any
11 alternative workweek schedule that was adopted pursuant to Wage
12 Order ~~Numbers~~ *Number* 1, 4, 5, 7, or 9 of the Industrial Welfare
13 Commission is null and void, except for an alternative workweek
14 providing for a regular schedule of no more than 10 hours' work
15 in a workday that was adopted by a two-thirds vote of affected
16 employees in a secret ballot election pursuant to wage orders of
17 the Industrial Welfare Commission in effect prior to 1998. This
18 subdivision does not apply to exemptions authorized pursuant to
19 Section 515.

20 (g) Notwithstanding subdivision (f), an alternative workweek
21 schedule in the health care industry adopted by a two-thirds vote
22 of affected employees in a secret ballot election pursuant to Wage
23 Order Numbers 4 and 5 in effect prior to 1998 that provided for
24 workdays exceeding 10 hours but not exceeding 12 hours in a day
25 without the payment of overtime compensation shall be valid until
26 July 1, 2000. An employer in the health care industry shall make
27 a reasonable effort to accommodate any employee in the health
28 care industry who is unable to work the alternative schedule
29 established as the result of a valid election held in accordance with
30 provisions of Wage Order Number 4 or 5 that were in effect prior
31 to 1998.

32 (h) Notwithstanding subdivision (f), if an employee is
33 voluntarily working an alternative workweek schedule providing
34 for a regular work schedule of not more than 10 hours' work in a
35 workday as of July 1, 1999, an employee may continue to work
36 that alternative workweek schedule without the entitlement of the
37 payment of daily overtime compensation for the hours provided
38 in that schedule if the employer approves a written request of the
39 employee to work that schedule.

1 (i) For purposes of this section, “work unit” includes a division,
2 a department, a job classification, a shift, a separate physical
3 location, or a recognized subdivision thereof. A work unit may
4 consist of an individual employee as long as the criteria for an
5 identifiable work unit in this section is met.

6 *SEC. 89. Section 515.5 of the Labor Code is amended to read:*

7 515.5. (a) Except as provided in subdivision (b), an employee
8 in the computer software field shall be exempt from the
9 requirement that an overtime rate of compensation be paid pursuant
10 to Section 510 if all of the following apply:

11 (1) The employee is primarily engaged in work that is
12 intellectual or creative and that requires the exercise of discretion
13 and independent judgment.

14 (2) The employee is primarily engaged in duties that consist of
15 one or more of the following:

16 (A) The application of systems analysis techniques and
17 procedures, including consulting with users, to determine hardware,
18 software, or system functional specifications.

19 (B) The design, development, documentation, analysis, creation,
20 testing, or modification of computer systems or programs, including
21 prototypes, based on and related to user or system design
22 specifications.

23 (C) The documentation, testing, creation, or modification of
24 computer programs related to the design of software or hardware
25 for computer operating systems.

26 (3) The employee is highly skilled and is proficient in the
27 theoretical and practical application of highly specialized
28 information to computer systems analysis, programming, or
29 software engineering. A job title shall not be determinative of the
30 applicability of this exemption.

31 (4) The employee’s hourly rate of pay is not less than thirty-six
32 dollars (\$36.00) or, if the employee is paid on a salaried basis, the
33 employee earns an annual salary of not less than seventy-five
34 thousand dollars (\$75,000) for full-time employment, which is
35 paid at least once a month and in a monthly amount of not less
36 than six thousand two hundred fifty dollars (\$6,250). ~~The Division~~
37 ~~of Labor Statistics and Research~~ *department* shall adjust both the
38 hourly pay rate and the salary level described in this paragraph on
39 October 1 of each year to be effective on January 1 of the following
40 year by an amount equal to the percentage increase in the California

1 Consumer Price Index for Urban Wage Earners and Clerical
2 Workers.

3 (b) The exemption provided in subdivision (a) does not apply
4 to an employee if any of the following apply:

5 (1) The employee is a trainee or employee in an entry-level
6 position who is learning to become proficient in the theoretical
7 and practical application of highly specialized information to
8 computer systems analysis, programming, and software
9 engineering.

10 (2) The employee is in a computer-related occupation but has
11 not attained the level of skill and expertise necessary to work
12 independently and without close supervision.

13 (3) The employee is engaged in the operation of computers or
14 in the manufacture, repair, or maintenance of computer hardware
15 and related equipment.

16 (4) The employee is an engineer, drafter, machinist, or other
17 professional whose work is highly dependent upon or facilitated
18 by the use of computers and computer software programs and who
19 is skilled in computer-aided design software, including CAD/CAM,
20 but who is not engaged in computer systems analysis,
21 programming, or any other similarly skilled computer-related
22 occupation.

23 (5) The employee is a writer engaged in writing material,
24 including box labels, product descriptions, documentation,
25 promotional material, setup and installation instructions, and other
26 similar written information, either for print or for onscreen media
27 or who writes or provides content material intended to be read by
28 customers, subscribers, or visitors to computer-related media such
29 as the World Wide Web or CD-ROMs.

30 (6) The employee is engaged in any of the activities set forth
31 in subdivision (a) for the purpose of creating imagery for effects
32 used in the motion picture, television, or theatrical industry.

33 *SEC. 90. Section 515.6 of the Labor Code is amended to read:*

34 515.6. (a) Section 510 shall not apply to any employee who
35 is a licensed physician or surgeon, who is primarily engaged in
36 duties that require licensure pursuant to Chapter 5 (commencing
37 with Section 2000) of Division 2 of the Business and Professions
38 Code, and whose hourly rate of pay is equal to or greater than
39 fifty-five dollars (\$55.00). ~~The Division of Labor Statistics and~~
40 ~~Research~~ department shall adjust this threshold rate of pay each

1 October 1, to be effective the following January 1, by an amount
2 equal to the percentage increase in the California Consumer Price
3 Index for Urban Wage Earners and Clerical Workers.

4 (b) The exemption provided in subdivision (a) shall not apply
5 to an employee employed in a medical internship or resident
6 program or to a physician employee covered by a valid collective
7 bargaining agreement pursuant to Section 514.

8 *SEC. 91. Chapter 9 (commencing with Section 1137) of Part*
9 *3 of Division 2 of the Labor Code is repealed.*

10 *SEC. 92. Section 1202 of the Labor Code is amended to read:*

11 1202. Upon the request of the commission, the ~~Division of~~
12 ~~Labor Statistics and Research~~ *department* shall cause such statistics
13 and other data and information to be gathered, and investigations
14 made, as the commission may require. The cost thereof shall be
15 paid out of the appropriations made for the expenses of the
16 commission.

17 *SEC. 93. Section 1773.3 of the Labor Code is amended to read:*

18 1773.3. An awarding agency whose public works contract falls
19 within the jurisdiction of Section 1771.3, 1771.5, or 1777.5, or
20 any other statute providing for the payment of fees to the
21 Department of Industrial Relations for enforcing prevailing wage
22 requirements on that project, shall, within five days of the award,
23 send a copy of the award to the ~~Division of Apprenticeship~~
24 ~~Standards. When specifically requested by a local joint~~
25 ~~apprenticeship committee, the division shall notify the local joint~~
26 ~~apprenticeship committee regarding all such awards applicable to~~
27 ~~the joint apprenticeship committee making the request.~~ *department.*
28 *In lieu of responding to any specific request for contract award*
29 *information, the department may make such information available*
30 *for public review by posting on its Internet Web site. Within five*
31 *days of a finding of any discrepancy regarding the ratio of*
32 *apprentices to journeymen, pursuant to the certificated fixed*
33 *number of apprentices to journeymen, the awarding agency shall*
34 *notify the Division of Apprenticeship Standards Labor Standards*
35 *Enforcement.*

36 *SEC. 94. Section 1776 of the Labor Code is amended to read:*

37 1776. (a) Each contractor and subcontractor shall keep accurate
38 payroll records, showing the name, address, social security number,
39 work classification, straight time and overtime hours worked each
40 day and week, and the actual per diem wages paid to each

1 journeyman, apprentice, worker, or other employee employed by
2 him or her in connection with the public work. Each payroll record
3 shall contain or be verified by a written declaration that it is made
4 under penalty of perjury, stating both of the following:

5 (1) The information contained in the payroll record is true and
6 correct.

7 (2) The employer has complied with the requirements of
8 Sections 1771, 1811, and 1815 for any work performed by his or
9 her employees on the public works project.

10 (b) The payroll records enumerated under subdivision (a) shall
11 be certified and shall be available for inspection at all reasonable
12 hours at the principal office of the contractor on the following
13 basis:

14 (1) A certified copy of an employee's payroll record shall be
15 made available for inspection or furnished to the employee or his
16 or her authorized representative on request.

17 (2) A certified copy of all payroll records enumerated in
18 subdivision (a) shall be made available for inspection or furnished
19 upon request to a representative of the body awarding the contract;
20 *and* the Division of Labor Standards Enforcement, ~~and the Division~~
21 ~~of Apprenticeship Standards~~ of the Department of Industrial
22 Relations.

23 (3) A certified copy of all payroll records enumerated in
24 subdivision (a) shall be made available upon request by the public
25 for inspection or for copies thereof. However, a request by the
26 public shall be made through either the body awarding the contract;
27 ~~the Division of Apprenticeship Standards~~, or the Division of Labor
28 Standards Enforcement. If the requested payroll records have not
29 been provided pursuant to paragraph (2), the requesting party shall,
30 prior to being provided the records, reimburse the costs of
31 preparation by the contractor, subcontractors, and the entity through
32 which the request was made. The public may not be given access
33 to the records at the principal office of the contractor.

34 (c) The certified payroll records shall be on forms provided by
35 the Division of Labor Standards Enforcement or shall contain the
36 same information as the forms provided by the division. The
37 payroll records may consist of printouts of payroll data that are
38 maintained as computer records, if the printouts contain the same
39 information as the forms provided by the division and the printouts
40 are verified in the manner specified in subdivision (a).

1 (d) A contractor or subcontractor shall file a certified copy of
2 the records enumerated in subdivision (a) with the entity that
3 requested the records within 10 days after receipt of a written
4 request.

5 (e) Except as provided in subdivision (f), any copy of records
6 made available for inspection as copies and furnished upon request
7 to the public or any public agency by the awarding body, ~~the~~
8 ~~Division of Apprenticeship Standards,~~ or the Division of Labor
9 Standards Enforcement shall be marked or obliterated to prevent
10 disclosure of an individual's name, address, and social security
11 number. The name and address of the contractor awarded the
12 contract or the subcontractor performing the contract shall not be
13 marked or obliterated. Any copy of records made available for
14 inspection by, or furnished to, a joint labor-management committee
15 established pursuant to the federal Labor Management Cooperation
16 Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated
17 only to prevent disclosure of an individual's name and social
18 security number. A joint labor management committee may
19 maintain an action in a court of competent jurisdiction against an
20 employer who fails to comply with Section 1774. The court may
21 award restitution to an employee for unpaid wages and may award
22 the joint labor management committee reasonable attorney's fees
23 and costs incurred in maintaining the action. An action under this
24 subdivision may not be based on the employer's misclassification
25 of the craft of a worker on its certified payroll records. Nothing in
26 this subdivision limits any other available remedies for a violation
27 of this chapter.

28 (f) (1) Notwithstanding any other provision of law, agencies
29 that are included in the Joint Enforcement Strike Force on the
30 Underground Economy established pursuant to Section 329 of the
31 Unemployment Insurance Code and other law enforcement
32 agencies investigating violations of law shall, upon request, be
33 provided nonredacted copies of certified payroll records. Any
34 copies of records or certified payroll made available for inspection
35 and furnished upon request to the public by an agency included in
36 the Joint Enforcement Strike Force on the Underground Economy
37 or to a law enforcement agency investigating a violation of law
38 shall be marked or redacted to prevent disclosure of an individual's
39 name, address, and social security number.

1 (2) An employer shall not be liable for damages in a civil action
2 for any reasonable act or omission taken in good faith in
3 compliance with this subdivision.

4 (g) The contractor shall inform the body awarding the contract
5 of the location of the records enumerated under subdivision (a),
6 including the street address, city, and county, and shall, within five
7 working days, provide a notice of a change of location and address.

8 (h) The contractor or subcontractor has 10 days in which to
9 comply subsequent to receipt of a written notice requesting the
10 records enumerated in subdivision (a). In the event that the
11 contractor or subcontractor fails to comply within the 10-day
12 period, he or she shall, as a penalty to the state or political
13 subdivision on whose behalf the contract is made or awarded,
14 forfeit one hundred dollars (\$100) for each calendar day, or portion
15 thereof, for each worker, until strict compliance is effectuated.
16 Upon the request of the ~~Division of Apprenticeship Standards or~~
17 ~~the~~ Division of Labor Standards Enforcement, these penalties shall
18 be withheld from progress payments then due. A contractor is not
19 subject to a penalty assessment pursuant to this section due to the
20 failure of a subcontractor to comply with this section.

21 (i) The body awarding the contract shall cause to be inserted in
22 the contract stipulations to effectuate this section.

23 (j) The director shall adopt rules consistent with the California
24 Public Records Act (Chapter 3.5 (commencing with Section 6250)
25 of Division 7 of Title 1 of the Government Code) and the
26 Information Practices Act of 1977 (Title 1.8 (commencing with
27 Section 1798) of Part 4 of Division 3 of the Civil Code) governing
28 the release of these records, including the establishment of
29 reasonable fees to be charged for reproducing copies of records
30 required by this section.

31 *SEC. 95. Section 1777.5 of the Labor Code is amended to read:*

32 1777.5. (a) Nothing in this chapter shall prevent the
33 employment of properly registered apprentices upon public works.

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

38 (c) Only apprentices, as defined in Section 3077, who are in
39 training under apprenticeship standards that have been approved
40 by the Chief of the Division of Apprenticeship Standards and who

1 are parties to written apprentice agreements under Chapter 4
2 (commencing with Section 3070) of Division 3 are eligible to be
3 employed at the apprentice wage rate on public works. The
4 employment and training of each apprentice shall be in accordance
5 with either of the following:

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

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

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

33 (e) Prior to commencing work on a contract for public works,
34 every contractor shall submit contract award information to an
35 applicable apprenticeship program that can supply apprentices to
36 the site of the public work. The information submitted shall include
37 an estimate of journeyman hours to be performed under the
38 contract, the number of apprentices proposed to be employed, and
39 the approximate dates the apprentices would be employed. A copy
40 of this information shall also be submitted to the awarding body

1 if requested by the awarding body. Within 60 days after concluding
2 work on the contract, each contractor and subcontractor shall
3 submit to the awarding body, if requested, and to the apprenticeship
4 program a verified statement of the journeyman and apprentice
5 hours performed on the contract. The information under this
6 subdivision shall be public. The apprenticeship programs shall
7 retain this information for 12 months.

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

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

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

38 (i) A contractor covered by this section that has agreed to be
39 covered by an apprenticeship program's standards upon the
40 issuance of the approval certificate, or that has been previously

1 approved for an apprenticeship program in the craft or trade, shall
2 employ the number of apprentices or the ratio of apprentices to
3 journeymen stipulated in the applicable apprenticeship standards,
4 but in no event less than the 1-to-5 ratio required by subdivision
5 (g).

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

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

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

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

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

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

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

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

12 (2) At the conclusion of the 2002–03 fiscal year and each fiscal
13 year thereafter, the California Apprenticeship Council shall
14 distribute training contributions received by the council under this
15 subdivision, less the expenses of the ~~Division of Apprenticeship~~
16 ~~Standards~~ *Department of Industrial Relations* for administering
17 this subdivision, by making grants to approved apprenticeship
18 programs for the purpose of training apprentices. The funds shall
19 be distributed as follows:

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

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

29 (C) All training contributions not distributed under
30 subparagraphs (A) and (B) shall be used to defray the future
31 expenses of the ~~Division of Apprenticeship Standards~~ *Department*
32 *of Industrial Relations for the administration and enforcement of*
33 *apprenticeship standards and requirements under this code.*

34 (3) All training contributions received pursuant to this
35 subdivision shall be deposited in the Apprenticeship Training
36 Contribution Fund, which is hereby created in the State Treasury.
37 Upon appropriation by the Legislature, all ~~money moneys~~ in the
38 Apprenticeship Training Contribution Fund shall be used for the
39 purpose of carrying out this subdivision and to pay the expenses

1 of the ~~Division of Apprenticeship Standards~~ *Department of*
 2 *Industrial Relations*.

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

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

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

14 (p) *An awarding body that implements an approved labor*
 15 *compliance program in accordance with subdivision (b) of Section*
 16 *1771.5 may, with the approval of the director, assist in the*
 17 *enforcement of this section under the terms and conditions*
 18 *prescribed by the director.*

19 *SEC. 96. Section 1777.7 of the Labor Code is amended to read:*

20 1777.7. (a) (1) A contractor or subcontractor that is determined
 21 by the ~~Chief of the Division of Apprenticeship Standards~~ *Labor*
 22 *Commissioner* to have knowingly violated Section 1777.5 shall
 23 forfeit as a civil penalty an amount not exceeding one hundred
 24 dollars (\$100) for each full calendar day of noncompliance. The
 25 amount of this penalty may be reduced by the ~~Chief Labor~~ *Labor*
 26 *Commissioner* if the amount of the penalty would be
 27 disproportionate to the severity of the violation. A contractor or
 28 subcontractor that knowingly commits a second or subsequent
 29 violation of Section 1777.5 within a three-year period, where the
 30 noncompliance results in apprenticeship training not being provided
 31 as required by this chapter, shall forfeit as a civil penalty the sum
 32 of not more than three hundred dollars (\$300) for each full calendar
 33 day of noncompliance. Notwithstanding Section 1727, upon receipt
 34 of a determination that a civil penalty has been imposed by the
 35 *Chief Labor Commissioner*, the awarding body shall withhold the
 36 amount of the civil penalty from contract progress payments then
 37 due or to become due.

38 (2) In lieu of the penalty provided for in this subdivision, the
 39 *Chief Labor Commissioner* may, for a first-time violation and with
 40 the concurrence of an apprenticeship program described in

1 subdivision (d), order the contractor or subcontractor to provide
2 apprentice employment equivalent to the work hours that would
3 have been provided for apprentices during the period of
4 noncompliance.

5 (b) In the event a contractor or subcontractor is determined by
6 the ~~Chief Labor Commissioner~~ to have knowingly committed a
7 serious violation of any provision of Section 1777.5, the ~~Chief~~
8 ~~Labor Commissioner~~ may also deny to the contractor or
9 subcontractor, and to its responsible officers, the right to bid on
10 or be awarded or perform work as a subcontractor on any public
11 works contract for a period of up to one year for the first violation
12 and for a period of up to three years for a second or subsequent
13 violation. Each period of debarment shall run from the date the
14 determination of noncompliance by the ~~Chief Labor Commissioner~~
15 becomes a final order of the ~~Administrator of Apprenticeship~~.

16 (c) (1) An affected contractor, subcontractor, or responsible
17 officer may obtain a review of the determination of the ~~Chief Labor~~
18 ~~Commissioner~~ imposing the debarment or civil penalty by
19 transmitting a written request to the office of the ~~Administrator~~
20 ~~Labor Commissioner that appears on the determination~~ within ~~30~~
21 ~~60~~ days after service of the determination of debarment or civil
22 penalty. ~~A copy of this report shall also be served on the Chief. If~~
23 ~~the Administrator does not receive a timely request for review no~~
24 ~~hearing is requested within 60 days after service of the~~
25 ~~determination of debarment or civil penalty made by the Chief,~~
26 ~~the order determination shall become the final order of the~~
27 ~~Administrator.~~

28 (2) ~~Within 20 days of the timely receipt of a request for review,~~
29 ~~the Chief shall provide the contractor, subcontractor, or responsible~~
30 ~~officer the opportunity to review any evidence the Chief may offer~~
31 ~~at the hearing. The Chief shall also promptly disclose any~~
32 ~~nonprivileged documents obtained after the 20-day time limit at~~
33 ~~a time set forth for exchange of evidence by the Administrator.~~

34 (3) ~~Within 90 days of the timely receipt of a request for review,~~
35 ~~a hearing shall be commenced before the Administrator or an~~
36 ~~impartial hearing officer designated by the Administrator and~~
37 ~~possessing the qualifications of an administrative law judge~~
38 ~~pursuant to subdivision (b) of Section 11502 of the Government~~
39 ~~Code. The affected contractor, subcontractor, or responsible officer~~

1 shall have the burden of providing evidence of compliance with
2 Section 1777.5.

3 (4) ~~Within 45 days of the conclusion of the hearing, the~~
4 ~~Administrator shall issue a written decision affirming, modifying,~~
5 ~~or dismissing the determination of debarment or civil penalty. The~~
6 ~~decision shall contain a statement of the factual and legal basis for~~
7 ~~the decision and an order. This decision shall be served on all~~
8 ~~parties and the awarding body pursuant to Section 1013 of the~~
9 ~~Code of Civil Procedure by first-class mail at the last known~~
10 ~~address of the party that the party has filed with the Administrator.~~
11 ~~Within 15 days of issuance of the decision, the Administrator may~~
12 ~~reconsider or modify the decision to correct an error, except that~~
13 ~~a clerical error may be corrected at any time.~~

14 (5) ~~An affected contractor, subcontractor, or responsible officer~~
15 ~~who has timely requested review and obtained a decision under~~
16 ~~paragraph (4) may obtain review of the decision of the~~
17 ~~Administrator by filing a petition for a writ of mandate to the~~
18 ~~appropriate superior court pursuant to Section 1094.5 of the Code~~
19 ~~of Civil Procedure within 45 days after service of the final decision.~~
20 ~~If no timely petition for a writ of mandate is filed, the decision~~
21 ~~shall become the final order of the Administrator. The decision of~~
22 ~~the Administrator shall be affirmed unless the petitioner shows~~
23 ~~that the Administrator abused his or her discretion. If the petitioner~~
24 ~~claims that the findings are not supported by the evidence, abuse~~
25 ~~of discretion is established if the court determines that the findings~~
26 ~~are not supported by substantial evidence in light of the entire~~
27 ~~record.~~

28 (2) *The provisions of Section 1742 shall apply to the review of*
29 *any determination issued pursuant to subdivision (a) or (b), subject*
30 *to the following:*

31 (A) *The provisions of Section 1742 and any regulations*
32 *implementing that section shall apply to a responsible officer who*
33 *requests review of a determination under this section to the same*
34 *extent as any affected contractor or subcontractor who requests*
35 *review.*

36 (B) *In the review of a determination under this section, the*
37 *affected contractor, subcontractor, or responsible officer shall*
38 *have the burden of providing evidence of compliance with Section*
39 *1777.5.*

1 (3) *For purposes of this section, a determination issued pursuant*
2 *to subdivision (a) or (b) includes a determination that has been*
3 *approved by the Labor Commissioner and issued by an awarding*
4 *body that has been authorized to assist the director in the*
5 *enforcement of Section 1777.5 pursuant to subdivision (p) of that*
6 *section. The Labor Commissioner shall have the right to intervene*
7 *in any proceeding for review of a determination issued by an*
8 *awarding body. If the involvement of the Labor Commissioner in*
9 *a labor compliance program enforcement action is limited to a*
10 *review of the determination and the matter is resolved without*
11 *litigation by or against the Labor Commissioner or the department,*
12 *the awarding body shall enforce any applicable penalties, as*
13 *specified in this section, and shall deposit any penalties and*
14 *forfeitures collected in the General Fund.*

15 (6)

16 (4) ~~The Chief Labor Commissioner~~ may certify a copy of the
17 final order of the ~~Administrator~~ *Director of Industrial Relations*
18 and file it with the clerk of the superior court in any county in
19 which the affected contractor or subcontractor has property or has
20 or had a place of business. The clerk, immediately upon the filing,
21 shall enter judgment for the state against the person assessed in
22 the amount shown on the certified order. A judgment entered
23 pursuant to this section shall bear the same rate of interest and
24 shall have the same effect as other judgments and be given the
25 same preference allowed by the law on other judgments rendered
26 for claims for taxes. The clerk shall not charge for the service
27 performed by him or her pursuant to this section. An awarding
28 body that has withheld funds in response to a determination ~~by the~~
29 ~~Chief~~ imposing a penalty under this section shall, upon receipt of
30 a certified copy of a final order ~~of the Administrator~~ *that is no*
31 *longer subject to judicial review*, promptly transmit the withheld
32 funds, up to the amount of the certified order, to the ~~Administrator~~
33 *Labor Commissioner.*

34 (d) If a subcontractor is found to have violated Section 1777.5,
35 the prime contractor of the project is not liable for any penalties
36 under subdivision (a), unless the prime contractor had knowledge
37 of the subcontractor's failure to comply with the provisions of
38 Section 1777.5 or unless the prime contractor fails to comply with
39 any of the following requirements:

1 (1) The contract executed between the contractor and the
2 subcontractor or the performance of work on the public works
3 project shall include a copy of the provisions of Sections 1771,
4 1775, 1776, 1777.5, 1813, and 1815.

5 (2) The contractor shall continually monitor a subcontractor’s
6 use of apprentices required to be employed on the public works
7 project pursuant to subdivision (d) of Section 1777.5, including,
8 but not limited to, periodic review of the certified payroll of the
9 subcontractor.

10 (3) Upon becoming aware of a failure of the subcontractor to
11 employ the required number of apprentices, the contractor shall
12 take corrective action, including, but not limited to, retaining funds
13 due the subcontractor for work performed on the public works
14 project until the failure is corrected.

15 (4) Prior to making the final payment to the subcontractor for
16 work performed on the public works project, the contractor shall
17 obtain a declaration signed under penalty of perjury from the
18 subcontractor that the subcontractor has employed the required
19 number of apprentices on the public works project.

20 (e) Any funds withheld by the awarding body pursuant to this
21 section shall be deposited in the General Fund if the awarding
22 body is a state entity, or in the equivalent fund of an awarding
23 body if the awarding body is an entity other than the state.

24 (f) (1) ~~The Chief Labor Commissioner~~ shall consider, in setting
25 the amount of a monetary penalty, in determining whether a
26 violation is serious, and in determining whether and for how long
27 a party should be debarred for violating this section, all of the
28 following circumstances:

29 ~~(1)~~

30 (A) Whether the violation was intentional.

31 ~~(2)~~

32 (B) Whether the party has committed other violations of Section
33 1777.5.

34 ~~(3)~~

35 (C) Whether, upon notice of the violation, the party took steps
36 to voluntarily remedy the violation.

37 ~~(4)~~

38 (D) Whether, and to what extent, the violation resulted in lost
39 training opportunities for apprentices.

40 ~~(5)~~

1 (E) Whether, and to what extent, the violation otherwise harmed
2 apprentices or apprenticeship programs.

3 If

4 (2) If a party seeks review of a decision by the ~~Chief Labor~~
5 ~~Commissioner~~ to impose a monetary penalty or period of
6 debarment, the ~~Administrator~~ *Director of Industrial Relations* shall
7 decide de novo the appropriate penalty, by considering the same
8 factors set forth above.

9 (g) The interpretation of Section 1777.5 and *the substantive*
10 *requirements of this section, including the limitations period for*
11 *issuing a determination under subdivision (a) or (b)*, shall be in
12 accordance with the regulations of the California Apprenticeship
13 Council. The ~~Administrator~~ *Director of Industrial Relations* may
14 adopt regulations to establish guidelines for the imposition of
15 monetary penalties and periods of debarment and may designate
16 precedential decisions under Section 11425.60 of the Government
17 Code.

18 *SEC. 97. Section 2012 of the Labor Code is amended to read:*

19 2012. The ~~Division of Labor Statistics and Research~~ *department*
20 shall keep constantly advised of industrial conditions throughout
21 the State as affecting the employment of labor. Whenever the
22 Governor represents or the division has reason to believe, that a
23 period of extraordinary unemployment caused by industrial
24 depression exists in the ~~State~~ *state*, it shall immediately hold an
25 inquiry into the facts relating thereto, and report to the Governor
26 whether, in fact, such condition exists.

27 *SEC. 98. Section 2013 of the Labor Code is amended to read:*

28 2013. If the ~~Division of Labor Statistics and Research~~
29 *department* reports to the Governor that a condition of
30 extraordinary unemployment caused by industrial depression does
31 exist within this ~~State~~ *state*, the Department of Finance may
32 apportion the available Emergency Fund among the several ~~State~~
33 *state* agencies for the extension of the public works of the ~~State~~
34 *state* under the charge or direction thereof, in the manner which
35 the Department of Finance believes to be best adapted to advance
36 the public interest by providing the maximum of public
37 employment consistent with the most useful, permanent, and
38 economic extension of public works.

39 *SEC. 99. Section 2686 of the Labor Code is amended to read:*

1 2686. Upon the written request of any manufacturer or
2 contractor, the *California State Mediation and Conciliation Service*
3 ~~of the Department of Industrial Relations~~ shall notify the other
4 party to the dispute of the request for arbitration and shall, within
5 seven days of receipt of the request, appoint an arbitration panel
6 to hear and render a decision regarding the dispute. The panel shall
7 be constituted as follows:

8 (a) A management level representative from a manufacturer in
9 the general geographic area in which the dispute arises, provided
10 that insofar as possible the manufacturer shall not be a direct
11 competitor of the manufacturer involved in the dispute to be
12 arbitrated. This panel member also shall be selected in accordance
13 with the terms of the written contract.

14 (b) A representative from the contractors' association whose
15 membership encompasses the general geographic area in which
16 the dispute arises. This panel member also shall be selected in
17 accordance with the terms of the written contract.

18 (c) A third party to be chosen and agreed upon by the first two
19 parties to the dispute from a list of arbitrators provided by the
20 American Arbitration Association. This party shall act as
21 chairperson of the panel.

22 *SEC. 100. Section 3072 of the Labor Code is amended to read:*

23 3072. ~~(a)~~ The Director of Industrial Relations is ex officio the
24 Administrator of Apprenticeship and is authorized to appoint
25 assistants as necessary to effectuate the purposes of this chapter.

26 ~~(b) An awarding body, as defined in Section 1722, that~~
27 ~~implements an approved labor compliance program pursuant to~~
28 ~~subdivision (b) of Section 1771.5 may, upon mutual agreement~~
29 ~~with the Chief of the Division of Apprenticeship Standards and at~~
30 ~~his or her discretion, assist the director in the enforcement of~~
31 ~~Section 1777.5 through the operation of that approved labor~~
32 ~~compliance program under the terms and conditions prescribed by~~
33 ~~the Chief of the Division of Apprenticeship Standards.~~

34 ~~(c) A contractor may appeal the result of a labor compliance~~
35 ~~program enforcement action related to Section 1777.5 through the~~
36 ~~procedures described in Section 1777.7.~~

37 ~~(d) If the involvement of the Chief of the Division of~~
38 ~~Apprenticeship Standards in a labor compliance program~~
39 ~~enforcement action is limited to a review of an assessment and the~~
40 ~~matter is resolved without litigation by or against the chief, the~~

1 ~~awarding body that has implemented the labor compliance program~~
2 ~~shall enforce any applicable penalties, as specified in Section~~
3 ~~1777.7, and shall deposit any penalties and forfeitures collected~~
4 ~~in its general fund.~~

5 *SEC. 101. Section 3073 of the Labor Code is amended to read:*

6 3073. The Chief of the Division of Apprenticeship Standards,
7 or his or her duly authorized representative, shall administer the
8 provisions of this chapter; act as secretary of the California
9 Apprenticeship Council; shall foster, promote, and develop the
10 welfare of the apprentice and industry, improve the working
11 conditions of apprentices, and advance their opportunities for
12 profitable employment; shall ensure that selection procedures are
13 impartially administered to all applicants for apprenticeship; shall
14 gather and promptly disseminate information through
15 apprenticeship and training information centers; shall maintain on
16 public file in all high schools and field offices of the Employment
17 Development Department the name and location of the local area
18 apprenticeship committees, the filing date, and minimum
19 requirements for application of all registered apprenticeship
20 programs; shall cooperate in the development of apprenticeship
21 programs and may advise with them on problems affecting
22 apprenticeship standards; shall audit all selection and disciplinary
23 proceedings of apprentices or prospective apprentices; may enter
24 joint agreements with the Employment Development Department
25 outreach education and employment programs, and educational
26 institutions on the operation of apprenticeship information centers,
27 including positive efforts to achieve information on equal
28 opportunity and affirmative action programs for women and
29 minorities; and shall supervise and recommend apprenticeship
30 agreements as to these standards and perform such other duties
31 associated therewith as the California Apprenticeship Council may
32 recommend. The chief shall coordinate the exchange, by the
33 California Apprenticeship Council, the apprenticeship program
34 sponsors, the Fair Employment and Housing ~~Commission~~ *Council*,
35 community organizations, and other interested persons, of
36 information on available minorities and women who may serve as
37 apprentices.

38 *SEC. 102. Section 3099 of the Labor Code is repealed.*

39 ~~3099. (a) The Division of Apprenticeship Standards shall do~~
40 ~~all of the following:~~

- 1 ~~(1) On or before July 1, 2001, establish and validate minimum~~
2 ~~standards for the competency and training of electricians through~~
3 ~~a system of testing and certification.~~
4 ~~(2) On or before March 1, 2000, establish an advisory committee~~
5 ~~and panels as necessary to carry out the functions under this~~
6 ~~section. There shall be contractor representation from both joint~~
7 ~~apprenticeship programs and unilateral nonunion programs in the~~
8 ~~electrical contracting industry.~~
9 ~~(3) On or before July 1, 2001, establish fees necessary to~~
10 ~~implement this section.~~
11 ~~(4) On or before July 1, 2001, establish and adopt regulations~~
12 ~~to enforce this section.~~
13 ~~(5) Issue certification cards to electricians who have been~~
14 ~~certified pursuant to this section. Fees collected pursuant to~~
15 ~~paragraph (3) are continuously appropriated in an amount sufficient~~
16 ~~to pay the costs of issuing certification cards, and that amount may~~
17 ~~be expended for that purpose by the division.~~
18 ~~(6) On or before July 1, 2003, establish an electrical certification~~
19 ~~curriculum committee comprised of representatives of the State~~
20 ~~Department of Education, the California Community Colleges,~~
21 ~~and the division. The following shall apply to the electrical~~
22 ~~certification curriculum committee:~~
23 ~~(A) The committee shall establish written educational curriculum~~
24 ~~standards for enrollees in training programs established pursuant~~
25 ~~to Section 3099.4.~~
26 ~~(B) If an educational provider's curriculum meets the written~~
27 ~~educational curriculum standards established in accordance with~~
28 ~~subparagraph (A), the committee shall designate that curriculum~~
29 ~~as an approved curriculum of classroom instruction.~~
30 ~~(C) The committee may review the approved curriculum of~~
31 ~~classroom instruction of any designated educational provider. The~~
32 ~~committee may withdraw its approval of the curriculum if the~~
33 ~~educational provider does not continue to meet the established~~
34 ~~written educational curriculum standards.~~
35 ~~(D) The committee shall require each designated educational~~
36 ~~provider to submit an annual notice to the committee stating~~
37 ~~whether the educational provider is continuing to offer the~~
38 ~~approved curriculum of classroom instruction and whether any~~
39 ~~material changes have been made to the curriculum since its~~
40 ~~approval.~~

1 ~~(b) There shall be no discrimination for or against any person~~
2 ~~based on membership or nonmembership in a union.~~

3 ~~(e) As used in this section, “electricians” includes all persons~~
4 ~~who engage in the connection of electrical devices for electrical~~
5 ~~contractors licensed pursuant to Section 7058 of the Business and~~
6 ~~Professions Code, specifically, contractors classified as electrical~~
7 ~~contractors in the Contractors’ State License Board Rules and~~
8 ~~Regulations. This section does not apply to electrical connections~~
9 ~~under 100 volt-amperes. This section does not apply to persons~~
10 ~~performing work to which Section 7042.5 of the Business and~~
11 ~~Professions Code is applicable, or to electrical work ordinarily and~~
12 ~~customarily performed by stationary engineers. This section does~~
13 ~~not apply to electrical work in connection with the installation,~~
14 ~~operation, or maintenance of temporary or portable electrical~~
15 ~~equipment performed by technicians in the theatrical, motion~~
16 ~~picture production, television, hotel, exhibition, or trade show~~
17 ~~industries.~~

18 *SEC. 103. Section 3099.2 of the Labor Code is repealed.*

19 ~~3099.2. (a) (1) Persons who perform work as electricians shall~~
20 ~~become certified pursuant to Section 3099 by the deadline specified~~
21 ~~in this subdivision. After the applicable deadline, uncertified~~
22 ~~persons shall not perform electrical work for which certification~~
23 ~~is required.~~

24 ~~(2) The deadline for certification as a general electrician or~~
25 ~~fire/life safety technician is January 1, 2006, except that persons~~
26 ~~who applied for certification prior to January 1, 2006, have until~~
27 ~~January 1, 2007, to pass the certification examination. The deadline~~
28 ~~for certification as a residential electrician is January 1, 2007, and~~
29 ~~the deadline for certification as a voice data video technician or a~~
30 ~~nonresidential lighting technician is January 1, 2008. The California~~
31 ~~Apprenticeship Council may extend the certification date for any~~
32 ~~of these three categories of electricians up to January 1, 2009, if~~
33 ~~the council concludes that the existing deadline will not provide~~
34 ~~persons sufficient time to obtain certification, enroll in an~~
35 ~~apprenticeship or training program, or register pursuant to Section~~
36 ~~3099.4.~~

37 ~~(3) For purposes of any continuing education or recertification~~
38 ~~requirement, individuals who become certified prior to the deadline~~
39 ~~for certification shall be treated as having become certified on the~~

1 ~~first anniversary of their certification date that falls after the~~
2 ~~certification deadline.~~

3 ~~(4) Individuals desiring to be certified shall submit an~~
4 ~~application for certification and examination that includes an~~
5 ~~employment history report from the Social Security Administration.~~
6 ~~The individual may redact his or her social security number from~~
7 ~~the employment history report before it is submitted.~~

8 ~~(b) (1) Certification is required only for those persons who~~
9 ~~perform work as electricians for contractors licensed as class C-10~~
10 ~~electrical contractors under the Contractors' State License Board~~
11 ~~Rules and Regulations.~~

12 ~~(2) Certification is not required for persons performing work~~
13 ~~for contractors licensed as class C-7 low voltage systems or class~~
14 ~~C-45 sign contractors as long as the work performed is within the~~
15 ~~scope of the class C-7 or class C-45 license, including incidental~~
16 ~~and supplemental work as defined in Section 7059 of the Business~~
17 ~~and Professions Code, and regardless of whether the same~~
18 ~~contractor is also licensed as a class C-10 contractor.~~

19 ~~(3) Certification is not required for work performed by a worker~~
20 ~~on a high-voltage electrical transmission or distribution system~~
21 ~~owned by a local publicly owned electric utility, as defined in~~
22 ~~Section 224.3 of the Public Utilities Code; an electrical corporation,~~
23 ~~as defined in Section 218 of the Public Utilities Code; a person,~~
24 ~~as defined in Section 205 of the Public Utilities Code; or a~~
25 ~~corporation, as defined in Section 204 of the Public Utilities Code;~~
26 ~~when the worker is employed by the utility or a licensed contractor~~
27 ~~principally engaged in installing or maintaining transmission or~~
28 ~~distribution systems.~~

29 ~~(e) The division shall establish separate certifications for general~~
30 ~~electrician, fire/life safety technician, residential electrician, voice~~
31 ~~data video technician, and nonresidential lighting technician.~~

32 ~~(d) Notwithstanding subdivision (a), certification is not required~~
33 ~~for registered apprentices performing electrical work as part of an~~
34 ~~apprenticeship program approved under this chapter, a federal~~
35 ~~Office of Apprenticeship program, or a state apprenticeship~~
36 ~~program authorized by the federal Office of Apprenticeship. An~~
37 ~~apprentice who is within one year of completion of his or her term~~
38 ~~of apprenticeship shall be permitted to take the certification~~
39 ~~examination and, upon passing the examination, shall be certified~~
40 ~~immediately upon completion of the term of apprenticeship.~~

- 1 ~~(e) Notwithstanding subdivision (a), certification is not required~~
2 ~~for any person employed pursuant to Section 3099.4.~~
- 3 ~~(f) Notwithstanding subdivision (a), certification is not required~~
4 ~~for a nonresidential lighting trainee (1) who is enrolled in an~~
5 ~~on-the-job instructional training program approved by the Chief~~
6 ~~of the Division of Apprenticeship Standards pursuant to Section~~
7 ~~3090, and (2) who is under the onsite supervision of a~~
8 ~~nonresidential lighting technician certified pursuant to Section~~
9 ~~3099.~~
- 10 ~~(g) Notwithstanding subdivision (a), the qualifying person for~~
11 ~~a class C-10 electrical contractor license issued by the Contractors'~~
12 ~~State License Board need not also be certified pursuant to Section~~
13 ~~3099 to perform electrical work for that licensed contractor or to~~
14 ~~supervise an uncertified person employed by that licensed~~
15 ~~contractor pursuant to Section 3099.4.~~
- 16 ~~(h) Commencing July 1, 2009, the following shall constitute~~
17 ~~additional grounds for disciplinary proceedings, including~~
18 ~~suspension or revocation of the license of a class C-10 electrical~~
19 ~~contractor pursuant to Article 7 (commencing with Section 7090)~~
20 ~~of Chapter 9 of Division 3 of the Business and Professions Code:~~
- 21 ~~(1) The contractor willfully employs one or more uncertified~~
22 ~~persons to perform work as electricians in violation of this section.~~
- 23 ~~(2) The contractor willfully fails to provide the adequate~~
24 ~~supervision of uncertified workers required by paragraph (3) of~~
25 ~~subdivision (a) of Section 3099.4.~~
- 26 ~~(3) The contractor willfully fails to provide adequate supervision~~
27 ~~of apprentices performing work pursuant to subdivision (d).~~
- 28 ~~(i) The Chief of the Division of Apprenticeship Standards shall~~
29 ~~develop a process for referring cases to the Contractors' State~~
30 ~~License Board when it has been determined that a violation of this~~
31 ~~section has likely occurred. On or before July 1, 2009, the chief~~
32 ~~shall prepare and execute a memorandum of understanding with~~
33 ~~the Registrar of Contractors in furtherance of this section.~~
- 34 ~~(j) Upon receipt of a referral by the Chief of the Division of~~
35 ~~Apprenticeship Standards alleging a violation under this section,~~
36 ~~the Registrar of Contractors shall open an investigation. Any~~
37 ~~disciplinary action against the licensee shall be initiated within 60~~
38 ~~days of the receipt of the referral. The Registrar of Contractors~~
39 ~~may initiate disciplinary action against any licensee upon his or~~
40 ~~her own investigation, the filing of any complaint, or any finding~~

1 that results from a referral from the Chief of the Division of
2 Apprenticeship Standards alleging a violation under this section.
3 Failure of the employer or employee to provide evidence of
4 certification or trainee status shall create a rebuttable presumption
5 of violation of this provision.

6 (k) For the purposes of this section, “electricians” has the same
7 meaning as the definition set forth in Section 3099.

8 *SEC. 104. Section 3099.3 of the Labor Code is repealed.*

9 3099.3. The Division of Apprenticeship Standards shall do all
10 of the following:

11 (a) Make information about electrician certification available
12 in non-English languages spoken by a substantial number of
13 construction workers, as defined in Section 7296.2 of the
14 Government Code.

15 (b) Provide for the administration of certification tests in Spanish
16 and, to the extent practicable, other non-English languages spoken
17 by a substantial number of applicants, as defined in Section 7296.2
18 of the Government Code, except insofar as the ability to understand
19 warning signs, instructions, and certain other information in English
20 is necessary for safety reasons.

21 (c) Ensure, in conjunction with the California Apprenticeship
22 Council, that by no later than January 1, 2003, all electrician
23 apprenticeship programs approved under this chapter that impose
24 minimum formal education requirements as a condition of entry
25 provide for reasonable alternative means of satisfying those
26 requirements.

27 (d) Ensure, in conjunction with the California Apprenticeship
28 Council, that by no later than January 1, 2003, all electrician
29 apprenticeship programs approved under this chapter have adopted
30 reasonable procedures for granting credit toward a term of
31 apprenticeship for other vocational training and on-the-job training
32 experience.

33 (e) Report to the Legislature, prior to the deadline for individuals
34 to become certified, on the status of electrician certification,
35 including all of the following:

36 (1) The number of persons who have been certified pursuant to
37 Section 3099.

38 (2) The number of persons enrolled in electrician apprenticeship
39 programs.

1 ~~(3) The number of persons who have registered pursuant to~~
2 ~~Section 3099.4.~~

3 ~~(4) The estimated number of individuals performing work for~~
4 ~~Class C-10 electrical contractors for which certification will be~~
5 ~~required after the deadline for certification, who have not yet been~~
6 ~~certified and are not enrolled in apprenticeship programs or~~
7 ~~registered pursuant to Section 3099.4.~~

8 ~~(5) Whether enforcement of the deadline for certification will~~
9 ~~cause a shortage of electricians in California.~~

10 ~~(6) Whether persons who wish to become certified electricians~~
11 ~~will have an adequate opportunity to pass the certification exam,~~
12 ~~to register pursuant to Section 3099.4, or to enroll in an~~
13 ~~apprenticeship program prior to the deadline for certification.~~

14 *SEC. 105. Section 3099.4 of the Labor Code is repealed.*

15 ~~3099.4. (a) After the deadline for certification, an uncertified~~
16 ~~person may perform electrical work for which certification is~~
17 ~~required under Section 3099 in order to acquire the necessary~~
18 ~~on-the-job experience for certification, if all of the following~~
19 ~~requirements are met:~~

20 ~~(1) The person is registered with the Division of Apprenticeship~~
21 ~~Standards. A list of current registrants shall be maintained by the~~
22 ~~division and made available to the public upon request.~~

23 ~~(2) The person either has completed or is enrolled in an approved~~
24 ~~curriculum of classroom instruction.~~

25 ~~(3) The employer attests that the person shall be under the direct~~
26 ~~supervision of an electrician certified pursuant to Section 3099~~
27 ~~who is responsible for supervising no more than one uncertified~~
28 ~~person. An employer who is found by the division to have failed~~
29 ~~to provide adequate supervision may be barred by the division~~
30 ~~from employing uncertified individuals pursuant to this section in~~
31 ~~the future.~~

32 ~~(b) For purposes of this section, an “approved curriculum of~~
33 ~~classroom instruction” means a curriculum of classroom instruction~~
34 ~~approved by the electrician certification curriculum committee~~
35 ~~established pursuant to paragraph (6) of subdivision (a) of Section~~
36 ~~3099 and provided under the jurisdiction of the State Department~~
37 ~~of Education, the Board of Governors of the California Community~~
38 ~~Colleges, or the Bureau for Private Postsecondary and Vocational~~
39 ~~Education.~~

1 ~~(e) The curriculum committee may grant approval to an~~
2 ~~educational provider that presently offers only a partial curriculum~~
3 ~~if the educational provider intends in the future to offer, or to~~
4 ~~cooperate with other educational providers to offer, a complete~~
5 ~~curriculum for the type of certification involved. The curriculum~~
6 ~~committee may require an educational provider receiving approval~~
7 ~~for a partial curriculum to periodically renew its approval with the~~
8 ~~curriculum committee until a complete curriculum is offered and~~
9 ~~approved. A partial curriculum means a combination of classes~~
10 ~~that do not include all classroom educational components of the~~
11 ~~complete curriculum for one of the categories of certification~~
12 ~~established in accordance with subdivision (c) of Section 3099.2.~~

13 ~~(d) An educational provider that receives approval for a partial~~
14 ~~curriculum must disclose in all communications to students and~~
15 ~~to the public that the educational provider has only received~~
16 ~~approval for a partial curriculum and shall not make any~~
17 ~~representations that the provider offers a complete approved~~
18 ~~curriculum of classroom instruction as established by subparagraph~~
19 ~~(A) of paragraph (6) of subdivision (a) of Section 3099.~~

20 ~~(e) For purposes of this section, a person is “enrolled” in an~~
21 ~~approved curriculum of classroom instruction if the person is~~
22 ~~attending classes on a full-time or part-time basis toward the~~
23 ~~completion of an approved curriculum.~~

24 ~~(f) Registration under this section shall be renewed annually~~
25 ~~and the registrant shall provide to the division certification of the~~
26 ~~classwork completed and on-the-job experience acquired since the~~
27 ~~prior registration.~~

28 ~~(g) For purposes of verifying the information provided by a~~
29 ~~person registered with the division, an educational provider of an~~
30 ~~approved curriculum of classroom instruction shall, upon the~~
31 ~~division’s request, provide the division with information regarding~~
32 ~~the enrollment status and instruction completed by a person~~
33 ~~registered. By registering with the division in accordance with this~~
34 ~~section, a person consents to the release of this information.~~

35 ~~(h) The division shall establish registration fees necessary to~~
36 ~~implement this section, not to exceed twenty-five dollars (\$25) for~~
37 ~~the initial registration. There shall be no fee for annual renewal of~~
38 ~~registration. Fees collected are continuously appropriated in an~~
39 ~~amount sufficient to administer this section and that amount may~~
40 ~~be expended by the division for this purpose.~~

1 ~~(i) The division shall issue regulations to implement this section.~~

2 ~~(j) For purposes of Section 1773, persons employed pursuant~~
3 ~~to this section do not constitute a separate craft, classification, or~~
4 ~~type of worker.~~

5 ~~(k) Notwithstanding any other provision of law, an uncertified~~
6 ~~person who has completed an approved curriculum of classroom~~
7 ~~instruction and is currently registered with the division may take~~
8 ~~the certification examination. The person shall be certified upon~~
9 ~~passing the examination and satisfactorily completing the requisite~~
10 ~~number of on-the-job hours required for certification. A person~~
11 ~~who passes the examination prior to completing the requisite hours~~
12 ~~of on-the-job experience shall continue to comply with subdivision~~
13 ~~(f).~~

14 *SEC. 106. Section 3099.5 of the Labor Code is repealed.*

15 ~~3099.5. (a) The Electrician Certification Fund is hereby created~~
16 ~~as a special account in the State Treasury. Proceeds of the fund~~
17 ~~may be expended by the department, upon appropriation by the~~
18 ~~Legislature, for the costs of the Division of Apprenticeship~~
19 ~~Standards program to validate and certify electricians as provided~~
20 ~~by Section 3099, and shall not be used for any other purpose.~~

21 ~~(b) The fund shall consist of the fees collected pursuant to~~
22 ~~Section 3099.~~

23 *SEC. 107. Section 6332 of the Labor Code is amended to read:*

24 ~~6332. (a) For purposes of this section, the following terms~~
25 ~~have the following meanings:~~

26 (1) “Community health care worker” means an individual who
27 provides health care or health care-related services to clients in
28 home settings.

29 (2) “Employer” means a person or entity that employs a
30 community health care worker. “Employer” does not include an
31 individual who is a recipient of home-based services and who is
32 responsible for hiring his or her own community health care
33 worker.

34 (3) “Violence” means a physical assault or a threat of a physical
35 assault.

36 (b) Every employer shall keep a record of any violence
37 committed against a community health care worker and shall file
38 a copy of that record with the ~~Division of Labor Statistics and~~
39 ~~Research~~ *department* in the form and detail and within the time

1 limits prescribed by the ~~Division of Labor Statistics and Research~~
2 *department*.

3 *SEC. 108. Section 6401.7 of the Labor Code is amended to*
4 *read:*

5 6401.7. (a) Every employer shall establish, implement, and
6 maintain an effective injury prevention program. The program
7 shall be written, except as provided in subdivision (e), and shall
8 include, but not be limited to, the following elements:

9 (1) Identification of the person or persons responsible for
10 implementing the program.

11 (2) The employer's system for identifying and evaluating
12 workplace hazards, including scheduled periodic inspections to
13 identify unsafe conditions and work practices.

14 (3) The employer's methods and procedures for correcting
15 unsafe or unhealthy conditions and work practices in a timely
16 manner.

17 (4) An occupational health and safety training program designed
18 to instruct employees in general safe and healthy work practices
19 and to provide specific instruction with respect to hazards specific
20 to each employee's job assignment.

21 (5) The employer's system for communicating with employees
22 on occupational health and safety matters, including provisions
23 designed to encourage employees to inform the employer of
24 hazards at the worksite without fear of reprisal.

25 (6) The employer's system for ensuring that employees comply
26 with safe and healthy work practices, which may include
27 disciplinary action.

28 (b) The employer shall correct unsafe and unhealthy conditions
29 and work practices in a timely manner based on the severity of the
30 hazard.

31 (c) The employer shall train all employees when the training
32 program is first established, all new employees, and all employees
33 given a new job assignment, and shall train employees whenever
34 new substances, processes, procedures, or equipment are introduced
35 to the workplace and represent a new hazard, and whenever the
36 employer receives notification of a new or previously unrecognized
37 hazard. ~~Beginning January 1, 1994, an An~~ employer in the
38 construction industry who is required to be licensed under Chapter
39 9 (commencing with Section 7000) of Division 3 of the Business
40 and Professions Code may use employee training provided to the

1 employer's employees under a construction industry occupational
2 safety and health training program approved by the division to
3 comply with the requirements of subdivision (a) relating to
4 employee training, and shall only be required to provide training
5 on hazards specific to an employee's job duties.

6 (d) The employer shall keep appropriate records of steps taken
7 to implement and maintain the program. ~~Beginning January 1,~~
8 ~~1994, an~~ An employer in the construction industry who is required
9 to be licensed under Chapter 9 (commencing with Section 7000)
10 of Division 3 of the Business and Professions Code may use
11 records relating to employee training provided to the employer in
12 connection with an occupational safety and health training program
13 approved by the division to comply with ~~the requirements of this~~
14 subdivision, and shall only be required to keep records of those
15 steps taken to implement and maintain the program with respect
16 to hazards specific to an employee's job duties.

17 (e) (1) The standards board shall adopt a standard setting forth
18 the employer's duties under this section, on or before January 1,
19 1991, consistent with the requirements specified in subdivisions
20 (a), (b), (c), and (d). The standards board, in adopting the standard,
21 shall include substantial compliance criteria for use in evaluating
22 an employer's injury prevention program. The board may adopt
23 less stringent criteria for employers with few employees and for
24 employers in industries with insignificant occupational safety or
25 health hazards.

26 (2) Notwithstanding subdivision (a), for employers with fewer
27 than 20 employees who are in industries that are not on a
28 designated list of high hazard industries and who have a workers'
29 compensation experience modification rate of 1.1 or less, and for
30 any employers with fewer than 20 employees who are in industries
31 that are on a designated list of low hazard industries, the board
32 shall adopt a standard setting forth the employer's duties under
33 this section consistent with the requirements specified in
34 subdivisions (a), (b), and (c), except that the standard shall only
35 require written documentation to the extent of documenting the
36 person or persons responsible for implementing the program
37 pursuant to paragraph (1) of subdivision (a), keeping a record of
38 periodic inspections pursuant to paragraph (2) of subdivision (a),
39 and keeping a record of employee training pursuant to paragraph
40 (4) of subdivision (a). To any extent beyond the specifications of

1 this subdivision, the standard shall not require the employer to
2 keep the records specified in subdivision (d).

3 (3) (A) The division shall establish a list of high hazard
4 industries using the methods prescribed in Section 6314.1 for
5 identifying and targeting employers in high hazard industries. For
6 purposes of this subdivision, the “designated list of high hazard
7 industries” shall be the list established pursuant to this paragraph.

8 For

9 (B) For the purpose of implementing this subdivision, the
10 Department of Industrial Relations shall periodically review, and
11 as necessary revise, the list.

12 (4) For the purpose of implementing this subdivision, the
13 Department of Industrial Relations shall also establish a list of low
14 hazard industries, and shall periodically review, and as necessary
15 revise, that list.

16 (f) The standard adopted pursuant to subdivision (e) shall
17 specifically permit employer and employee occupational safety
18 and health committees to be included in the employer’s injury
19 prevention program. The board shall establish criteria for use in
20 evaluating employer and employee occupational safety and health
21 committees. The criteria shall include minimum duties, including
22 the following:

23 (1) Review of the employer’s ~~(A)~~ periodic, scheduled worksite
24 inspections, ~~(B)~~; investigation of causes of incidents resulting in
25 injury, illness, or exposure to hazardous substances;; and ~~(C)~~
26 investigation of any alleged hazardous condition brought to the
27 attention of any committee member. When determined necessary
28 by the committee, the committee may conduct its own inspections
29 and investigations.

30 (2) (A) Upon request from the division, verification of
31 abatement action taken by the employer as specified in division
32 citations.

33 If

34 (B) If an employer’s occupational safety and health committee
35 meets the criteria established by the board, it shall be presumed to
36 be in substantial compliance with paragraph (5) of subdivision (a).

37 (g) The division shall adopt regulations specifying the
38 procedures for selecting employee representatives for
39 employer-employee occupational health and safety committees
40 when these procedures are not specified in an applicable collective

1 bargaining agreement. No employee or employee organization
2 shall be held liable for any act or omission in connection with a
3 health and safety committee.

4 (h) The employer's injury prevention program, as required by
5 this section, shall cover all of the employer's employees and all
6 other workers who the employer controls or directs and directly
7 supervises on the job to the extent these workers are exposed to
8 worksite and job assignment specific hazards. Nothing in this
9 subdivision shall affect the obligations of a contractor or other
10 employer that controls or directs and directly supervises its own
11 employees on the job.

12 (i) When a contractor supplies its employee to a state agency
13 employer on a temporary basis, the state agency employer may
14 assess a fee upon the contractor to reimburse the state agency for
15 the additional costs, if any, of including the contract employee
16 within the state agency's injury prevention program.

17 (j) (1) The division shall prepare a Model Injury and Illness
18 Prevention Program for Non-High-Hazard Employment, and shall
19 make copies of the model program prepared pursuant to this
20 subdivision available to employers, upon request, for posting in
21 the workplace. An employer who adopts and implements the model
22 program prepared by the division pursuant to this paragraph in
23 good faith shall not be assessed a civil penalty for the first citation
24 for a violation of this section issued after the employer's adoption
25 and implementation of the model program.

26 (2) For purposes of this subdivision, the division shall establish
27 a list of non-high-hazard industries in California. These industries,
28 identified by their Standard Industrial Classification Codes, as
29 published by the United States Office of Management and Budget
30 in the Manual of Standard Industrial Classification Codes, 1987
31 Edition, are apparel and accessory stores (Code 56), eating and
32 drinking places (Code 58), miscellaneous retail (Code 59), finance,
33 insurance, and real estate (Codes 60–67), personal services (Code
34 72), business services (Code 73), motion pictures (Code 78) except
35 motion picture production and allied services (Code 781), legal
36 services (Code 81), educational services (Code 82), social services
37 (Code 83), museums, art galleries, and botanical and zoological
38 gardens (Code 84), membership organizations (Code 86),
39 engineering, accounting, research, management, and related
40 services (Code 87), private households (Code 88), and

1 miscellaneous services (Code 89). To further identify industries
2 that may be included on the list, the division shall also consider
3 data from a rating organization, as defined in Section 11750.1 of
4 the Insurance Code, ~~the Division of Labor Statistics and Research,~~
5 and all other appropriate information. The list shall be established
6 by June 30, 1994, and shall be reviewed, and as necessary revised,
7 biennially.

8 (3) The division shall prepare a Model Injury and Illness
9 Prevention Program for Employers in Industries with Intermittent
10 Employment, and shall determine which industries have historically
11 utilized seasonal or intermittent employees. An employer in an
12 industry determined by the division to have historically utilized
13 seasonal or intermittent employees shall be deemed to have
14 complied with the requirements of subdivision (a) with respect to
15 a written injury prevention program if the employer adopts the
16 model program prepared by the division pursuant to this paragraph
17 and complies with any instructions relating thereto.

18 (k) With respect to any county, city, city and county, or district,
19 or any public or quasi-public corporation or public agency therein,
20 including any public entity, other than a state agency, that is a
21 member of, or created by, a joint powers agreement, subdivision
22 (d) shall not apply.

23 (l) Every workers' compensation insurer shall conduct a review,
24 including a written report as specified below, of the injury and
25 illness prevention program (IIPP) of each of its insureds with an
26 experience modification of 2.0 or greater within six months of the
27 commencement of the initial insurance policy term. The review
28 shall determine whether the insured has implemented all of the
29 required components of the IIPP, and evaluate their effectiveness.
30 The training component of the IIPP shall be evaluated to determine
31 whether training is provided to line employees, supervisors, and
32 upper level management, and effectively imparts the information
33 and skills each of these groups needs to ensure that all of the
34 insured's specific health and safety issues are fully addressed by
35 the insured. The reviewer shall prepare a detailed written report
36 specifying the findings of the review and all recommended changes
37 deemed necessary to make the IIPP effective. The reviewer shall
38 be or work under the direction of a licensed California professional
39 engineer, certified safety professional, or a certified industrial
40 hygienist.

1 *SEC. 109. Section 6409 of the Labor Code is amended to read:*

2 6409. (a) Every physician as defined in Section 3209.3 who
3 attends any injured employee shall file a complete report of every
4 occupational injury or occupational illness to the employee with
5 the employer, or if insured, with the employer's insurer, on forms
6 prescribed for that purpose by the ~~Division of Labor Statistics and~~
7 ~~Research~~ *Department of Industrial Relations*. A portion of the
8 form shall be completed by the injured employee, if he or she is
9 able to do so, describing how the injury or illness occurred. The
10 form shall be filed within five days of the initial examination.
11 Inability or failure of an injured employee to complete his or her
12 portion of the form shall not affect the employee's rights under
13 this code, and shall not excuse any delay in filing the form. The
14 employer or insurer, as the case may be, shall file the physician's
15 report with the ~~Department of Industrial Relations, through its~~
16 ~~Division of Labor Statistics and Research,~~ *department* within five
17 days of receipt. Each report of occupational injury or occupational
18 illness shall indicate the social security number of the injured
19 employee. If the treatment is for pesticide poisoning or a condition
20 suspected to be pesticide poisoning, the physician shall also file a
21 complete report, which need not include the affidavit required
22 pursuant to this section, with the ~~Division of Labor Statistics and~~
23 ~~Research~~ *department*, and within 24 hours of the initial examination
24 shall file a complete report with the local health officer by facsimile
25 transmission or other means. If the treatment is for pesticide
26 poisoning or a condition suspected to be pesticide poisoning, the
27 physician shall not be compensated for the initial diagnosis and
28 treatment unless the report is filed with the employer, or if insured,
29 with the employer's insurer, and includes or is accompanied by a
30 signed affidavit which certifies that a copy of the report was filed
31 with the local health officer pursuant to ~~the requirements of this~~
32 section.

33 (b) As used in this section, "occupational illness" means any
34 abnormal condition or disorder caused by exposure to
35 environmental factors associated with employment, including acute
36 and chronic illnesses or diseases which may be caused by
37 inhalation, absorption, ingestion, or direct contact.

38 *SEC. 110. Section 6409.1 of the Labor Code, as amended by*
39 *Section 6 of Chapter 885 of the Statutes of 2002, is amended to*
40 *read:*

1 6409.1. (a) Every employer shall file a complete report of
2 every occupational injury or occupational illness, as defined in
3 subdivision (b) of Section 6409, to each employee which results
4 in lost time beyond the date of the injury or illness, or which
5 requires medical treatment beyond first aid, with the Department
6 of Industrial Relations, ~~through its Division of Labor Statistics~~
7 ~~and Research~~ or, if an insured employer, with the insurer, on a
8 form prescribed for that purpose by the ~~Division of Labor Statistics~~
9 ~~and Research~~ department. A report shall be filed concerning each
10 injury and illness which has, or is alleged to have, arisen out of
11 and in the course of employment, within five days after the
12 employer obtains knowledge of the injury or illness. Each report
13 of occupational injury or occupational illness shall indicate the
14 social security number of the injured employee. In the case of an
15 insured employer, the insurer shall file with the division
16 immediately upon receipt, a copy of the employer's report, which
17 has been received from the insured employer. In the event an
18 employer has filed a report of injury or illness pursuant to this
19 subdivision and the employee subsequently dies as a result of the
20 reported injury or illness, the employer shall file an amended report
21 indicating the death with the ~~Department of Industrial Relations,~~
22 ~~through its Division of Labor Statistics and Research~~ department
23 or, if an insured employer, with the insurer, within five days after
24 the employer is notified or learns of the death. A copy of any
25 amended reports received by the insurer shall be filed with the
26 division immediately upon receipt.

27 (b) In every case involving a serious injury or illness, or death,
28 in addition to the report required by subdivision (a), a report shall
29 be made immediately by the employer to the Division of
30 Occupational Safety and Health by telephone or telegraph. An
31 employer who violates this subdivision may be assessed a civil
32 penalty of not less than five thousand dollars (\$5,000). Nothing in
33 this subdivision shall be construed to increase the maximum civil
34 penalty, pursuant to Sections 6427 to 6430, inclusive, that may be
35 imposed for a violation of this section.

36 *SEC. 111. Section 6410 of the Labor Code is amended to read:*

37 6410. (a) The reports required by subdivision (a) of Section
38 6409 and Section 6413 shall be made in the form and detail and
39 within the time limits prescribed by reasonable rules and
40 regulations adopted by the ~~Division of Labor Statistics and~~

1 ~~Research~~ *Department of Industrial Relations* in accordance with
2 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
3 3 of Title 2 of the Government Code.

4 ~~Nothing~~

5 (b) ~~Nothing~~ in this chapter requiring recordkeeping and
6 reporting by employers shall relieve the employer of maintaining
7 records and making reports to the assistant secretary, United States
8 Department of Labor, as required under the ~~Federal~~ *federal*
9 Occupational Safety and Health Act of 1970 (P.L. 91-596). The
10 Division of ~~Labor Statistics and Research~~ *Occupational Safety*
11 *and Health* shall prescribe and provide the forms necessary for
12 maintenance of the required records, and ~~the Division of~~
13 ~~Occupational Safety and Health~~ shall enforce by citation and
14 penalty assessment any violation of the recordkeeping requirements
15 of this chapter.

16 ~~AH~~

17 (c) All state and local government employers shall maintain
18 records and make reports in the same manner and to the same
19 extent as required of other employers by this section.

20 *SEC. 112. Section 6411 of the Labor Code is amended to read:*

21 6411. Every employer or insurer receiving forms with
22 directions from the ~~Division of Labor Statistics and Research~~
23 *Department of Industrial Relations* to complete them shall cause
24 them to be properly filled out so as to answer fully and correctly
25 each question propounded therein. In case of inability to answer
26 any ~~such~~ questions, a good and sufficient reason shall be given for
27 such failure.

28 *SEC. 113. Section 6413 of the Labor Code is amended to read:*

29 6413. (a) The Department of Corrections *and Rehabilitation*,
30 and every physician or surgeon who attends any injured state
31 prisoner, shall file with the Division of ~~Labor Statistics and~~
32 ~~Research~~ *Occupational Safety and Health* a complete report, on
33 forms prescribed under Sections 6409 and 6409.1, of every injury
34 to each state prisoner, resulting from any labor performed by the
35 prisoner unless disability resulting from such injury does not last
36 through the day or does not require medical service other than
37 ordinary first aid treatment.

38 (b) Where the injury results in death a report, in addition to the
39 report required by subdivision (a), shall forthwith be made by the
40 Department of Corrections *and Rehabilitation* to the Division of

1 ~~Labor Statistics and Research~~ *Occupational Safety and Health* by
2 telephone or telegraph.

3 (c) Except as provided in Section 6304.2, nothing in this section
4 or in this code shall be deemed to make a prisoner an employee,
5 for any purpose, of the Department of Corrections *and*
6 *Rehabilitation*.

7 (d) Notwithstanding subdivision (a), no physician or surgeon
8 who attends any injured state prisoner outside of a Department of
9 Corrections *and Rehabilitation* institution shall be required to file
10 the report required by subdivision (a), but the Department of
11 Corrections *and Rehabilitation* shall file the report.

12 *SEC. 114. Section 6413.2 of the Labor Code is amended to*
13 *read:*

14 6413.2. (a) ~~The Division of Labor Statistics and Research~~
15 ~~shall, within five working days of their receipt, transmit to the~~
16 ~~Division of Occupational Safety and Health copies of all reports~~
17 ~~received by the Division of Labor Statistics and Research pursuant~~
18 ~~to Section 6413.~~

19 ~~(b)~~ With regard to any report required by Section 6413, the
20 Division of Occupational Safety and Health may make
21 recommendations to the Department of Corrections *and*
22 *Rehabilitation* of ways in which the department might improve
23 the safety of the working conditions and work areas of state
24 prisoners, and other safety matters. The Department of Corrections
25 *and Rehabilitation* shall not be required to comply with these
26 recommendations.

27 ~~(e)~~

28 (b) With regard to any report required by Section 6413, the
29 Division of Occupational Safety and Health may, in any case in
30 which the Department of Corrections *and Rehabilitation* has not
31 complied with recommendations made by the division pursuant
32 to subdivision (b), or in any other case in which the division deems
33 the safety of any state prisoner shall require it, conduct hearings
34 and, after these hearings, adopt special orders, rules, or regulations
35 or otherwise proceed as authorized in Chapter 1 (commencing
36 with Section 6300) of this part as it deems necessary. The
37 Department of Corrections *and Rehabilitation* shall comply with
38 any order, rule, or regulation so adopted by the Division of
39 Occupational Safety and Health.

1 *SEC. 115. Section 422.92 of the Penal Code is amended to*
2 *read:*

3 422.92. (a) Every state and local law enforcement agency in
4 this state shall make available a brochure on hate crimes to victims
5 of these crimes and the public.

6 (b) The Department of Fair Employment and Housing shall
7 provide existing brochures, making revisions as needed, to local
8 law enforcement agencies upon request for reproduction and
9 distribution to victims of hate crimes and other interested parties.
10 In carrying out these responsibilities, the department shall consult
11 the Fair Employment and Housing ~~Commission~~ *Council*, the
12 Department of Justice, and the Victim Compensation and
13 Government Claims Board.

14 *SEC. 116. Section 13519 of the Penal Code is amended to*
15 *read:*

16 13519. (a) The commission shall implement by January 1,
17 1986, a course or courses of instruction for the training of law
18 enforcement officers in California in the handling of domestic
19 violence complaints and also shall develop guidelines for law
20 enforcement response to domestic violence. The course or courses
21 of instruction and the guidelines shall stress enforcement of
22 criminal laws in domestic violence situations, availability of civil
23 remedies and community resources, and protection of the victim.
24 Where appropriate, the training presenters shall include domestic
25 violence experts with expertise in the delivery of direct services
26 to victims of domestic violence, including utilizing the staff of
27 shelters for battered women in the presentation of training.

28 (b) As used in this section, "law enforcement officer" means
29 any officer or employee of a local police department or sheriff's
30 office, any peace officer of the Department of Parks and
31 Recreation, as defined in subdivision (f) of Section 830.2, any
32 peace officer of the University of California Police Department,
33 as defined in subdivision (b) of Section 830.2, any peace officer
34 of the California State University Police Departments, as defined
35 in subdivision (c) of Section 830.2, a peace officer, as defined in
36 subdivision (d) of Section 830.31, or a peace officer as defined in
37 subdivisions (a) and (b) of Section 830.32.

38 (c) The course of basic training for law enforcement officers
39 shall, no later than January 1, 1986, include adequate instruction
40 in the procedures and techniques described below:

- 1 (1) The provisions set forth in Title 5 (commencing with Section
2 13700) relating to response, enforcement of court orders, and data
3 collection.
- 4 (2) The legal duties imposed on peace officers to make arrests
5 and offer protection and assistance including guidelines for making
6 felony and misdemeanor arrests.
- 7 (3) Techniques for handling incidents of domestic violence that
8 minimize the likelihood of injury to the officer and that promote
9 the safety of the victim.
- 10 (4) The nature and extent of domestic violence.
- 11 (5) The signs of domestic violence.
- 12 (6) The legal rights of, and remedies available to, victims of
13 domestic violence.
- 14 (7) The use of an arrest by a private person in a domestic
15 violence situation.
- 16 (8) Documentation, report writing, and evidence collection.
- 17 (9) Domestic violence diversion as provided in Chapter 2.6
18 (commencing with Section 1000.6) of Title 6 of Part 2.
- 19 (10) Tenancy issues and domestic violence.
- 20 (11) The impact on children of law enforcement intervention
21 in domestic violence.
- 22 (12) The services and facilities available to victims and batterers.
- 23 (13) The use and applications of this code in domestic violence
24 situations.
- 25 (14) Verification and enforcement of temporary restraining
26 orders when (A) the suspect is present and (B) the suspect has fled.
- 27 (15) Verification and enforcement of stay-away orders.
- 28 (16) Cite and release policies.
- 29 (17) Emergency assistance to victims and how to assist victims
30 in pursuing criminal justice options.
- 31 (d) The guidelines developed by the commission shall also
32 incorporate the foregoing factors.
- 33 (e) (1) All law enforcement officers who have received their
34 basic training before January 1, 1986, shall participate in
35 supplementary training on domestic violence subjects, as prescribed
36 and certified by the commission.
- 37 (2) Except as provided in paragraph (3), the training specified
38 in paragraph (1) shall be completed no later than January 1, 1989.

1 (3) (A) The training for peace officers of the Department of
2 Parks and Recreation, as defined in subdivision (g) of Section
3 830.2, shall be completed no later than January 1, 1992.

4 (B) The training for peace officers of the University of California
5 Police Department and the California State University Police
6 Departments, as defined in Section 830.2, shall be completed no
7 later than January 1, 1993.

8 (C) The training for peace officers employed by a housing
9 authority, as defined in subdivision (d) of Section 830.31, shall be
10 completed no later than January 1, 1995.

11 (4) Local law enforcement agencies are encouraged to include,
12 as a part of their advanced officer training program, periodic
13 updates and training on domestic violence. The commission shall
14 assist where possible.

15 (f) (1) The course of instruction, the learning and performance
16 objectives, the standards for the training, and the guidelines shall
17 be developed by the commission in consultation with appropriate
18 groups and individuals having an interest and expertise in the field
19 of domestic violence. The groups and individuals shall include,
20 but shall not be limited to, the following: one representative each
21 from the California Peace Officers' Association, the Peace Officers'
22 Research Association of California, the State Bar of California,
23 the California Women Lawyers' Association, and the State
24 Commission on the Status of Women *and Girls*; two
25 representatives from the commission; two representatives from
26 the California Partnership to End Domestic Violence; two peace
27 officers, recommended by the commission, who are experienced
28 in the provision of domestic violence training; and two domestic
29 violence experts, recommended by the California Partnership to
30 End Domestic Violence, who are experienced in the provision of
31 direct services to victims of domestic violence and at least one
32 representative of service providers serving the lesbian, gay,
33 bisexual, and transgender community in connection with domestic
34 violence. At least one of the persons selected shall be a former
35 victim of domestic violence.

36 (2) The commission, in consultation with these groups and
37 individuals, shall review existing training programs to determine
38 in what ways domestic violence training might be included as a
39 part of ongoing programs.

1 (g) Each law enforcement officer below the rank of supervisor
2 who is assigned to patrol duties and would normally respond to
3 domestic violence calls or incidents of domestic violence shall
4 complete, every two years, an updated course of instruction on
5 domestic violence that is developed according to the standards and
6 guidelines developed pursuant to subdivision (d). The instruction
7 required pursuant to this subdivision shall be funded from existing
8 resources available for the training required pursuant to this section.
9 It is the intent of the Legislature not to increase the annual training
10 costs of local government entities.

11 *SEC. 117. Section 13776 of the Penal Code is amended to*
12 *read:*

13 13776. The following definitions apply for the purposes of this
14 title:

15 (a) “Anti-reproductive-rights crime” means a crime committed
16 partly or wholly because the victim is a reproductive health services
17 client, provider, or assistant, or a crime that is partly or wholly
18 intended to intimidate the victim, any other person or entity, or
19 any class of persons or entities from becoming or remaining a
20 reproductive health services client, provider, or assistant.
21 “Anti-reproductive-rights crime” includes, but is not limited to, a
22 violation of subdivision (a) or (c) of Section 423.2.

23 (b) “Subject matter experts” includes, but is not limited to, the
24 Commission on the Status of Women *and Girls*, law enforcement
25 agencies experienced with anti-reproductive-rights crimes,
26 including the Attorney General and the Department of Justice, and
27 organizations such as the American Civil Liberties Union, the
28 American College of Obstetricians and Gynecologists, the
29 California Council of Churches, the California Medical
30 Association, the Feminist Majority Foundation, NARAL
31 Pro-Choice California, the National Abortion Federation, the
32 California National Organization for Women, the Planned
33 Parenthood Federation of America, Planned Parenthood Affiliates
34 of California, and the Women’s Health Specialists clinic that
35 represent reproductive health services clients, providers, and
36 assistants.

37 (c) “Crime of violence,” “nonviolent,” “reproductive health
38 services;” “reproductive health services client, provider, or
39 assistant;” and “reproductive health services facility” each has the
40 same meaning as set forth in Section 423.1.

1 *SEC. 118. Section 13777.2 of the Penal Code is amended to*
2 *read:*

3 13777.2. (a) The Commission on the Status of Women *and*
4 *Girls* shall convene an advisory committee consisting of one person
5 appointed by the Attorney General and one person appointed by
6 each of the organizations named in subdivision (b) of Section
7 13776 that chooses to appoint a member, and any other subject
8 matter experts the commission may appoint. The advisory
9 committee shall elect its chair and any other officers of its choice.

10 (b) The advisory committee shall make two reports, the first by
11 December 31, 2007, and the second by December 31, 2011, to the
12 Committees on Health, Judiciary, and Public Safety of the Senate
13 and Assembly, to the Attorney General, the Commission on Peace
14 Officer Standards and Training, and the Commission on the Status
15 of Women *and Girls*. The reports shall evaluate the implementation
16 of Chapter 899 of the Statutes of 2001 and any subsequent
17 amendments made to this title and the effectiveness of the plan
18 developed by the Attorney General pursuant to paragraph (4) of
19 subdivision (a) of Section 13777. The reports shall also include
20 recommendations concerning whether the Legislature should
21 extend or repeal the sunset dates in Section 13779,
22 recommendations regarding any other legislation, and
23 recommendations for any other actions by the Attorney General,
24 Commission on Peace Officer Standards and Training, or the
25 Commission on the Status of Women *and Girls*.

26 (c) The Commission on the Status of Women *and Girls* shall
27 transmit the reports of the advisory committee to the appropriate
28 committees of the Legislature, including, but not limited to, the
29 Committees on Health, Judiciary, and Public Safety in the Senate
30 and Assembly, and make the reports available to the public,
31 including by posting them on the Commission on the Status of
32 ~~Women's~~ *Women and Girls'* Internet Web site. To avoid
33 production and distribution costs, the Commission on the Status
34 of Women *and Girls* may submit the reports electronically or as
35 part of any other report that the Commission on the Status of
36 Women *and Girls* submits to the Legislature.

37 (d) The Commission on Peace Officer Standards and Training
38 shall make the telecourse that it produced in 2002 pursuant to
39 subdivision (a) of Section 13778 available to the advisory
40 committee. However, before providing the telecourse to the

1 advisory committee or otherwise making it public, the commission
2 shall remove the name and face of any person who appears in the
3 telecourse as originally produced who informs the commission in
4 writing that he or she has a reasonable apprehension that making
5 the telecourse public without the removal will endanger his or her
6 life or physical safety.

7 (e) Nothing in this section requires any state agency to pay for
8 compensation, travel, or other expenses of any advisory committee
9 member.

10 *SEC. 119. Section 13836.1 of the Penal Code is amended to*
11 *read:*

12 13836.1. The committee shall consist of 11 members. Five
13 shall be appointed by the secretary, and shall include three district
14 attorneys or assistant or deputy district attorneys, one representative
15 of a city police department or a sheriff or a representative of a
16 sheriff's department, and one public defender or assistant or deputy
17 public defender of a county. Six shall be public members appointed
18 by the Commission on the Status of Women *and Girls*, and shall
19 include one representative of a rape crisis center, and one medical
20 professional experienced in dealing with sexual assault trauma
21 victims. The committee members shall represent the points of view
22 of diverse ethnic and language groups.

23 Members of the committee shall receive no compensation for
24 their services but shall be reimbursed for their expenses actually
25 and necessarily incurred by them in the performance of their duties.
26 Staff support for the committee shall be provided by the agency.

27 *SEC. 120. Section 25051 of the Public Utilities Code is*
28 *amended to read:*

29 25051. (a) If a majority of the employees employed by a transit
30 district in a unit appropriate for collective bargaining indicate a
31 desire to be represented by a labor organization, the transit board,
32 after determining pursuant to Section 25052 that the labor
33 organization represents the employees in the appropriate unit, shall
34 bargain with the accredited representative of those employees.
35 Both parties shall bargain in good faith and make all reasonable
36 efforts to reach agreement on the terms of a written contract
37 governing wages, salaries, hours, working conditions, and
38 grievance procedures.

39 (1) If a dispute arises over the terms of a written contract
40 governing wages, salaries, hours, or working conditions that is not

1 resolved by negotiations conducted in good faith between the
2 transit board and the representatives of the employees, then upon
3 the agreement of both parties, the transit board and the
4 representatives of the employees may submit the dispute to an
5 arbitration board. The decision of a majority of the arbitration
6 board shall be final.

7 (2) (A) The arbitration board shall be composed of two
8 representatives of the transit board, two representatives of the labor
9 organization, and a fifth member to be agreed upon by the
10 representatives of the transit board and labor organization.

11 (B) If the representatives of the transit board and labor
12 organization are unable to agree on the fifth member, then the
13 names of five persons experienced in labor arbitration shall be
14 obtained from the California State Mediation and Conciliation
15 Service ~~within the Department of Industrial Relations~~. The labor
16 organization and the transit district shall, alternately, strike a name
17 from the list supplied by the California State Mediation and
18 Conciliation Service. The labor organization and the transit district
19 shall determine by lot who shall first strike a name from the list.
20 After the labor organization and the transit district have stricken
21 four names, the name remaining shall be designated as the
22 arbitrator.

23 (C) The transit board and the labor organization shall each pay
24 ~~half~~ *one-half* of the cost of the impartial arbitrator.

25 (b) A contract or agreement shall not be made with any labor
26 organization, association, group, or individual that denies
27 membership on any basis listed in subdivision (a) of Section 12940
28 of the Government Code, as those bases are defined in Sections
29 12926 and 12926.1 of the Government Code. However, the
30 organization may preclude from membership any individual who
31 advocates the overthrow of the government by force or violence.

32 (c) The district shall not discriminate with regard to employment
33 against any person on any basis listed in subdivision (a) of Section
34 12940 of the Government Code, as those bases are defined in
35 Sections 12926 and 12926.1 of the Government Code, except as
36 otherwise provided in Section 12940 of the Government Code.

37 *SEC. 121. Section 28850 of the Public Utilities Code is*
38 *amended to read:*

39 28850. (a) If a majority of the employees employed by a
40 district in a unit appropriate for collective bargaining indicate a

1 desire to be represented by a labor organization, then the board,
2 after determining pursuant to Section 28851 that the labor
3 organization represents the employees in the appropriate unit, shall
4 bargain with the accredited representative of those employees.
5 Both parties shall bargain in good faith and make all reasonable
6 efforts to reach agreement on the terms of a written contract
7 governing wages, salaries, hours, working conditions, and
8 grievance procedures.

9 (1) If a dispute arises over the terms of a written contract
10 governing wages, salaries, hours, or working conditions that is not
11 resolved by negotiations conducted in good faith between the board
12 and the representatives of the employees, then upon the agreement
13 of both parties, the board and the representatives of the employees
14 may submit the dispute to an arbitration board. The decision of a
15 majority of the arbitration board shall be final.

16 (2) (A) The arbitration board shall be composed of two
17 representatives of the district, two representatives of the labor
18 organization, and a fifth member to be agreed upon by the
19 representatives of the district and the labor organization.

20 (B) If the representatives of the district and the labor
21 organization are unable to agree on the fifth member, then the
22 names of five persons experienced in labor arbitration shall be
23 obtained from the California State Mediation and Conciliation
24 Service ~~within the Department of Industrial Relations~~. The labor
25 organization and the district shall, alternately, strike a name from
26 the list supplied by the California State Mediation and Conciliation
27 Service. The labor organization and the district shall determine by
28 lot who shall first strike a name from the list. After the labor
29 organization and the district have stricken four names, the name
30 remaining shall be designated as the arbitrator.

31 (C) The transit board and the labor organization shall each pay
32 ~~half~~ *one-half* of the cost of the impartial arbitrator.

33 (b) A contract or agreement shall not be made with any labor
34 organization, association, group, or individual that denies
35 membership on any basis listed in subdivision (a) of Section 12940
36 of the Government Code, as those bases are defined in Sections
37 12926 and 12926.1 of the Government Code. However, the
38 organization may preclude from membership any individual who
39 advocates the overthrow of the government by force or violence.

1 (c) The district shall not discriminate with regard to employment
2 against any person on any basis listed in subdivision (a) of Section
3 12940 of the Government Code, as those bases are defined in
4 Sections 12926 and 12926.1 of the Government Code, except as
5 otherwise provided in Section 12940 of the Government Code.

6 *SEC. 122. Section 30750 of the Public Utilities Code is*
7 *amended to read:*

8 30750. (a) Subject to subdivision (b), if a majority of the
9 employees employed by a district in a unit appropriate for
10 collective bargaining indicate a desire to be represented by a labor
11 organization, then the board, after determining pursuant to Section
12 30751 that the labor organization represents the employees in the
13 appropriate unit, shall bargain with the accredited representative
14 of those employees. Both parties shall bargain in good faith and
15 make all reasonable efforts to reach agreement on the terms of a
16 written contract governing wages, hours, and working conditions.
17 In the absence of the expression of the desire to be represented by
18 a labor organization, employees are subject to any personnel system
19 established pursuant to Section 30257.

20 (b) Upon the acquisition by the district of the property of the
21 Los Angeles Metropolitan Transit Authority pursuant to Chapter
22 8 (commencing with Section 31000), the district shall assume and
23 observe all existing labor contracts and shall recognize the labor
24 organization certified to represent the employees in each existing
25 bargaining unit as the sole representative of the employees in each
26 of those bargaining units. Any certification of a labor organization
27 previously made by the California State Mediation and Conciliation
28 Service under the provisions of the Los Angeles Metropolitan
29 Transit Authority Act of 1957 to represent or act for the employees
30 in any collective bargaining unit shall remain in full force and
31 effect and shall be binding upon the district. Those certifications
32 and any certifications made under this subdivision shall not be
33 subject to challenge on the grounds that a new substantial question
34 of representation within the collective bargaining unit exists until
35 the lapse of one year from the date of certification or the expiration
36 of any collective bargaining agreement, whichever is later;
37 provided, that no collective bargaining agreement shall be
38 construed to be a bar to representation proceedings for a period of
39 more than two years.

1 (c) The obligation of the district to bargain in good faith with
2 a duly designated or certified labor organization and to execute a
3 written collective bargaining agreement with that labor organization
4 covering the wages, hours, and working conditions of the
5 employees represented by that labor organization in an appropriate
6 unit, and to comply with the terms of that collective bargaining
7 agreement, shall not be limited or restricted by any other provision
8 of law. The obligation of the district to bargain collectively shall
9 extend to all subjects of collective bargaining, including, but not
10 limited to, retroactive pay increases. Notwithstanding any other
11 provision of law, the district shall make deductions from the wages
12 and salaries of its employees, upon receipt of authorization to make
13 those deductions, for the payment of union dues, fees, or
14 assessments, for the payment of contributions pursuant to any
15 health and welfare plan or pension plan, or for any other purpose
16 for which deductions may be authorized by employees where the
17 deductions are pursuant to a collective bargaining agreement with
18 a duly designated or certified labor organization.

19 (d) (1) If a dispute arises over wages, hours, or working
20 conditions that is not resolved by negotiations conducted in good
21 faith between the board and the representatives of the employees,
22 then upon the agreement of both parties, the board and the
23 representative of the employees may submit the dispute to an
24 arbitration board. The decision of a majority of the arbitration
25 board shall be final and binding.

26 (2) (A) The arbitration board shall be composed of two
27 representatives of the district, two representatives of the labor
28 organization, and a fifth member to be agreed upon by the
29 representatives of the district and labor organization.

30 (B) If the representatives of the district and labor organization
31 are unable to agree on the fifth member, then the names of five
32 persons experienced in labor arbitration shall be obtained from the
33 California State Mediation and Conciliation Service ~~within the~~
34 ~~Department of Industrial Relations~~. The labor organization and
35 the district shall, alternately, strike a name from the list supplied
36 by the California State Mediation and Conciliation Service. The
37 labor organization and the district shall determine by lot who shall
38 first strike a name from the list. After the labor organization and
39 the district have stricken four names, the name remaining shall be

1 designated as the arbitrator. The decision of a majority of the
2 arbitration board shall be final and binding upon the parties.

3 (C) The district and the labor organization shall each pay half
4 of the cost of the impartial arbitrator.

5 (e) A contract or agreement shall not be made with any labor
6 organization, association, group, or individual that denies
7 membership on any basis listed in subdivision (a) of Section 12940
8 of the Government Code, as those bases are defined in Sections
9 12926 and 12926.1 of the Government Code. However, the
10 organization may preclude from membership any individual who
11 advocates the overthrow of the government by force or violence.

12 (f) The district shall not discriminate with regard to employment
13 against any person on any basis listed in subdivision (a) of Section
14 12940 of the Government Code, as those bases are defined in
15 Sections 12926 and 12926.1 of the Government Code, except as
16 otherwise provided in Section 12940 of the Government Code.

17 *SEC. 123. Section 30751 of the Public Utilities Code is*
18 *amended to read:*

19 30751. Any question which may arise with respect to whether
20 a majority of the employees in an appropriate unit desire to be
21 represented by a labor organization shall be submitted to the
22 ~~Director of the Department of Industrial Relations~~ *Public*
23 *Employment Relations Board*. In resolving ~~such~~ *those* questions
24 of representation including the determination of the appropriate
25 unit or units, petitions, the conduct of hearings and elections, the
26 ~~director board~~ shall apply the relevant federal law and
27 administrative practice developed under the Labor Management
28 Relations Act, 1947, as amended, and for this purpose shall adopt
29 appropriate rules and regulations. ~~Said~~ *Those* rules and regulations
30 shall be administered by the *California State Mediation and*
31 *Conciliation Service* and shall provide for a prompt public hearing
32 and a secret ballot election to determine the question of
33 representation.

34 *SEC. 124. Section 40120 of the Public Utilities Code is*
35 *amended to read:*

36 40120. Whenever a majority of the employees employed by
37 the district in a unit appropriate for collective bargaining indicate
38 a desire to be represented by a labor organization, the district, upon
39 determining as provided in Section 40122 that the labor
40 organization represents the employees in the appropriate unit, shall

1 enter into a written contract with the accredited representative of
 2 those employees governing wages, salaries, hours, and working
 3 conditions. In case of a dispute over wages, salaries, hours, or
 4 working conditions, which is not resolved by negotiations in good
 5 faith between the district and the labor organization, upon the
 6 request of both, the district and the labor organization may submit
 7 the dispute to the decision of the majority of an arbitration board,
 8 and the decision of the majority of the arbitration board shall be
 9 final. The arbitration board shall be composed of two
 10 representatives of the district, and two representatives of the labor
 11 organization, and they shall endeavor to agree upon the selection
 12 of the fifth member. If they are unable to agree, the names of five
 13 persons experienced in labor arbitration shall be obtained from the
 14 ~~Supervisor of Conciliation of the Division of Conciliation,~~
 15 ~~Department of Industrial Relations~~ *California State Mediation*
 16 *and Conciliation Service*. The labor organization and the district
 17 shall, alternately, strike a name from the list so supplied, and the
 18 name remaining after the labor organization and the district have
 19 stricken four names, shall be designated as the arbitrator. The labor
 20 organization and the district shall determine by lot who shall first
 21 strike from the list. The decision of a majority of the arbitration
 22 board shall be final and binding upon the parties thereto. The
 23 expenses of arbitration shall be borne equally by the parties. Each
 24 party shall bear his *or her* own costs.

25 *SEC. 125. Section 50120 of the Public Utilities Code is*
 26 *amended to read:*

27 50120. (a) If a majority of the employees employed by a transit
 28 district in a unit appropriate for collective bargaining indicate a
 29 desire to be represented by a labor organization, then the board,
 30 after determining pursuant to Section 50121 that the labor
 31 organization represents the employees in the appropriate unit, shall
 32 bargain with the accredited representative of those employees.
 33 Both parties shall bargain in good faith and make all reasonable
 34 efforts to reach agreement on the terms of a written contract
 35 governing wages, salaries, hours, working conditions, and
 36 grievance procedures.

37 (b) (1) If a dispute arises over the terms of a written contract
 38 governing wages, salaries, hours, or working conditions that is not
 39 resolved by negotiations conducted in good faith between the board
 40 and the representatives of the employees, then the board and the

1 representatives of the employees shall submit the dispute to an
2 arbitration board. The decision of a majority of the arbitration
3 board shall be final.

4 (2) (A) The arbitration board shall be composed of two
5 representatives of the transit board, two representatives of the labor
6 organization, and a fifth member to be agreed upon by the
7 representatives of the transit board and labor organization.

8 (B) If the representatives of the transit board and labor
9 organization are unable to agree on the fifth member, then the
10 names of five persons experienced in labor arbitration shall be
11 obtained from the California State Mediation and Conciliation
12 Service ~~within the Department of Industrial Relations~~. The labor
13 organization and the district shall, alternately, strike a name from
14 the list supplied by the California State Mediation and Conciliation
15 Service. The labor organization and the district shall determine by
16 lot who shall first strike a name from the list. After the labor
17 organization and the transit district have stricken four names, the
18 name remaining shall be designated as the arbitrator.

19 (C) The transit board and the labor organization shall each pay
20 ~~half~~ *one-half* of the cost of the impartial arbitrator.

21 (c) A contract or agreement shall not be made with any labor
22 organization, association, group, or individual that denies
23 membership on any basis listed in subdivision (a) of Section 12940
24 of the Government Code, as those bases are defined in Sections
25 12926 and 12926.1 of the Government Code. However, the
26 organization may preclude from membership any individual who
27 advocates the overthrow of the government by force or violence.

28 (d) The district shall not discriminate with regard to employment
29 against any person on any basis listed in subdivision (a) of Section
30 12940 of the Government Code, as those bases are defined in
31 Sections 12926 and 12926.1 of the Government Code, except as
32 otherwise provided in Section 12940 of the Government Code.

33 *SEC. 126. Section 70120 of the Public Utilities Code is*
34 *amended to read:*

35 70120. Employees shall have the right to self-organization, to
36 form, join, or assist labor organizations, to bargain collectively
37 through representatives of their own choosing, and to engage in
38 other concerted activities for the purpose of collective bargaining
39 or other mutual aid or protection. It is declared to be in the public
40 interest that the district shall not express any preference for one

1 union over another. Notwithstanding any other provision of this
2 part, whenever a majority of the employees employed by the
3 district in a unit appropriate for collective bargaining indicate a
4 desire to be represented by a labor organization, the district, upon
5 determining as provided in Section 70122 that ~~such~~ *the* labor
6 organization represents the employees in the appropriate unit, shall
7 enter into a written contract with the accredited representative of
8 ~~such~~ *the* employees governing wages, salaries, hours and working
9 conditions. In case of a dispute over wages, salaries, hours or
10 working conditions, which is not resolved by negotiations in good
11 faith between the district and the labor organization, upon the
12 request of either, the district and the labor organization may submit
13 ~~said~~ *the* dispute to the decision of the majority of an arbitration
14 board, and the decision of the majority of ~~such~~ *the* arbitration board
15 shall be final. The arbitration board shall be composed of two
16 representatives of the district, and two representatives of the labor
17 organization, and they shall endeavor to agree upon the selection
18 of the fifth member. If they are unable to agree, the names of five
19 persons experienced in labor arbitration shall be obtained from the
20 ~~Supervisor of Conciliation of the Division of Conciliation,~~
21 ~~Department of Industrial Relations~~ *California State Mediation and*
22 *Conciliation Service*. The labor organization and the district shall,
23 alternately, strike a name from the list so supplied, and the name
24 remaining after the labor organization and the district have stricken
25 four names, shall be designated as the arbitrator. The labor
26 organization and the district shall determine by lot who shall first
27 strike from the list. The decision of a majority of the arbitration
28 board shall be final and binding upon the parties ~~thereto~~. The
29 expenses of arbitration shall be borne equally by the parties. Each
30 party shall bear his *or her* own costs.

31 In the event the board and the representatives of the employees
32 do not agree to submit ~~said~~ *the* dispute to an arbitration board as
33 herein provided, the *California State Mediation and Conciliation*
34 *Service* may be notified by either party that a dispute exists and
35 that there is no agreement to arbitrate. ~~Said~~ *The* service shall
36 determine whether or not the dispute may be resolved by the parties
37 and, if not, the issues concerning which the dispute ~~exists~~; ~~upon~~
38 ~~such~~ *exists*. *Upon the* determination, the service shall certify its
39 findings to the Governor ~~of the State of California~~ who shall, within
40 10 days of receipt of certification appoint a fact finding commission

1 consisting of three persons which shall immediately convene and
2 inquire into and investigate the issues involved in the dispute. ~~Said~~
3 *The* commission shall report to the Governor within 30 days of
4 the date of its creation.

5 After the creation of ~~such~~ *the* commission and for 30 days after
6 ~~such~~ *the* commission has made its report to the Governor, no
7 change, except by mutual agreement, shall be made by the parties
8 to the controversy in the conditions out of which the dispute arose
9 and service to the public shall be provided.

10 *SEC. 127. Section 90300 of the Public Utilities Code is*
11 *amended to read:*

12 90300. (a) Employees have the right to self-organize, to form,
13 join, or assist labor organizations, to bargain collectively through
14 representatives of their own choosing, and to engage in other
15 concerted activities for the purpose of collective bargaining or
16 other mutual aid or protection. It is declared to be in the public
17 interest that the district not express any preference for one union
18 over another.

19 (1) (A) Notwithstanding any other provision of this act, if a
20 majority of the employees employed by a district in a unit
21 appropriate for collective bargaining indicate a desire to be
22 represented by a labor organization, then the district, after
23 determining pursuant to subdivision (f) that the labor organization
24 represents the employees in the appropriate unit, shall enter into
25 a written contract with the accredited representative of those
26 employees governing wages, salaries, hours, and working
27 conditions.

28 (B) (i) If a dispute arises over wages, salaries, hours, or working
29 conditions that is not resolved by negotiations conducted in good
30 faith between the district and the labor organization, then upon the
31 request of either party, the district and the labor organization may
32 submit the dispute to an arbitration board. The decision of a
33 majority of the arbitration board shall be final.

34 (ii) The arbitration board shall be composed of two
35 representatives of the district, two representatives of the labor
36 organization, and a fifth member to be agreed upon by the
37 representatives of the district and labor organization.

38 (iii) If the representatives of the district and labor organization
39 are unable to agree on the fifth member, then the names of five
40 persons experienced in labor arbitration shall be obtained from the

1 California State Mediation and Conciliation Service ~~within the~~
2 ~~Department of Industrial Relations~~. The labor organization and
3 the district shall, alternately, strike a name from the list supplied
4 by the California State Mediation and Conciliation Service. The
5 labor organization and the district shall determine by lot who shall
6 first strike a name from the list. After the labor organization and
7 the district have stricken four names, the name remaining shall be
8 designated as the arbitrator. The decision of a majority of the
9 arbitration board shall be final and binding upon the parties.

10 (iv) The expenses of arbitration shall be borne equally by the
11 parties. Each party shall bear the party's own costs.

12 (b) If the board and the representatives of the employees do not
13 agree to submit the dispute to an arbitration board as provided in
14 subdivision (a), either party may notify the California State
15 Mediation and Conciliation Service that a dispute exists and that
16 there is no agreement to arbitrate. The California State Mediation
17 and Conciliation Service shall determine whether or not the dispute
18 can be resolved by the parties and, if not, the issues that are the
19 subject of the dispute. After making its determination, the service
20 shall certify its findings to the Governor who shall, within 10 days
21 of receipt of certification, appoint a factfinding commission
22 consisting of three persons. The factfinding commission shall
23 immediately convene and investigate the issues involved in the
24 dispute. The commission shall report to the Governor within 30
25 days of the date of its creation.

26 (c) After the creation of the commission and for 30 days after
27 the date the commission made its report to the Governor, the parties
28 to the controversy shall not make any change, except by mutual
29 agreement, in the conditions out of which the dispute arose. Service
30 to the public shall be provided during that time.

31 (d) A contract or agreement shall not be made, or assumed, with
32 any labor organization, association, group, or individual that denies
33 membership to, or in any manner discriminates against, any
34 employee on any basis listed in subdivision (a) of Section 12940
35 of the Government Code, as those bases are defined in Sections
36 12926 and 12926.1 of the Government Code. However, the
37 organization may preclude from membership any individual who
38 advocates the overthrow of the government by force or violence.

39 (e) The district shall not discriminate with regard to employment
40 against any person on any basis listed in subdivision (a) of Section

1 12940 of the Government Code, as those bases are defined in
2 Sections 12926 and 12926.1 of the Government Code, except as
3 otherwise provided in Section 12940 of the Government Code.

4 (f) (1) Any questions regarding whether a labor organization
5 represents a majority of employees or whether the proposed unit
6 is or is not appropriate, shall be submitted to the California State
7 Mediation and Conciliation Service for disposition. The California
8 State Mediation and Conciliation Service shall promptly hold a
9 public hearing after due notice to all interested parties to determine
10 the unit appropriate for the purposes of collective bargaining. In
11 making that determination and in establishing rules and regulations
12 governing petitions and the conduct of hearings and elections, the
13 California State Mediation and Conciliation Service shall be guided
14 by relevant federal law and administrative practice, developed
15 under the Labor-Management Relations Act of 1947 (29 U.S.C.
16 Sec. 141 et seq.).

17 (2) The California State Mediation and Conciliation Service
18 shall provide for an election to determine the question of
19 representation and shall certify the results to the parties. A
20 certification of a labor organization to represent or act for the
21 employees in any collective bargaining unit shall not be subject
22 to challenge on the grounds that a new substantial question of
23 representation within the collective bargaining unit exists until the
24 lapse of one year from the date of certification or the expiration
25 of any collective bargaining agreement, whichever is later.
26 However, no collective bargaining agreement shall be construed
27 to be a bar to representation proceedings for a period of more than
28 two years.

29 (g) If the district acquires existing facilities from a publicly or
30 privately owned public utility, either in proceedings by eminent
31 domain or otherwise, the district shall assume and observe all
32 existing labor contracts.

33 (1) To the extent necessary for operation of facilities, all of the
34 employees of the acquired public utility whose duties pertain to
35 the facilities acquired shall be appointed to comparable positions
36 in the district without examination, subject to all the rights and
37 benefits of this act. Those employees shall be given sick leave,
38 seniority, vacation, and pension credits in accordance with the
39 records and labor agreements of the acquired public utility.

1 (2) Members and beneficiaries of any pension or retirement
2 system, or other benefits established by the public utility, shall
3 continue to have the rights, privileges, benefits, obligations, and
4 status with respect to the established system. No employee of any
5 acquired public utility may be subject to a reduction in wages,
6 seniority, pension, vacation, or other benefits as a result of the
7 acquisition.

8 (3) The district may extend the benefits of this section to officers
9 or supervisory employees of the acquired utility.

10 (h) The district shall not do any of the following:

11 (1) Acquire any existing system or part of an existing system,
12 whether by purchase, lease, condemnation, or otherwise.

13 (2) Dispose of or lease any transit system or part of the transit
14 system.

15 (3) Merge, consolidate, or coordinate any transit system or part
16 of the transit system.

17 (4) Reduce or limit the lines or service of any existing system
18 or of the district’s system unless the district has first made adequate
19 provision for any employees who are or may be displaced. The
20 terms and conditions of that provision shall be a proper subject of
21 collective bargaining.

22 (i) Notwithstanding any provision of the Government Code, the
23 district may make deductions from the wages and salaries of its
24 employees who authorize the deductions for the following
25 purposes:

26 (1) Pursuant to a collective bargaining agreement with a duly
27 designated or certified labor organization, for the payment of union
28 dues, fees, or assessments.

29 (2) For the payment of contributions pursuant to any health and
30 welfare plan, or pension or retirement plan.

31 (3) For any purpose for which employees of any private
32 employer may authorize deductions.

33 (j) (1) The obligation of the district to bargain in good faith
34 with a duly designated or certified labor organization and to execute
35 a written collective bargaining agreement with that labor
36 organization covering the wages, hours, and working conditions
37 of the employees represented by that labor organization in an
38 appropriate unit, and to comply with the terms of the collective
39 bargaining agreement, shall not be limited or restricted by any
40 provision of law. The obligation of the district to bargain

1 collectively shall extend to all subjects of collective bargaining
2 that are or may be proper subjects of collective bargaining with a
3 private employer, including retroactive provisions.

4 (2) Notwithstanding any other provision of law, the district shall
5 make deductions from the wages and salaries of its employees,
6 upon receipt of authorization to make those deductions, for the
7 payment of union dues, fees, or assessments, for the payment of
8 contributions pursuant to any health and welfare plan or pension
9 plan, or for any other purpose for which employees of any private
10 employer may authorize deductions, where those deductions are
11 pursuant to a collective bargaining agreement with a duly
12 designated or certified labor organization.

13 (k) The district may provide for a retirement system, provided
14 that the adoption, terms, and conditions of any retirement system
15 covering employees of the district represented by a labor
16 organization in accordance with this section shall be pursuant to
17 a collective bargaining agreement between the labor organization
18 and the district.

19 (l) The district shall take any steps that may be necessary to
20 obtain coverage for the district and its employees under Title II of
21 the Federal Social Security Act (42 U.S.C. Sec. 401 et seq.), and
22 the related provisions of the Federal Insurance Contributions Act
23 (26 U.S.C. Sec. 3101 et seq.).

24 (m) The district shall take any steps that may be necessary to
25 obtain coverage for the district and its employees under the
26 workers' compensation (Division 4 (commencing with Section
27 3200) and Division 4.5 (commencing with Section 6100) of the
28 Labor Code), unemployment compensation disability (Part 2
29 (commencing with Section 2691) of Division 1 of the
30 Unemployment Insurance Code), and unemployment insurance
31 (Part 1 (commencing with Section 100) of Division 1 of the
32 Unemployment Insurance Code) laws of the State of California.

33 *SEC. 128. Section 99561 of the Public Utilities Code is*
34 *amended to read:*

35 99561. This chapter shall be administered by the Public
36 Employment Relations Board. In administering this chapter the
37 board shall have all of the following rights, powers, duties, and
38 responsibilities:

39 (a) To determine in disputed cases, or otherwise approve,
40 appropriate units.

- 1 (b) To determine in disputed cases whether a particular item is
2 within or without the scope of representation.
- 3 (c) To arrange for, and supervise, representation elections that
4 shall be conducted by means of secret ballot elections, and to
5 certify the results of the elections.
- 6 (d) To establish lists of persons broadly representative of the
7 public and qualified by experience to be available to serve as
8 mediators, arbitrators, or factfinders. ~~In no case shall the lists
9 include persons who are on the staff of the board.~~
- 10 (e) To establish by regulation appropriate procedures for review
11 of proposals to change unit determinations.
- 12 (f) To adopt, pursuant to Chapter 3.5 (commencing with Section
13 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
14 rules and regulations to carry out the provisions and effectuate the
15 purposes and policies of this chapter.
- 16 (g) To hold hearings, subpoena witnesses, administer oaths,
17 take the testimony or deposition of any person, and, in connection
18 therewith, to issue subpoenas duces tecum to require the production
19 and examination of any employer's or employee organization's
20 records, books, or papers relating to any matter within its
21 jurisdiction, except for those records, books, or papers confidential
22 under statute. Notwithstanding Section 11425.10 of the
23 Government Code, Chapter 4.5 (commencing with Section 11400)
24 of Part 1 of Division 3 of Title 2 of the Government Code does
25 not apply to a hearing by the board under this section, except a
26 hearing to determine an unfair practice charge.
- 27 (h) To investigate unfair practice charges or alleged violations
28 of this chapter, and to take any action and make any determinations
29 in respect of these charges or alleged violations as the board deems
30 necessary to effectuate the policies of this chapter, except that in
31 an action to recover damages due to an unlawful strike, the board
32 shall have no authority to award strike-preparation expenses as
33 damages, and shall have no authority to award damages for costs,
34 expenses, or revenue losses incurred during, or as a consequence
35 of, an unlawful strike.
- 36 (i) To bring an action in a court of competent jurisdiction to
37 enforce any of its orders, decisions, or rulings or to enforce the
38 refusal to obey a subpoena. Upon issuance of a complaint charging
39 that any person has engaged in or is engaging in an unfair practice,

1 the board may petition the court for appropriate temporary relief
2 or restraining order.

3 (j) To delegate its powers to any member of the board or to any
4 person appointed by the board for the performance of its functions,
5 except that no fewer than two board members may participate in
6 the determination of any ruling or decision on the merits of any
7 dispute coming before it, and except that a decision to refuse to
8 issue a complaint shall require the approval of two board members.

9 (k) To decide contested matters involving recognition,
10 certification, or decertification of employee organizations.

11 (l) To consider and decide issues relating to rights, privileges,
12 and duties of an employee organization in the event of a merger,
13 amalgamation, or transfer of jurisdiction between two or more
14 employee organizations.

15 (m) To take any other action as the board deems necessary to
16 discharge its powers and duties and otherwise to effectuate the
17 purposes of this chapter.

18 *SEC. 129. Section 95650 of the Public Utilities Code is*
19 *amended to read:*

20 95650. (a) If a majority of the employees employed by a transit
21 district in a unit appropriate for collective bargaining indicate a
22 desire to be represented by a labor organization, then the board
23 after determining pursuant to Section 95651 that the labor
24 organization represents the employees in the appropriate unit, shall
25 bargain with the accredited representative of those employees.
26 Both parties shall bargain in good faith and make all reasonable
27 efforts to reach agreement on the terms of a written contract
28 governing wages, salaries, hours, working conditions, and
29 grievance procedures.

30 (1) If a dispute arises over the terms of a written contract
31 governing wages, salaries, hours, or working conditions that is not
32 resolved by negotiations conducted in good faith between the board
33 and the representatives of the employees, then the board and the
34 representatives of the employees shall submit the dispute to an
35 arbitration board. The decision of a majority of the arbitration
36 board shall be final.

37 (2) (A) The arbitration board shall be composed of two
38 representatives of the transit board, two representatives of the labor
39 organization, and a fifth member to be agreed upon by the
40 representatives of the transit board and labor organization. If the

1 representatives of the transit board and labor organization are
 2 unable to agree on the fifth member, then the names of five persons
 3 experienced in labor arbitration shall be obtained from the
 4 California State Mediation and Conciliation Service ~~within the~~
 5 ~~Department of Industrial Relations.~~

6 (B) The labor organization and the district shall, alternately,
 7 strike a name from the list supplied by the California State
 8 Mediation and Conciliation Service. The labor organization and
 9 the district shall determine by lot who shall first strike a name from
 10 the list. After the labor organization and the district have stricken
 11 four names, the name remaining shall be designated as the
 12 arbitrator.

13 (C) The transit board and labor organization shall each pay half
 14 of the cost of the impartial arbitrator.

15 (e)

16 (b) A contract or agreement shall not be made with any labor
 17 organization, association, group, or individual that denies
 18 membership on any basis listed in subdivision (a) of Section 12940
 19 of the Government Code, as those bases are defined in Sections
 20 12926 and 12926.1 of the Government Code. However, the
 21 organization may preclude from membership any individual who
 22 advocates the overthrow of the government by force or violence.

23 (d)

24 (c) The district shall not discriminate with regard to employment
 25 against any person on any basis listed in subdivision (a) of Section
 26 12940 of the Government Code, as those bases are defined in
 27 Sections 12926 and 12926.1 of the Government Code, except as
 28 otherwise provided in Section 12940 of the Government Code.

29 *SEC. 130. Section 98162.5 of the Public Utilities Code is*
 30 *amended to read:*

31 98162.5. Any question which may arise with respect to whether
 32 a majority of the employees in an appropriate unit desire to be
 33 represented by a labor organization shall be submitted to the
 34 ~~Director of Industrial Relations~~ *Public Employment Relations*
 35 *Board.*

36 In resolving the questions of representation, including the
 37 determination of the appropriate unit or units, petitions, and the
 38 conduct of hearings and elections, the director shall apply the
 39 relevant federal law and administrative practice developed under
 40 the Labor Management Relations Act, 1947, as amended, and for

1 this purpose shall adopt appropriate rules and regulations. The
2 rules and regulations shall be administered by the *California State*
3 *Mediation and Conciliation Service* and shall provide for a prompt
4 public hearing and a secret ballot election to determine the question
5 of representation.

6 *SEC. 131. Section 100301 of the Public Utilities Code is*
7 *amended to read:*

8 100301. Any question which may arise with respect to whether
9 a majority of employees in an appropriate unit desire to be
10 represented by a labor organization shall be submitted to the
11 ~~Director of the Department of Industrial Relations~~ *Public*
12 *Employment Relations Board*. In resolving ~~such~~ *those* questions
13 of representation including the determination of the appropriate
14 unit or units, petitions, the conduct of hearings and elections, the
15 ~~director board~~ shall apply the relevant federal law and
16 administrative practice developed under the Labor Management
17 Relations Act of 1947, as amended, and for this purpose shall adopt
18 appropriate rules and regulations. The *California State Mediation*
19 *and Conciliation Service* shall administer ~~such~~ *the* rules and
20 regulations and shall provide for a prompt public hearing and secret
21 ballot election to determine the question of representation and shall
22 certify the results to the parties. Any certification of a labor
23 organization to represent or act for the employees in any collective
24 bargaining unit shall not be subject to challenge on the grounds
25 that a new substantial question of representation within ~~such~~ *the*
26 collective bargaining unit exists until the lapse of one year from
27 the date of certification or the expiration of any collective
28 bargaining agreement, whichever is later, except that no collective
29 bargaining agreement shall be considered to be a bar to
30 representation proceedings for a period of more than two years.

31 *SEC. 132. Section 101341 of the Public Utilities Code is*
32 *amended to read:*

33 101341. Whenever a majority of the employees employed by
34 the district in a unit appropriate for collective bargaining indicate
35 a desire to be represented by a labor organization, the district, upon
36 determining as provided in Section 101344 that ~~such~~ *the* labor
37 organization represents the employees in the appropriate unit, shall
38 enter into a written contract with the accredited representative of
39 ~~such~~ *the* employees governing wages, salaries, hours, and working
40 conditions. In case of a dispute over wages, salaries, hours, or

1 working conditions, which is not resolved by negotiations in good
 2 faith between the district and the labor organization, the district
 3 and the labor organization may submit the dispute to the decision
 4 of the majority of an arbitration board, and the decision of the
 5 majority of ~~such~~ *the* arbitration board shall be final.

6 The arbitration board shall be composed of two representatives
 7 of the district, and two representatives of the labor organization,
 8 and they shall endeavor to agree upon the selection of the fifth
 9 member. If they are unable to agree, the names of five persons
 10 experienced in labor arbitration shall be obtained from the
 11 ~~Supervisor of Conciliation of the Division of Conciliation,~~
 12 ~~Department of Industrial Relations~~ *California State Mediation and*
 13 *Conciliation Service*. The labor organization and the district shall,
 14 alternately, strike a name from the list so supplied, and the name
 15 remaining after the labor organization and the district have stricken
 16 four names, shall be designated as the arbitrator. The labor
 17 organization and the district shall determine by lot who shall first
 18 strike from the list. The decision of a majority of the arbitration
 19 board shall be final and binding upon the parties ~~thereto~~. The
 20 expenses of arbitration shall be borne equally by the parties. Each
 21 party shall bear his *or her* own costs.

22 *SEC. 133. Section 102401 of the Public Utilities Code is*
 23 *amended to read:*

24 102401. Notwithstanding any other provision of this part,
 25 whenever a majority of the employees employed by the district in
 26 a unit appropriate for collective bargaining indicate a desire to be
 27 represented by a labor organization, the district, upon determining,
 28 as provided in Section 102403, that ~~such~~ *the* labor organization
 29 represents the employees in the appropriate unit, shall enter into
 30 a written contract with the accredited representative of ~~such~~ *the*
 31 employees governing wages, salaries, hours, pensions, and working
 32 conditions. If, after a reasonable period of time, representatives of
 33 the district and the accredited representatives of the employees
 34 fail to reach agreement either on the terms of a written contract
 35 governing wages, hours, pensions, and working conditions or the
 36 interpretation or application of the terms of an existing contract,
 37 upon the agreement of both the district and the representatives of
 38 the employees, the dispute may be submitted to an arbitration board
 39 and the decision of the majority of the arbitration board shall be
 40 final and binding.

1 The arbitration board shall be composed of two representatives
2 of the district, and two representatives of the labor organization,
3 and they shall endeavor to agree upon the selection of the fifth
4 member. If they are unable to agree, the names of five persons
5 experienced in labor arbitration shall be obtained from the
6 ~~Supervisor of Conciliation of the Division of Conciliation,~~
7 ~~Department of Industrial Relations~~ *California State Mediation and*
8 *Conciliation Service*. The labor organization and the district shall,
9 alternately, strike a name from the list so supplied, and the name
10 remaining after the labor organization and the district have stricken
11 four names, shall be designated as the arbitrator. The labor
12 organization and the district shall determine by lot who shall first
13 strike from the list. The decision of a majority of the arbitration
14 board shall be final and binding upon the parties ~~thereto~~. The
15 expenses of arbitration shall be borne equally by the parties. Each
16 party shall bear his *or her* own costs.

17 *SEC. 134. Section 103401 of the Public Utilities Code is*
18 *amended to read:*

19 103401. Any question which may arise with respect to whether
20 a majority of employees in an appropriate unit desire to be
21 represented by a labor organization shall be submitted to the
22 ~~Director of Industrial Relations~~ *Public Employment Relations*
23 *Board*. In resolving ~~such~~ *those* questions of representation,
24 including the determination of the appropriate unit or units,
25 petitions, and the conduct of hearings and elections, the director
26 shall apply the relevant federal law and administrative practice
27 developed under the Labor Management Relations Act, 1947, as
28 amended, and, for this purpose, shall adopt appropriate rules and
29 regulations.

30 The *California State Mediation and Conciliation Service* shall
31 administer ~~such~~ *any* rules and regulations and shall provide for a
32 prompt public hearing and secret ballot election to determine the
33 question of representation and shall certify the results to the parties.

34 Any certification of a labor organization to represent or act for
35 the employees in any collective bargaining unit shall not be subject
36 to challenge on the grounds that a new substantial question of
37 representation within ~~such~~ *the* collective bargaining unit exists
38 until the lapse of one year from the date of certification or the
39 expiration of any collective bargaining agreement, whichever is
40 later, except that no collective bargaining agreement shall be

1 considered to be a bar to representation proceedings for a period
2 of more than two years.

3 *SEC. 135. Section 125521 of the Public Utilities Code is*
4 *amended to read:*

5 125521. Any question which may arise with respect to whether
6 a majority of employees in an appropriate unit desire to be
7 represented by a labor organization shall be submitted to the
8 ~~Director of Industrial Relations~~ *Public Employment Relations*
9 *Board*. In resolving ~~such~~ *those* questions of representation,
10 including the determination of the appropriate unit or units,
11 petitions, and the conduct of hearings and elections, the ~~director~~
12 *board* shall apply the relevant federal law and administrative
13 practice developed under the Labor Management Relations Act,
14 1947, as amended, and, for this purpose, shall adopt appropriate
15 rules and regulations.

16 The *California State Mediation and Conciliation Service* shall
17 administer ~~such~~ *any* rules and regulations and shall provide for a
18 prompt public hearing and secret ballot election to determine the
19 question of representation and shall certify the results to the parties.

20 Any certification of a labor organization to represent or act for
21 the employees in any collective-bargaining unit shall not be subject
22 to challenge on the grounds that a new substantial question of
23 representation within ~~such~~ *the* collective-bargaining unit exists
24 until the lapse of one year from the date of certification or the
25 expiration of any collective-bargaining agreement, whichever is
26 later, except that no collective-bargaining agreement shall be
27 considered to be a bar to representation proceedings for a period
28 of more than two years.

29 *SEC. 136. Section 401 of the Unemployment Insurance Code*
30 *is amended to read:*

31 401. (a) There is in the department an Appeals Division
32 consisting of the California Unemployment Insurance Appeals
33 Board and its employees. The appeals board consists of ~~seven~~ *five*
34 members. ~~Five~~ *Three* members shall be appointed by the Governor,
35 subject to the approval of the Senate. One member shall be
36 appointed by the Speaker of the Assembly, and one member shall
37 be appointed by the Senate *Committee on Rules*. ~~Committee~~. ~~Two~~
38 *All* of the members of the appeals board shall be attorneys at law
39 admitted to practice in the State of California. ~~The other members~~
40 ~~need not be attorneys~~ *any state of the United States, and shall have,*

1 *at a minimum, one year of experience in conducting judicial or*
2 *administrative hearings or five years of experience in the practice*
3 *of law. Each member of the board shall devote his or her full time*
4 *to the performance of his or her duties. The ~~chairman~~ chairperson*
5 *and each member of the board shall receive the annual salary*
6 *provided for by Chapter 6 (commencing with Section 11550) of*
7 *Part 1 of Division 3 of Title 2 of the Government Code. The*
8 *Governor shall designate the ~~chairman~~ chairperson of the appeals*
9 *board from the membership of the appeals board. The person so*
10 *designated shall hold the office of ~~chairman~~ chairperson at the*
11 *pleasure of the Governor. The ~~chairman~~ chairperson shall designate*
12 *a member of the appeals board to act as ~~chairman~~ chairperson in*
13 *his or her absence.*

14 *(b) The amendments made to this section by the act adding this*
15 *subdivision shall apply to appointments made on or after January*
16 *1, 2013.*

17 *(c) It is the intent of the Legislature that the two California*
18 *Unemployment Insurance Appeals Board member positions that*
19 *are eliminated pursuant to this act be those board member*
20 *positions that could have been appointed by the Governor, but*
21 *were not, and that are currently vacant and have been vacant since*
22 *October 2011.*

23 *SEC. 137. Section 4.2 of the Fresno Metropolitan Transit*
24 *District Act (Chapter 1932 of the Statutes of 1961), as repealed*
25 *and added by Section 2 of Chapter 1335 of Statutes 1971, is*
26 *amended to read:*

27 *Sec. 4.2. Whenever a majority of the employees employed by*
28 *the district in a unit appropriate for collective bargaining indicate*
29 *a desire to be represented by a labor organization, the district, upon*
30 *determining, as provided in Section 4.4, that such labor*
31 *organization represents the employees in the appropriate unit, shall*
32 *enter into a written contract with the accredited representative of*
33 *such employees governing wages, hours, pensions, and working*
34 *conditions. In case of a dispute over wages, salaries, hours, or*
35 *working conditions, which is not resolved by negotiations in good*
36 *faith between the district and the labor organization, upon the*
37 *request of either, the district and the labor organization may submit*
38 *the dispute to the decision of the majority of an arbitration board,*
39 *and the decision of the majority of such arbitration board shall be*
40 *final.*

1 The arbitration board shall be composed of two representatives
2 of the district, and two representatives of the labor organization,
3 and they shall endeavor to agree upon the selection of the fifth
4 member. If they are unable to agree, the names of five persons
5 experienced in labor arbitration shall be obtained from the
6 ~~Supervisor of Conciliation of the Division of Conciliation,~~
7 ~~Department of Industrial Relations~~ *California State Mediation and*
8 *Conciliation Service*. The labor organization and the district shall,
9 alternately, strike a name from the list so supplied, and the name
10 remaining after the labor organization and the district have stricken
11 four names, shall be designated as the arbitrator. The labor
12 organization and the district shall determine by lot who shall first
13 strike from the list. The decision of a majority of the arbitration
14 board shall be final and binding upon the parties thereto. The
15 expenses of arbitration shall be borne equally by the parties. Each
16 party shall bear his own costs.

17 *SEC. 138. Section 13.90 of the West Bay Area Rapid Transit*
18 *Authority Act, as added by Chapter 104 of the First Extraordinary*
19 *Session of the Statutes of 1964, is amended to read:*

20 Sec. 13.90. (a) Whenever a majority of the employees
21 employed by the authority in a unit appropriate for collective
22 bargaining indicate a desire to be represented by a labor
23 organization, the authority, upon determining as provided in
24 Section 13.91 that ~~said~~ *the* labor organization represents the
25 employees in the appropriate unit, and the accredited representative
26 shall bargain in good faith and make all reasonable efforts to reach
27 agreement on the terms of a written contract governing wages,
28 hours, and working conditions. In the absence of the expression
29 of ~~said~~ *that* desire, employees would be subject to any personnel
30 system established pursuant to the provisions of Section 13.97.

31 (b) The obligation of the authority to bargain in good faith with
32 a duly designated or certified labor organization and to execute a
33 written collective bargaining agreement with ~~such~~ *the* labor
34 organization covering the wages, hours, and working conditions
35 of the employees represented by ~~such~~ *the* labor organization in an
36 appropriate unit, and to comply with the terms thereof shall not
37 be limited or restricted by the provisions of the Government Code
38 or other laws or statutes and the obligation of the authority to
39 bargain collectively shall extend to all subjects of collective
40 bargain-ing, including without limitation retroactive pay increases.

1 Notwithstanding the provisions of the Government Code or other
2 laws or statutes, the authority shall make deductions from wages
3 and salaries of its employees upon receipt of authorization ~~therefor~~
4 for the payment of union dues, fees, or assessments, for the
5 payment of contributions pursuant to any health and welfare plan
6 or pension plan or any other purpose for which deductions may
7 be authorized by employees where ~~such~~ *those* deductions are
8 pursuant to a collective bargaining agreement with a duly
9 designated or ~~certified~~ *certified* labor organization.

10 (c) In case of dispute over wages, hours, or working conditions
11 which is not resolved by negotiations in good faith between the
12 authority and the representatives of the employees, upon the
13 agreement of both the authority and the representative of the
14 employees, the dispute may be submitted to an arbitration board,
15 and the decision of a majority of ~~such~~ *the* arbitration board shall
16 be final and binding. The arbitration board shall be composed of
17 two representatives of the authority and two representatives of the
18 labor organization, and they shall endeavor to agree upon the
19 selection of a fifth member. If they are unable to agree, the names
20 of five persons experienced in labor arbitration shall be obtained
21 from the ~~Supervisor of Conciliation of the Division of Conciliation,~~
22 ~~Department of Industrial Relations~~ *California State Mediation and*
23 *Conciliation Service*. The labor organization and the authority
24 shall, alternately, strike a name from the list so supplied, and the
25 name remaining after the labor organization and the authority have
26 stricken four names, shall be designated as the arbitrator. The labor
27 organization and the authority shall determine by lot who shall
28 first strike a name from the list. The decision of a majority of the
29 arbitration board shall be final and binding upon the parties thereto.
30 The expenses of ~~such~~ *the* impartial arbitrator shall be provide ~~half~~
31 ~~one-half~~ by the authority ~~half~~ *one-half* by the labor organization.

32 (d) No contract or agreement shall be made with any labor
33 organization, association, group or individual where ~~such~~ *the*
34 organization, association, group or individual denies membership
35 on the grounds of race, creed or color; provided, ~~such~~ *the*
36 organization may preclude from membership any individual who
37 advocates the overthrow of the government by force or violence.

38 *SEC. 139. Section 13.91 of the West Bay Rapid Transit*
39 *Authority Act, as added by Chapter 104 of the First Extraordinary*
40 *Session of the Statutes of 1964, is amended to read:*

1 Sec. 13.91. Any question which may arise with respect to
 2 whether a majority of the employees in an appropriate unit desire
 3 to be represented by a labor organization shall be submitted to the
 4 ~~Director of the Department of Industrial Relations~~ *Public*
 5 *Employment Relations Board*. In resolving ~~such~~ *those* questions
 6 of representation including the determination of the appropriate
 7 unit or units, petitions, the conduct of hearings and elections, the
 8 ~~director board~~ shall apply the relevant federal law and
 9 administrative practice developed under the Labor Management
 10 Relations Act, 1947, as amended, and for this purpose shall adopt
 11 appropriate rules and regulations. ~~Said~~ *The* rules and regulations
 12 shall be administered by the *California State Mediation and*
 13 *Conciliation Service* and shall provide for a prompt public hearing
 14 and a secret ballot election to determine the question of
 15 representation.

16 *SEC. 140. Notwithstanding any other provision of this act to*
 17 *the contrary, the amendments, additions, and repeals in Sections*
 18 *18, 27 to 66, inclusive, 68, 70, 101, 115, and 144 shall not become*
 19 *operative until January 1, 2013.*

20 *SEC. 141. (a) Notwithstanding Section 12080.8 of the*
 21 *Government Code, or any other law, Sections 12, 13, and 14 of*
 22 *this act shall prevail over Section 89 of the Governor's*
 23 *Reorganization Plan No. 2 of 2012, regardless of the dates on*
 24 *which this act and that plan take effect.*

25 *(b) Subdivision (a) shall become operative only if the Governor's*
 26 *Reorganization Plan No. 2 of 2012 becomes effective.*

27 *SEC. 142. No reimbursement is required by this act pursuant*
 28 *to Section 6 of Article XIII B of the California Constitution because*
 29 *the only costs that may be incurred by a local agency or school*
 30 *district will be incurred because this act creates a new crime or*
 31 *infraction, eliminates a crime or infraction, or changes the penalty*
 32 *for a crime or infraction, within the meaning of Section 17556 of*
 33 *the Government Code, or changes the definition of a crime within*
 34 *the meaning of Section 6 of Article XIII B of the California*
 35 *Constitution.*

36 *SEC. 143. The sum of one thousand dollars (\$1,000) is hereby*
 37 *appropriated from the General Fund to the Department of Finance*
 38 *to implement this act.*

39 *SEC. 144. This act is a bill providing for appropriations related*
 40 *to the Budget Bill within the meaning of subdivision (e) of Section*

1 *12 of Article IV of the California Constitution, has been identified*
2 *as related to the budget in the Budget Bill, and shall take effect*
3 *immediately.*

4 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
5 ~~changes relating to the Budget Act of 2012.~~

O