

Senate Bill No. 1039

Passed the Senate July 5, 2012

Secretary of the Senate

Passed the Assembly July 2, 2012

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 100, 19404, 23050, and 23075 of the Business and Professions Code, to amend Section 300 of the Financial Code, to amend Sections 8870.1, 8870.2, 11535, 11546.1, 11550, 12800, 12804.5, 12855, 12856, 12901, 12944, and 13978.6 of, and to add Section 12804 to, the Government Code, and to amend Sections 50400, 50901, and 50913 of, and to add Section 50407.5 to, the Health and Safety Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1039, Steinberg. State government: Business, Consumer Services, and Housing Agency.

Under existing law, the executive branch of state government includes the State and Consumer Services Agency. Under existing law, the State and Consumer Services Agency is comprised of the Department of General Services, the Department of Consumer Affairs, the Franchise Tax Board, the Public Employees' Retirement System, the State Teachers' Retirement System, the Department of Fair Employment and Housing, the Fair Employment and Housing Commission, the California Science Center, the California Victim Compensation and Government Claims Board, the California African-American Museum, the California Building Standards Commission, the Alfred E. Alquist Seismic Safety Commission, and the Office of Privacy Protection.

This bill would eliminate the State and Consumer Services Agency and instead establish in state government the Business, Consumer Services, and Housing Agency, comprised of the Department of Consumer Affairs, the Department of Housing and Community Development, the Department of Fair Employment and Housing, the Department of Business Oversight, the Department of Alcoholic Beverage Control, the Alcoholic Beverage Control Appeals Board, the California Horse Racing Board, and the Alfred E. Alquist Seismic Safety Commission. The bill would make conforming changes necessary to effectuate certain provisions of the Governor's Reorganization Plan No. 2 of 2012.

The bill would require, notwithstanding these changes, the Department of Housing and Community Development, the Department of Transportation, and the California Transportation Commission to coordinate state housing and transportation policies and programs.

This bill would provide that certain provisions of this bill shall prevail over specified provisions of the Governor’s Reorganization Plan No. 2 of 2012, regardless of the dates on which this bill and the plan take effect.

This bill would provide that its provisions shall become operative only if the Governor’s Reorganization Plan No. 2 of 2012 becomes effective.

This bill would provide that its provisions shall become operative on July 1, 2013.

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

SECTION 1. Section 100 of the Business and Professions Code is amended to read:

100. There is in the state government, in the Business, Consumer Services, and Housing Agency, a Department of Consumer Affairs.

SEC. 2. Section 19404 of the Business and Professions Code is amended to read:

19404. “Board” means the California Horse Racing Board within the Business, Consumer Services, and Housing Agency.

SEC. 3. Section 23050 of the Business and Professions Code is amended to read:

23050. There is in the state government, in the Business, Consumer Services, and Housing Agency, a Department of Alcoholic Beverage Control. The department shall be administered through a civil executive officer who shall be known as the Director of Alcoholic Beverage Control. The director shall be appointed and shall serve as provided in Section 22 of Article XX of the Constitution and shall receive an annual salary as provided for by Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. Section 23075 of the Business and Professions Code is amended to read:

23075. There is in the state government, in the Business, Consumer Services, and Housing Agency, an Alcoholic Beverage Control Appeals Board the members of which shall be appointed and shall serve as provided in Section 22 of Article XX of the Constitution, and shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 5. Section 300 of the Financial Code is amended to read:

300. (a) In this section:

(1) “Business and industrial development corporation” means a corporation licensed under Division 15 (commencing with Section 31000).

(2) “Payment instrument” has the same meaning as set forth in Section 33059.

(3) “Traveler’s check” has the same meaning as set forth in Section 1803.

(b) There is in the state government, in the Business, Consumer Services, and Housing Agency, a Department of Business Oversight, which has charge of the execution of, among other laws, the laws of this state relating to any of the following: (1) banks or trust companies or the banking or trust business; (2) savings associations or the savings association business; (3) credit unions or the credit union business; (4) persons who engage in the business of receiving money for transmission to foreign nations or such business; (5) issuers of traveler’s checks or the traveler’s check business; (6) issuers of payment instruments or the payment instrument business; (7) business and industrial development corporations or the business and industrial development corporation business, or (8) insurance premium finance agencies or the insurance premium finance business.

SEC. 6. Section 8870.1 of the Government Code is amended to read:

8870.1. (a) (1) There is created in the state government the Alfred E. Alquist Seismic Safety Commission as an independent unit within the Business, Consumer Services, and Housing Agency.

(2) Any reference in statute or regulation to the Seismic Safety Commission shall be deemed to refer to the Alfred E. Alquist Seismic Safety Commission.

(b) The commission shall report annually to the Governor and to the Legislature on its findings, progress, and recommendations

relating to earthquake hazard reduction, and any other seismic safety issues, as requested by the Governor or the Legislature.

SEC. 7. Section 8870.2 of the Government Code is amended to read:

8870.2. (a) The Alfred E. Alquist Seismic Safety Commission shall consist of 15 members appointed by the Governor and confirmed by the Senate, one member representing the Office of Emergency Services, one member representing the Division of the State Architect in the Department of General Services, one member representing the California Building Standards Commission, one member appointed by the Senate Committee on Rules, and one member appointed by the Speaker of the Assembly. The commission shall elect annually from its membership its own chairperson and vice chairperson and may replace them with other commissioners by majority vote. Commission members shall be residents of California.

(b) A quorum shall consist of 11 members if there are no vacancies, or else a majority of the members of the commission at the time.

(c) The Legislature declares that the individuals appointed to the commission are intended to represent the professions of architecture, planning, fire protection, public utilities, structural engineering, geotechnical engineering, geology, seismology, local government, insurance, social services, emergency services, and the Legislature and that such representation serves the public interest. Accordingly, the Legislature finds that for purposes of persons who hold this office the specified professions are tantamount to and constitute the public generally within the meaning of Section 87103.

(d) The commission exists as a separate unit within the Business, Consumer Services, and Housing Agency, and has the functions of prescribing policy, holding meetings and setting dates of the meetings, conducting investigations, and holding hearings insofar as those powers are given by statute to the commission.

(e) The decisions and actions of the commission, with respect to exercising its authority and carrying out its duties under this chapter, or any other applicable law, are not subject to review by the Secretary of Business, Consumer Services, and Housing, but are final within the limits provided by this chapter.

(f) The Legislature further declares that the highest level of service that the individuals appointed to the commission can provide to the residents of California is to offer professional, unbiased, scientifically based advice to the Governor and the Legislature. To maintain this quality of service, it is imperative that the commission retain its functional autonomy and access to the Governor and the Legislature. As such, the commission shall retain its existing authority to issue reports, publications, and literature, as well as to sponsor legislation, and to take official positions on proposed state and federal legislation.

SEC. 8. Section 11535 of the Government Code is amended to read:

11535. (a) There is, in the Department of Technology, the Technology Services Board.

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

(1) The Director of Technology, who shall serve as the chair of the board.

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

(3) The Controller.

(4) The Secretary of Food and Agriculture, the Secretary of Transportation, the Secretary of the Department of Corrections and Rehabilitation, the Secretary for Environmental Protection, the Secretary of California Health and Human Services, the Secretary of Labor and Workforce Development, the Secretary of the Natural Resources Agency, the Secretary of Business, Consumer Services, and Housing, and the Secretary of Veterans Affairs.

(5) The Director of Emergency Services.

SEC. 9. Section 11546.1 of the Government Code is amended to read:

11546.1. The Department of Technology shall improve the governance and implementation of information technology by standardizing reporting relationships, roles, and responsibilities for setting information technology priorities.

(a) (1) Each state agency shall have a chief information officer who is appointed by the head of the state agency, or by the head's designee, subject to the approval of the Department of Technology.

(2) A chief information officer appointed under this subdivision shall do all of the following:

(A) Oversee the information technology portfolio and information technology services within his or her state agency through the operational oversight of information technology budgets of departments, boards, bureaus, and offices within the state agency.

(B) Develop the enterprise architecture for his or her state agency, subject to the review and approval of the Department of Technology, to rationalize, standardize, and consolidate information technology applications, assets, infrastructure, data, and procedures for all departments, boards, bureaus, and offices within the state agency.

(C) Ensure that all departments, boards, bureaus, and offices within the state agency are in compliance with the state information technology policy.

(b) (1) Each state entity shall have a chief information officer who is appointed by the head of the state entity.

(2) A chief information officer appointed under this subdivision shall do all of the following:

(A) Supervise all information technology and telecommunications activities within his or her state entity, including, but not limited to, information technology, information security, and telecommunications personnel, contractors, systems, assets, projects, purchases, and contracts.

(B) Ensure the entity conforms with state information technology and telecommunications policy and enterprise architecture.

(c) Each state agency shall have an information security officer appointed by the head of the state agency, or the head's designee, subject to the approval by the Department of Technology. The state agency's information security officer appointed under this subdivision shall report to the state agency's chief information officer.

(d) Each state entity shall have an information security officer who is appointed by the head of the state entity. An information security officer shall report to the chief information officer of his or her state entity. The Department of Technology shall develop specific qualification criteria for an information security officer. If a state entity cannot fund a position for an information security officer, the entity's chief information officer shall perform the duties assigned to the information security officer. The chief

information officer shall coordinate with the Department of Technology for any necessary support.

(e) (1) For purposes of this section, “state agency” means the Transportation Agency, Department of Corrections and Rehabilitation, Department of Veterans Affairs, Business, Consumer Services, and Housing Agency, Natural Resources Agency, California Health and Human Services Agency, California Environmental Protection Agency, Labor and Workforce Development Agency, and Department of Food and Agriculture.

(2) For purposes of this section, “state entity” means an entity within the executive branch that is under the direct authority of the Governor, including, but not limited to, all departments, boards, bureaus, commissions, councils, and offices that are not defined as a “state agency” pursuant to paragraph (1).

(f) A state entity that is not defined under subdivision (e) may voluntarily comply with any of the requirements of Sections 11546.2 and 11546.3 and may request assistance from the Department of Technology to do so.

SEC. 10. Section 11550 of the Government Code is amended to read:

11550. (a) Effective January 1, 1988, an annual salary of ninety-one thousand fifty-four dollars (\$91,054) shall be paid to each of the following:

- (1) Director of Finance.
- (2) Secretary of Transportation.
- (3) Secretary of the Natural Resources Agency.
- (4) Secretary of California Health and Human Services.
- (5) Secretary of Business, Consumer Services, and Housing.
- (6) Commissioner of the California Highway Patrol.
- (7) Secretary of the Department of Corrections and Rehabilitation.
- (8) Secretary of Food and Agriculture.
- (9) Secretary of Veterans Affairs.
- (10) Secretary of Labor and Workforce Development.
- (11) Secretary for Environmental Protection.
- (12) Secretary of Government Operations.

(b) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the

percentage of the general salary increases provided for state employees during that fiscal year.

SEC. 11. Section 12800 of the Government Code is amended to read:

12800. (a) There are in the state government the following agencies: Business, Consumer Services, and Housing; Transportation; California Environmental Protection; California Health and Human Services; Labor and Workforce Development; Natural Resources; Government Operations; and Corrections and Rehabilitation.

(b) The secretary of an agency shall be generally responsible for the sound fiscal management of each department, office, or other unit within the agency. The secretary shall review and approve the proposed budget of each department, office, or other unit. The secretary shall hold the head of each department, office, or other unit responsible for management control over the administrative, fiscal, and program performance of his or her department, office, or other unit. The secretary shall review the operations and evaluate the performance at appropriate intervals of each department, office, or other unit, and shall seek continually to improve the organization structure, the operating policies, and the management information systems of each department, office, or other unit.

SEC. 12. Section 12804 is added to the Government Code, to read:

12804. (a) There is in the state government the Business, Consumer Services, and Housing Agency.

(b) The Business, Consumer Services, and Housing Agency shall consist of the following: the Department of Consumer Affairs, the Department of Housing and Community Development, the Department of Fair Employment and Housing, the Department of Business Oversight, the Department of Alcoholic Beverage Control, the Alcoholic Beverage Control Appeals Board, the California Horse Racing Board, and the Alfred E. Alquist Seismic Safety Commission.

SEC. 13. Section 12804.5 of the Government Code is amended to read:

12804.5. The Secretary of Business, Consumer Services, and Housing is hereby authorized to develop programs for technical

and fiscal assistance to facilitate nonprofit, self-help community vegetable gardens and related supporting activities.

SEC. 14. Section 12855 of the Government Code is amended to read:

12855. For the purpose of this chapter, “agency” means the Business, Consumer Services, and Housing Agency, the California Environmental Protection Agency, the California Health and Human Services Agency, the Natural Resources Agency, the Labor and Workforce Development Agency, the Government Operations Agency, the Transportation Agency, or the Corrections and Rehabilitation Agency, and “secretary” means the secretary of any such agency.

SEC. 15. Section 12856 of the Government Code is amended to read:

12856. In addition to any other provision of law, the Secretary of Business, Consumer Services, and Housing may appoint an assistant, who is exempt from the civil service laws. The secretary shall prescribe the duties of the appointed assistant and shall fix the salary of such assistant subject to the approval of the Director of Finance. The appointed assistant shall serve at the pleasure of the secretary.

SEC. 16. Section 12901 of the Government Code is amended to read:

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

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

12944. (a) It shall be unlawful for a licensing board to require any examination or establish any other qualification for licensing that has an adverse impact on any class by virtue of its race, creed, color, national origin or ancestry, sex, gender, gender identity, gender expression, age, medical condition, genetic information,

physical disability, mental disability, or sexual orientation, unless the practice can be demonstrated to be job related.

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

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

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

(c) It shall be unlawful for any licensing board, unless specifically acting in accordance with federal equal employment opportunity guidelines or regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any non-job-related inquiry, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, sex, gender, gender identity, gender expression, age, or sexual orientation or any intent to make any such limitation, specification, or discrimination. Nothing in this subdivision shall prohibit any licensing board from making, in connection with prospective licensure or certification, an inquiry as to, or a request for information regarding, the physical fitness of applicants if that inquiry or request for information is directly related and pertinent to the license or the licensed position the applicant is applying for. Nothing in this subdivision shall prohibit any licensing board, in connection with prospective examinations, licensure, or certification, from inviting individuals with physical or mental disabilities to request reasonable accommodations or from making inquiries related to reasonable accommodations.

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

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

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

SEC. 18. Section 13978.6 of the Government Code is amended to read:

13978.6. (a) There is in the Business, Consumer Services, and Housing Agency a Department of Business Oversight containing the Division of Corporations, which has the responsibility for administering various laws. In order to effectively support the Division of Corporations in the administration of these laws, there is hereby established the State Corporations Fund. All expenses and salaries of the Division of Corporations shall be paid out of the State Corporations Fund. Therefore, notwithstanding any provision of any law administered by the Division of Corporations declaring that fees, reimbursements, assessments, or other money or amounts charged and collected by the Division of Corporations under these laws are to be delivered or transmitted to the Treasurer and deposited to the credit of the General Fund, all fees, reimbursements, assessments, and other money or amounts charged and collected under these laws shall be delivered or transmitted to the Treasurer and deposited to the credit of the State Corporations Fund.

(b) Funds appropriated from the State Corporations Fund and made available for expenditure for any law or program of the Division of Corporations may come from the following:

(1) Fees and any other amounts charged and collected pursuant to Section 25608 of the Corporations Code, except for fees and other amounts charged and collected pursuant to subdivisions (o) to (r), inclusive, of Section 25608 of the Corporations Code.

(2) Fees collected pursuant to subdivisions (a), (b), (c), and (d) of Section 25608.1 of the Corporations Code.

SEC. 19. Section 50400 of the Health and Safety Code is amended to read:

50400. The Department of Housing and Community Development is hereby continued in existence in the Business, Consumer Services, and Housing Agency.

SEC. 20. Section 50407.5 is added to the Health and Safety Code, to read:

50407.5. Notwithstanding the transfer of the department from the Business, Transportation, and Housing Agency to the Business, Consumer Services, and Housing Agency, the department, the Department of Transportation, and the California Transportation Commission shall coordinate state housing and transportation policies and programs to help achieve state and regional planning priorities and to maximize cobenefits of infrastructure investments.

SEC. 21. Section 50901 of the Health and Safety Code is amended to read:

50901. The agency shall be administered by a board of directors consisting of 11 voting members, including a chairperson selected by the Governor from among his or her appointees. The Treasurer, the Secretary of Business, Consumer Services, and Housing, and the Director of Housing and Community Development, or their designees, shall be members, in addition to six members appointed by the Governor, one member appointed by the Speaker of the Assembly, and one member appointed by the Senate Committee on Rules. The Director of Finance, the Director of Planning and Research, and the executive director of the agency shall serve as nonvoting ex officio members of the board.

SEC. 22. Section 50913 of the Health and Safety Code is amended to read:

50913. For its activities under this division, the executive director shall prepare a preliminary budget on or before December 1 of each year for the ensuing fiscal year to be reviewed by the Secretary of Business, Consumer Services, and Housing, the Director of Finance, and the Joint Legislative Budget Committee.

SEC. 23. (a) Notwithstanding Section 12080.8 of the Government Code or any other law, Sections 1 to 19, inclusive, and Sections 21 and 22 of this act shall prevail over Sections 1, 23, 32, 33, 45, 158, 159, 178, 188, 196, 199, 202, 203, 207, 208, 209, 210, 215, 285, 287, and 288 of the Governor's Reorganization

Plan No. 2 of 2012, regardless of the dates on which this act and that plan take effect.

(b) This act, including subdivision (a), shall become operative only if the Governor's Reorganization Plan No. 2 of 2012 becomes effective.

(c) Except as otherwise provided in subdivision (b), Sections 1 to 22, inclusive, of this act shall become operative on July 1, 2013.

Approved _____, 2012

Governor