

Senate Bill No. 1395

CHAPTER 281

An act to amend Section 6145 of the Business and Professions Code, to amend Section 94949 of the Education Code, to amend Sections 6254.14, 8543, 8543.1, 8543.2, 8543.3, 8543.4, 8543.5, 8543.6, 8543.7, 8544, 8544.2, 8544.3, 8544.4, 8544.5, 8544.6, 8545, 8545.1, 8545.2, 8545.3, 8545.4, 8545.5, 8546, 8546.1, 8546.2, 8546.3, 8546.4, 8546.5, 8546.6, 8546.7, 8546.8, 8546.10, 8547.2, 8548.4, and 54954.5 of, to amend the heading of Chapter 6.5 (commencing with Section 8543) of Division 1 of Title 2 of, the Government Code, to amend Section 130506 of the Health and Safety Code, to amend Section 1872.83 of the Insurance Code, to amend Section 5024 of the Penal Code, to amend Section 71560 of the Public Resources Code, to amend Section 421 of the Public Utilities Code, and to amend Section 80270 of the Water Code, relating to the State Auditor.

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LEGISLATIVE COUNSEL'S DIGEST

SB 1395, Rubio. State Auditor.

Existing law creates in state government the Bureau of State Audits under the direction of the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy. Existing law provides that the bureau is headed by the State Auditor and independent of the executive branch and legislative control.

This bill would rename the Bureau of State Audits as the California State Auditor's Office and the State Auditor as the California State Auditor. The bill would prohibit any supplies, forms, insignias, signs, or logos from being destroyed or changed as a result of the name change and would require their continued use until exhausted or unserviceable. The bill would make nonsubstantive, conforming changes.

This bill would incorporate additional changes in Section 54954.5 of the Government Code, as proposed by AB 1736 and AB 2690, to be operative depending on when these respective bills are effective and chaptered, as specified.

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

SECTION 1. Section 6145 of the Business and Professions Code is amended to read:

6145. (a) The board shall engage the services of an independent national or regional public accounting firm with at least five years of experience in

governmental auditing for an audit of its financial statement for each fiscal year. The financial statement shall be promptly certified under oath by the Treasurer of the State Bar, and a copy of the audit and financial statement shall be submitted within 120 days of the close of the fiscal year to the board, to the Chief Justice of the Supreme Court, and to the Assembly and Senate Committees on Judiciary.

The audit shall examine the receipts and expenditures of the State Bar and the State Bar sections to ensure that the receipts of the sections are being applied, and their expenditures are being made, in compliance with subdivision (a) of Section 6031.5, and that the receipts of the sections are applied only to the work of the sections.

The audit also shall examine the receipts and expenditures of the State Bar to ensure that the funds collected on behalf of the Conference of Delegates of California Bar Associations as the independent successor entity to the former Conference of Delegates of the State Bar are conveyed to that entity, that the State Bar has been paid or reimbursed for the full cost of any administrative and support services provided to the successor entity, including the collection of fees or donations on its behalf, and that no mandatory dues are being used to fund the activities of the successor entity.

In selecting the accounting firm, the board shall consider the value of continuity, along with the risk that continued long-term engagements of an accounting firm may affect the independence of that firm.

(b) The board shall contract with the California State Auditor's Office to conduct a performance audit of the State Bar's operations from July 1, 2000, to December 31, 2000, inclusive. A copy of the performance audit shall be submitted by May 1, 2001, to the board, to the Chief Justice of the Supreme Court, and to the Assembly and Senate Committees on Judiciary.

Every two years thereafter, the board shall contract with the California State Auditor's Office to conduct a performance audit of the State Bar's operations for the respective fiscal year, commencing with January 1, 2002, to December 31, 2002, inclusive. A copy of the performance audit shall be submitted within 120 days of the close of the fiscal year for which the audit was performed to the board, to the Chief Justice of the Supreme Court, and to the Assembly and Senate Committees on Judiciary.

For the purposes of this subdivision, the California State Auditor's Office may contract with a third party to conduct the performance audit. This subdivision is not intended to reduce the number of audits the California State Auditor's Office may otherwise be able to conduct.

SEC. 2. Section 94949 of the Education Code is amended to read:

94949. (a) On or before October 1, 2013, the Legislative Analyst's Office shall report to the Legislature and the Governor on the appropriateness of the exemptions provided in this chapter, with particular attention to the exemptions provided by Article 4 (commencing with Section 94874) that are based on accreditation. The report shall examine and make recommendations regarding the degree to which regional and national accrediting agencies provide oversight of institutions and protection of student interests, whether that oversight results in the same level of protection

of students as provided by this chapter, and whether the exemptions provided in Article 4 (commencing with Section 94874) that are based on accreditation should be continued, adjusted, or removed.

(b) (1) On or before August 1, 2013, the bureau shall contract with the California State Auditor's Office to conduct a performance audit to evaluate the effectiveness and efficiency of the bureau's operations, consistent with the requirements of this chapter, and the California State Auditor's Office shall report the results of that audit to the Legislature and the Governor.

(2) The performance audit required by paragraph (1) shall include, but shall not be limited to, an evaluation of all of the following:

(A) The Student Tuition Recovery Fund, including the adequacy of its balance; the quality, timeliness, and consistency of claims processing; and the degree to which it has been, or will be, able to reimburse tuition for students.

(B) The bureau's enforcement program, including the means by which the bureau makes students and school employees aware of their ability to file complaints; the average time for investigating complaints; the standards for referring complaints to investigation; the average time to complete investigations; the adequacy of the bureau's inspections; the bureau's record of imposing discipline; the bureau's record of initiating investigations based upon publicly available information; the bureau's record of coordinating with law enforcement and public prosecutors; and whether the bureau has the enforcement resources necessary to protect consumers and ensure a fair and prompt resolution of complaints and investigations for both students and institutions.

(C) The bureau's efforts with respect to, and extent of institution compliance with, the public and student disclosure requirements of this chapter.

(D) Whether the bureau's staffing level and expertise are sufficient to fulfill its statutory responsibilities.

(c) Bureau staff and management shall cooperate with the Legislative Analyst's Office and the California State Auditor's Office and shall provide those agencies with access to data, case files, employees, and information as those agencies may, in their discretion, require for the purposes of this section.

SEC. 3. Section 6254.14 of the Government Code is amended to read:

6254.14. (a) (1) Except as provided in Sections 6254 and 6254.7, nothing in this chapter shall be construed to require disclosure of records of the Department of Corrections and Rehabilitation that relate to health care services contract negotiations, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations, including, but not limited to, records related to those negotiations such as meeting minutes, research, work product, theories, or strategy of the department, or its staff, or members of the California Medical Assistance Commission, or its staff, who act in consultation with, or on behalf of, the department.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health services entered into by the Department of Corrections and Rehabilitation or the California Medical Assistance Commission on or after July 1, 1993, shall be open to inspection one year after they are fully executed. In the event that a contract for health services that is entered into prior to July 1, 1993, is amended on or after July 1, 1993, the amendment, except for any portion containing rates of payment, shall be open to inspection one year after it is fully executed.

(3) Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, including, but not limited to, Section 1060 of the Evidence Code, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee, the California State Auditor's Office, and the Legislative Analyst's Office. The Joint Legislative Audit Committee, the California State Auditor's Office, and the Legislative Analyst's Office shall maintain the confidentiality of the contracts and amendments until the contract or amendment is fully open to inspection by the public.

(5) It is the intent of the Legislature that confidentiality of health care provider contracts, and of the contracting process as provided in this subdivision, is intended to protect the competitive nature of the negotiation process, and shall not affect public access to other information relating to the delivery of health care services.

(b) The inspection authority and confidentiality requirements established in subdivisions (q), (v), and (y) of Section 6254 for the Legislative Audit Committee shall also apply to the California State Auditor's Office and the Legislative Analyst's Office.

SEC. 4. The heading of Chapter 6.5 (commencing with Section 8543) of Division 1 of Title 2 of the Government Code is amended to read:

CHAPTER 6.5. CALIFORNIA STATE AUDITOR

SEC. 5. Section 8543 of the Government Code is amended to read:

8543. (a) There is hereby created in state government the California State Auditor's Office under the direction of the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy. In order to be free of organizational impairments to independence, the office shall be independent of the executive branch and legislative control.

(b) Notwithstanding any other law, any reference to the "Bureau of State Audits" or "bureau," as used in a context to refer to the Bureau of State Audits, shall be deemed to refer to the "California State Auditor's Office," and any reference to the "State Auditor" or "auditor," as used in a context to refer to the "State Auditor," shall be deemed to refer to the "California State Auditor."

SEC. 6. Section 8543.1 of the Government Code is amended to read:

8543.1. The duties of the California State Auditor's Office are to examine and report annually upon the financial statements prepared by the executive branch of the state and to perform other related assignments, including performance audits, that are mandated by statute. For the purposes of this chapter "office" means the "California State Auditor's Office," unless the context clearly requires otherwise.

SEC. 7. Section 8543.2 of the Government Code is amended to read:

8543.2. (a) The head of the office is the California State Auditor, who shall be appointed by the Governor from a list of three qualified individuals nominated by the Joint Legislative Audit Committee by a vote of at least a majority of the committee membership from each house of the Legislature. The term of any individual appointed as the California State Auditor shall be four years. Any vacancy in the office of the California State Auditor shall be filled in the same manner provided by this subdivision for a full term.

(b) As the head of the office, the California State Auditor may establish constituent parts of the office to carry out the powers and duties of the office unless otherwise specified by law.

(c) The office has a Chief Deputy California State Auditor.

SEC. 8. Section 8543.3 of the Government Code is amended to read:

8543.3. The California State Auditor shall be chosen without reference to party affiliation and solely on the ground of fitness to perform the duties of the office of the California State Auditor. Prior to selection, the California State Auditor shall possess a combination of education and experience in auditing and management necessary to perform the duties of that office.

SEC. 9. Section 8543.4 of the Government Code is amended to read:

8543.4. In administering the fiscal policies of the California State Auditor's Office, for each fiscal year, the office shall provide the Department of Finance with the office's proposed budget and the Department of Finance shall include that proposed budget in the Governor's Budget without modification.

SEC. 10. Section 8543.5 of the Government Code is amended to read:

8543.5. The Chief Deputy California State Auditor shall be appointed by the California State Auditor. The Chief Deputy California State Auditor shall carry out those duties prescribed by the California State Auditor and shall act for the California State Auditor when the California State Auditor is absent or unable to serve or when the office of the California State Auditor is vacant. The tenure of any incumbent Chief Deputy California State Auditor shall expire on any date that an individual is appointed California State Auditor, but any incumbent Chief Deputy California State Auditor may be reappointed pursuant to this section.

SEC. 11. Section 8543.6 of the Government Code is amended to read:

8543.6. The California State Auditor may be removed for cause at any time by concurrent resolution of the Legislature. A California State Auditor removed pursuant to this section may not be reappointed to that office.

SEC. 12. Section 8543.7 of the Government Code is amended to read:

8543.7. (a) The annual salary for the California State Auditor shall be equal to that of agency secretaries of the executive branch of government pursuant to Section 11550.

(b) The California State Auditor shall be repaid all actual expenses incurred or paid by him or her in the discharge of his or her duties.

SEC. 13. Section 8544 of the Government Code is amended to read:

8544. (a) Consistent with subdivision (i) of Section 8546, the California State Auditor may employ and fix the compensation, in accordance with Article VII of the California Constitution, of those professional assistants and technical, clerical, deputy state auditors, and other officers and employees as he or she deems necessary for the effective conduct of the work under his or her charge.

(b) In establishing and adjusting classes of positions, and establishing and adjusting salary ranges for each class of position, to provide for the continued ability to attract and maintain qualified individuals within the California State Auditor's Office, consideration shall be given to the fact that the level of education, experience, knowledge, and ability required of the employees in the office is generally higher than that of state service generally, due to the unique duties and responsibilities imposed on the office and the relatively small number of employees.

(c) When fixing compensation for employees, the California State Auditor shall consider prevailing rates for comparable service in other public employment and private business.

SEC. 14. Section 8544.2 of the Government Code is amended to read:

8544.2. Persons employed by the office pursuant to Section 8544.1 shall be allowed to enroll in the Public Employees' Medical and Hospital Care Act contained in Part 5 (commencing with Section 22751) of Division 5 of Title 2.

SEC. 15. Section 8544.3 of the Government Code is amended to read:

8544.3. All persons employed by the office pursuant to Section 8544.1 who were members of the Public Employees' Retirement System as of November 3, 1992, shall retain their existing classification within the system and shall be considered state miscellaneous members as defined in Section 20014.

SEC. 16. Section 8544.4 of the Government Code is amended to read:

8544.4. The permanent office of the California State Auditor shall be in Sacramento, where he or she shall be provided with suitable and sufficient offices. When in his or her judgment the conduct of the work requires, he or she may maintain offices at other places in the state.

SEC. 17. Section 8544.5 of the Government Code is amended to read:

8544.5. (a) There is hereby established in the State Treasury the State Audit Fund. Notwithstanding Section 13340, the State Audit Fund is continuously appropriated for the expenses of the California State Auditor. There shall be appropriated annually in the Budget Act to the State Audit Fund, from the General Fund and the Central Service Cost Recovery Fund, the amount necessary to reimburse the State Audit Fund for the cost of audits and any other duties to be performed that are not directly reimbursed

under subdivision (c), including for the cost of any other duties imposed on the office by statute. “Cost of audits or any other duties” means all direct and indirect costs of conducting the audits or other duties, and any other expenses incurred by the California State Auditor in fulfilling his or her statutory responsibilities.

(b) With regard to the funds appropriated pursuant to subdivision (a), upon certification by the California State Auditor of estimated costs on a monthly basis, the Controller shall transfer the amount thus certified from the General Fund or the Central Service Cost Recovery Fund, as applicable, to the State Audit Fund. The Controller shall thereafter issue warrants drawn against the State Audit Fund upon receipt of claims certified by the California State Auditor.

(c) To ensure appropriate reimbursement from federal and special funds for the costs of the duties performed pursuant to Section 8546.3, the California State Auditor may directly bill state agencies for the costs incurred, subject to the approval of the Director of Finance.

(d) To ensure adequate oversight of the operations of the office, the Milton Marks “Little Hoover” Commission on California State Government Organization and Economy shall annually obtain the services of an independent public accountant to audit the State Audit Fund and the operation of the office to ensure compliance with state law, including Section 8546. The results of this audit shall be submitted to the commission and shall be a public record.

(e) To ensure that audits of the Milton Marks “Little Hoover” Commission on California State Government Organization and Economy are conducted in conformity with government auditing standards, any audit of the commission that is required or permitted by law shall be conducted by the independent public accountant selected pursuant to subdivision (d).

SEC. 18. Section 8544.6 of the Government Code is amended to read:

8544.6. All unreimbursed expenditures of the office are defined as “administrative costs” defined in Section 11270.

SEC. 19. Section 8545 of the Government Code is amended to read:

8545. The California State Auditor shall not destroy any papers or memoranda used to support a completed audit sooner than three years after the audit report is released to the public. All books, papers, records, and correspondence of the office pertaining to its work are public records subject to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 and shall be filed at any of the regularly maintained offices of the California State Auditor, except that none of the following items or papers of which these items are a part shall be released to the public by the California State Auditor, his or her employees, or members of the commission:

(a) Personal papers and correspondence of any person providing assistance to the California State Auditor when that person has requested in writing that his or her papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn or upon the order of the California State Auditor.

(b) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed.

(c) Papers, correspondence, or memoranda pertaining to any audit that has been completed, which papers, correspondence, or memoranda are not used in support of any report resulting from the audit.

(d) Any survey of public employees that the California State Auditor determines should be kept confidential because the employees have expressed fear of retaliation by their employer if they respond to the survey.

SEC. 20. Section 8545.1 of the Government Code is amended to read:

8545.1. (a) The California State Auditor, and any employee or former employee of the office, shall not divulge or make known to any person not employed by the office in any manner not expressly permitted by law any particulars of any record, document, or information the disclosure of which is restricted by law from release to the public. This prohibition includes, but is not limited to, the restrictions on the release of records, documents, or information set forth in Section 8545.

(b) Subdivision (a) also applies to either of the following:

(1) Any person or business entity that is contracting with or has contracted with the office and to the employees and former employees of that person or business entity.

(2) The officers and employees of and any person or business entity that is contracting with or has contracted with any state or local governmental agency or publicly created entity that has assisted the office in the course of any audit or investigation or that has received a draft copy of any report or other draft document from the office for comment or review.

(c) Any officer, employee, or person who discloses the particulars of any record, document, or other information in violation of this section is guilty of a misdemeanor.

SEC. 21. Section 8545.2 of the Government Code is amended to read:

8545.2. (a) Notwithstanding any other provision of law, the California State Auditor during regular business hours shall have access to and authority to examine and reproduce, any and all books, accounts, reports, vouchers, correspondence files, and all other records, bank accounts, and money or other property, of any agency of the state, whether created by the California Constitution or otherwise, any local governmental entity, including any city, county, and school or special district, and any publicly created entity, for any audit or investigation. Any officer or employee of any agency or entity having these records or property in his or her possession, under his or her control, or otherwise having access to them, shall permit access to, and examination and reproduction thereof, upon the request of the California State Auditor or his or her authorized representative.

(b) For the purposes of access to and examination and reproduction of the records and property described in subdivision (a), an authorized representative of the California State Auditor is an employee or officer of the state or local governmental agency or publicly created entity involved and is subject to any limitations on release of the information as may apply to an employee or officer of the state or local governmental agency or

publicly created entity. For the purpose of conducting any audit or investigation, the California State Auditor or his or her authorized representative shall have access to the records and property of any public or private entity or person subject to review or regulation by the public agency or public entity being audited or investigated to the same extent that employees or officers of that agency or public entity have access. No provision of law providing for the confidentiality of any records or property shall prevent disclosure pursuant to subdivision (a), unless the provision specifically refers to and precludes access and examination and reproduction pursuant to subdivision (a). Providing confidential information to the California State Auditor pursuant to this section, including, but not limited to, confidential information that is subject to a privilege, shall not constitute a waiver of that privilege. This subdivision does not apply to records compiled pursuant to Part 1 (commencing with Section 8900) or Part 2 (commencing with Section 10200) of Division 2.

(c) Any officer or person who fails or refuses to permit access and examination and reproduction, as required by this section, is guilty of a misdemeanor.

(d) For purposes of this section “confidentiality of records or property” means that the record or property may lawfully be kept confidential as a result of a statutory or common law privilege or any other provision of law.

SEC. 22. Section 8545.3 of the Government Code is amended to read:

8545.3. It is a misdemeanor for the California State Auditor or any employee of the California State Auditor to release any information received pursuant to Section 10850 of the Welfare and Institutions Code or that is otherwise prohibited by law to be disclosed.

SEC. 23. Section 8545.4 of the Government Code is amended to read:

8545.4. (a) In connection with any audit or investigation conducted by the California State Auditor, the California State Auditor, or his or her designee, may do any of the following:

- (1) Administer oaths.
- (2) Certify to all official acts.
- (3) Issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, or documents, or for the making of oral or written sworn statements, in any interview conducted as part of an audit or investigation.

(b) Any subpoena issued under this section extends as process to all parts of the state and may be served by any person authorized to serve process of courts of record or by any person designated for that purpose by the California State Auditor or his or her designee. The person serving this process may receive compensation as allowed by the California State Auditor or his or her designee, not to exceed the fees prescribed by law for similar service.

(c) Notwithstanding Section 7470, 7474, or 7491, subpoenas issued under this section for financial records of financial institutions concerning customers of financial institutions or for information contained in those records shall not be subject to the requirement or conditions of Section 7474.

SEC. 24. Section 8545.5 of the Government Code is amended to read:

8545.5. (a) The superior court in the county in which any interview is held under the direction of the California State Auditor or his or her designee has jurisdiction to compel the attendance of witnesses, the making of oral or written sworn statements, and the production of papers, books, accounts, and documents, as required by any subpoena issued by the California State Auditor or his or her designee.

(b) If any witness refuses to attend or testify or produce any papers required by the subpoena, the California State Auditor or his or her designee may petition the superior court in the county in which the hearing is pending for an order compelling the person to attend and answer questions under penalty of perjury or produce the papers required by the subpoena before the person named in the subpoena. The petition shall set forth all of the following:

(1) That due notice of the time and place of attendance of the person or the production of the papers has been given.

(2) That the person has been subpoenaed in the manner prescribed in Section 8545.4.

(3) That the person has failed and refused to attend or produce the papers required by subpoena before the California State Auditor or his or her designee as named in the subpoena, or has refused to answer questions propounded to him or her in the course of the interview under penalty of perjury.

(c) Upon the filing of the petition, the court shall enter an order directing the person to appear before the court at a specified time and place and then and there show cause why he or she has not attended, answered questions under penalty of perjury, or produced the papers as required. A copy of the order shall be served upon him or her. If it appears to the court that the subpoena was regularly issued by the California State Auditor or his or her designee, the court shall enter an order that the person appear before the person named in the subpoena at the time and place fixed in the order and answer questions under penalty of perjury or produce the required papers. Upon failure to obey the order, the person shall be dealt with as for contempt of court.

SEC. 25. Section 8546 of the Government Code is amended to read:

8546. It is the intent of the Legislature that the California State Auditor's Office have the independence necessary to conduct all of its audits in conformity with "Government Auditing Standards" published by the Comptroller General of the United States and the standards published by the American Institute of Certified Public Accountants, free from influence of existing state control agencies that could be the subject of audits conducted by the office. Therefore, all of the following exclusions apply to the office:

(a) Notwithstanding Section 19790, the California State Auditor shall establish an equal employment opportunity program that shall meet the criteria and objectives established by the State Personnel Board. The California State Auditor shall report annually to the State Personnel Board and the commission regarding the program.

(b) Notwithstanding Section 12470, the California State Auditor shall be responsible for maintaining its payroll system. In lieu of audits of the uniform payroll system performed by the Controller or any other department, the office shall contract pursuant to subdivision (e) of Section 8544.5 for an annual audit of its payroll and financial operations by an independent public accountant.

(c) Notwithstanding Section 13292, the California State Auditor is delegated the authority to establish and administer the fiscal and administrative policies of the office in conformity with the State Administrative Manual without oversight by the Department of Finance, the Department of Information Technology, or any other state agency.

(d) Notwithstanding Section 11032, the California State Auditor may approve actual and necessary traveling expenses for travel outside the state for officers and employees of the office.

(e) Notwithstanding Section 11033, the California State Auditor or officers and employees of the office may be absent from the state on business of the state upon approval of the California State Auditor or Chief Deputy California State Auditor.

(f) Sections 11040, 11042, and 11043 shall not apply to the California State Auditor's Office. The California State Auditor may employ legal counsel under those terms that he or she deems necessary to conduct the legal business of, or render legal counsel to, the California State Auditor.

(g) The provisions and definitions of Article 2 (commencing with Section 11342.510) of Chapter 3.5 of Division 3 shall not be construed to include the California State Auditor's Office. The California State Auditor may adopt regulations necessary for the operation of the office pursuant to the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Division 3), but these regulations shall not be subject to the review or approval of the Office of Administrative Law.

(h) The California State Auditor shall be exempt from all contract requirements of the Public Contract Code that require oversight, review, or approval by the Department of General Services or any other state agency. The California State Auditor may contract on behalf of the State of California for goods and services that he or she deems necessary for the furtherance of the purposes of the office.

(i) (1) Subject to Article VII of the California Constitution, the California State Auditor is delegated the authority to establish and administer the personnel policies and practices of the California State Auditor's Office in conformity with Part 2.6 (commencing with Section 19815) of Division 5 of Title 2 without oversight or approval by the Department of Human Resources.

(2) At the election of the California State Auditor, officers and employees of the office may participate in benefits programs administered by the Department of Human Resources subject to the same conditions for participation that apply to civil service employees in other state agencies. For the purposes of benefits programs administration only, the California State Auditor is subject to the determinations of the department. The

California State Auditor's Office shall reimburse the Department of Human Resources for the normal administrative costs incurred by the Department of Human Resources and for any extraordinary costs resulting from the inclusion of the office employees in these state benefit programs.

SEC. 26. Section 8546.1 of the Government Code is amended to read:

8546.1. (a) The California State Auditor shall conduct financial and performance audits as directed by statute. The California State Auditor may conduct these audits of any state agency as defined by Section 11000, whether created by the California Constitution or otherwise, any local governmental agency, including any city, county, and school or special district, or any publicly created entity. However, the California State Auditor shall not audit the activities of the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy or the Legislature to assure compliance with government auditing standards.

(b) The California State Auditor shall conduct any audit of a state or local governmental agency or any other publicly created entity that is requested by the Joint Legislative Audit Committee to the extent that funding is available and in accordance with the priority established by the committee with respect to other audits requested by the committee. Members of the Legislature may submit requests for audits to the committee for its consideration and approval. Any audit request approved by the committee shall be forwarded to the California State Auditor as a committee request.

(c) The California State Auditor shall complete any audit in a timely manner and in accordance with the "Government Auditing Standards" published by the Comptroller General of the United States.

(d) Immediately upon completion of the audit, the California State Auditor shall transmit a copy of the audit report to the commission. Not later than 24 hours after delivery to the commission, the California State Auditor shall deliver the report to the Legislature, appropriate committees or subcommittees of the Legislature, and the Governor. Once transmitted to these parties, the report shall be made available to the public.

SEC. 27. Section 8546.2 of the Government Code is amended to read:

8546.2. (a) The California State Auditor shall request that any state agency, as defined in Section 11000, whether created by the California Constitution or otherwise, any local governmental agency, including any city, county, city and county, school, or special district, or any publicly created entity, that is the subject of an audit or investigation conducted pursuant to this chapter provide updates on its progress in implementing the recommendations made by the California State Auditor, at intervals prescribed by the California State Auditor.

(b) Any state agency described in subdivision (a) shall provide the California State Auditor, in the form prescribed by the California State Auditor, with updates on implementation of recommendations as described in subdivision (a).

SEC. 28. Section 8546.3 of the Government Code is amended to read:

8546.3. The California State Auditor shall examine and report annually upon the financial statements otherwise prepared by the executive branch

of the state so that the Legislature and the public will be informed of the adequacy of those financial statements in compliance with generally accepted accounting principles. In making that examination, the California State Auditor may make the audit examination of accounts and records, accounting procedures, and internal auditing performance that he or she determines to be necessary to disclose all material facts necessary to proper reporting in accordance with the federal Single Audit Act of 1984 (31 U.S.C. Sec. 7501 et seq.) and the purposes set forth in Section 8521.5.

SEC. 29. Section 8546.4 of the Government Code is amended to read:

8546.4. (a) The California State Auditor shall annually issue an auditor's report based upon the general purpose financial statements included in the Controller's annual report that is submitted to the Governor pursuant to Section 12460. The report shall be in accordance with the "Government Auditing Standards" published by the Comptroller General of the United States and the standards published by the American Institute of Certified Public Accountants.

(b) The California State Auditor, in the performance of this annual audit and any other audit or investigation undertaken by the office, may examine all the financial records, accounts, and documents of any state agency as defined by Section 11000.

(c) The California State Auditor shall rely, to the maximum extent possible, upon the audits performed by the Controller, the Department of Finance, internal auditors of state agencies, and independent contractors. The Director of Finance shall be responsible for coordinating and providing technical assistance to the internal auditors of state agencies. Nothing in this article is intended to reduce or restrict the operations of internal auditors whose review of internal financial and administrative controls of state agencies is essential for coordinated audits.

(d) State agencies receiving federal funds shall be primarily responsible for arranging for federally required financial and compliance audits. State agencies shall immediately notify the Director of Finance, the California State Auditor, and the Controller when they are required to obtain federally required financial and compliance audits. The Director of Finance, the California State Auditor, and the Controller shall coordinate the procurement by state agencies, including any negotiations with cognizant federal agencies, of federally required financial and compliance audits.

(e) To prevent duplication of the annual audit conducted by the California State Auditor pursuant to subdivision (a), except for those state agencies that are required by state law to obtain an annual audit, no state agency shall enter into a contract for a financial or compliance audit without prior written approval of the Controller and the Director of Finance, which approval shall state the reason for the contract and shall be filed with the California State Auditor at least 30 days prior to the award of the contract. No funds appropriated by the Legislature shall be encumbered for the purpose of funding any contract for an audit that duplicates the annual financial audit conducted by the California State Auditor.

(f) Notwithstanding any other provision of this article, nothing in this section shall be construed to limit, restrict, or otherwise infringe upon the constitutional or statutory authority of the Controller to superintend the fiscal concerns of the state.

(g) Except as provided in subdivision (b), notwithstanding any other provision of this article, nothing in this section shall be construed to limit, restrict, or otherwise infringe upon the statutory authority of the Director of Finance to supervise the financial and business policies of the state.

SEC. 30. Section 8546.5 of the Government Code is amended to read:

8546.5. (a) The California State Auditor may establish a high-risk government agency audit program for the purpose of identifying, auditing, and issuing reports on any agency of the state, whether created by the California Constitution or otherwise, as well as statewide issues, that the California State Auditor identifies as being at high risk for the potential of waste, fraud, abuse, and mismanagement or that has major challenges associated with its economy, efficiency, or effectiveness.

(b) In addition to identifying an agency as high risk on the basis of weaknesses identified in audit and investigative reports produced by the office, the California State Auditor may consult with the Legislative Analyst, the Milton Marks “Little Hoover” Commission on California State Government Organization and Economy, the Office of Inspector General within the Department of Corrections and Rehabilitation, the Department of Finance, and other state agencies that have oversight responsibilities over any other agency of the state, in identifying state agencies that are at high risk.

(c) The California State Auditor shall notify the Joint Legislative Audit Committee whenever it identifies a state agency as at high risk.

(d) The California State Auditor may issue audit reports with recommendations for improvement in state agencies, and for statewide issues, identified as at high risk not less than once every two years.

(e) The California State Auditor may require state agencies identified as high risk, or as responsible for all or a portion of a statewide issue identified as high risk, to periodically report to the auditor regarding the status of recommendations for improvement made by the California State Auditor or other state oversight agencies.

SEC. 31. Section 8546.6 of the Government Code is amended to read:

8546.6. The California State Auditor, in connection with any audit or investigation conducted pursuant to this chapter, shall be deemed to be a department head for the purposes of Section 11189.

SEC. 32. Section 8546.7 of the Government Code is amended to read:

8546.7. Notwithstanding any other provision of law, every contract involving the expenditure of public funds in excess of ten thousand dollars (\$10,000) entered into by any state agency, board, commission, or department or by any other public entity, including a city, county, city and county, or district, shall be subject to the examination and audit of the California State Auditor, at the request of the public entity or as part of any audit of the public entity, for a period of three years after final payment

under the contract. Every contract shall contain a provision stating that the contracting parties shall be subject to that examination and audit. The failure of a contract to contain this provision shall not preclude the California State Auditor from conducting an examination and audit of the contract at the request of the public entity entering into the contract or as part of any audit of the public entity.

It is the intent of the Legislature that the Regents of the University of California include in contracts involving the expenditure of state funds in excess of ten thousand dollars (\$10,000) a provision stating that the contracting parties shall be subject to the examination and audit of the California State Auditor, at the request of the regents or as part of any audit of the university, for a period of three years after final payment under the contract.

The examinations and audits under this section shall be confined to those matters connected with the performance of the contract, including, but not limited to, the costs of administering the contract.

SEC. 33. Section 8546.8 of the Government Code is amended to read:

8546.8. Unless the contrary is stated or clearly appears from the context, any reference to the Auditor General or the Office of the Auditor General in any statute or contract in effect on the effective date of this chapter, other than Chapter 4 (commencing with Section 10500), with respect to the performance of audits, shall be construed to refer to the California State Auditor and the California State Auditor's Office, respectively.

SEC. 34. Section 8546.10 of the Government Code is amended to read:

8546.10. (a) The California State Auditor may establish a high-risk local government agency audit program for the purpose of identifying, auditing, and issuing reports on any local government agency, including, but not limited to, any city, county, special district, or any publicly created entity, whether created by the California Constitution or otherwise, that the California State Auditor identifies as being at high risk for the potential of waste, fraud, abuse, or mismanagement or that has major challenges associated with its economy, efficiency, or effectiveness.

(b) In addition to identifying a local government agency as high risk on the basis of weaknesses identified in audit and investigative reports produced by the office, the California State Auditor may consult with the Controller, Attorney General, and other state agencies that have oversight responsibilities over any local government agency, in identifying local governments that are at high risk.

(c) The California State Auditor's Office shall be responsible for the state costs associated with the high-risk local government agency audit program, shall conduct the program as funds permit, and shall only conduct the program to the extent that it does not interfere with duties related to mandated audits and requests from the Joint Legislative Audit Committee.

(d) (1) The California State Auditor shall notify the Joint Legislative Audit Committee whenever he or she identifies a local government as at high risk.

(2) The California State Auditor shall provide the Joint Legislative Audit Committee, at a public hearing of the committee, an annual update of all audits in progress.

(3) If a local government agency has taken significant corrective measures for deficiencies identified by the California State Auditor, that agency shall be removed from the high-risk local government agency audit program.

(e) Notwithstanding the requirements of Section 10231.5, if the California State Auditor establishes the program provided for in this section and the California State Auditor determines that a local agency is at high risk, the California State Auditor shall issue audit reports at least once every two years with recommendations for improvement in such a local government so identified.

(f) Audits conducted pursuant to this section shall be approved by the Joint Legislative Audit Committee.

SEC. 35. Section 8547.2 of the Government Code is amended to read:

8547.2. For the purposes of this article, the following terms have the following meanings:

(a) “Employee” means an individual appointed by the Governor, or employed or holding office in a state agency as defined by Section 11000, including, for purposes of Sections 8547.3 to 8547.7, inclusive, an employee of the California State University, or an individual appointed by the Legislature to a state board or commission and who is not a Member or employee of the Legislature. In addition, “employee” means a person employed by the Supreme Court, a court of appeal, a superior court, or the Administrative Office of the Courts for the purposes of Sections 8547.3 to 8547.7, inclusive, and Section 8547.13, except for those provisions of Section 8547.4 concerning notice of adverse action and the State Personnel Board. “Employee” includes a former employee who met the criteria of this subdivision during his or her employment.

(b) “Illegal order” means a directive to violate or assist in violating a federal, state, or local law, rule, or regulation, or an order to work or cause others to work in conditions outside of their line of duty that would unreasonably threaten the health or safety of employees or the public.

(c) “Improper governmental activity” means an activity by a state agency or by an employee that is undertaken in the performance of the employee’s duties, undertaken inside a state office, or, if undertaken outside a state office by the employee, directly relates to state government, whether or not that activity is within the scope of his or her employment, and that (1) is in violation of any state or federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, (2) is in violation of an Executive order of the Governor, a California Rule of Court, or any policy or procedure mandated by the State Administrative Manual or State Contracting Manual, or (3) is economically wasteful, involves gross misconduct, incompetency, or inefficiency. For purposes of Sections 8547.4, 8547.5, 8547.7, 8547.10, and 8547.11, “improper governmental activity”

includes any activity by the University of California or by an employee, including an officer or faculty member, who otherwise meets the criteria of this subdivision. For purposes of Sections 8547.4, 8547.5, and 8547.13, “improper governmental activity” includes any activity by the Supreme Court, a court of appeal, a superior court, or the Administrative Office of the Courts, or by an employee thereof, who otherwise meets the criteria of this subdivision.

(d) “Person” means an individual, corporation, trust, association, a state or local government, or an agency or instrumentality of any of the foregoing.

(e) “Protected disclosure” means a good faith communication, including a communication based on, or when carrying out, job duties, that discloses or demonstrates an intention to disclose information that may evidence (1) an improper governmental activity, or (2) a condition that may significantly threaten the health or safety of employees or the public if the disclosure or intention to disclose was made for the purpose of remedying that condition. Protected disclosure specifically includes a good faith communication to the California State Auditor’s Office alleging an improper governmental activity and any evidence delivered to the California State Auditor’s Office in support of the allegation. “Protected disclosure” also includes, but is not limited to, a complaint made to the Commission on Judicial Performance.

(f) “State agency” is defined by Section 11000. “State agency” includes the University of California for purposes of Sections 8547.5 to 8547.7, inclusive, and the California State University for purposes of Sections 8547.3 to 8547.7, inclusive. Sections 8547.3 to 8547.7, inclusive, shall apply to the Supreme Court, the courts of appeal, the superior courts, and the Administrative Office of the Courts in the same manner as they apply to a state agency.

SEC. 36. Section 8548.4 of the Government Code is amended to read:

8548.4. The California State Auditor shall post the information described in Section 8548.1 on the Internet Web site of the California State Auditor’s Office.

SEC. 37. Section 54954.5 of the Government Code is amended to read:

54954.5. For purposes of describing closed session items pursuant to Section 54954.2, the agenda may describe closed sessions as provided below. No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to Section 54956.7:

LICENSE/PERMIT DETERMINATION

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators attending the closed session) (If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent))

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(c) With respect to every item of business to be discussed in closed session pursuant to Section 54956.9:

CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
(Subdivision (a) of Section 54956.9)

Name of case: (Specify by reference to claimant's name, names of parties, case or claim numbers)

or

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: (Specify number of potential cases)

(In addition to the information noticed above, the agency may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to subparagraphs (B) to (E), inclusive, of paragraph (3) of subdivision (b) of Section 54956.9.)

Initiation of litigation pursuant to subdivision (c) of Section 54956.9: (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

THREAT TO PUBLIC SERVICES OR FACILITIES

Consultation with: (Specify name of law enforcement agency and title of officer, or name of applicable agency representative and title)

PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:

CASE REVIEW/PLANNING

(No additional information is required in connection with a closed session to consider case review or planning.)

(h) With respect to every item of business to be discussed in closed session pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code:

REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

HEARINGS

Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

(i) With respect to every item of business to be discussed in closed session pursuant to Section 54956.86:

CHARGE OR COMPLAINT INVOLVING INFORMATION PROTECTED BY FEDERAL LAW

(No additional information is required in connection with a closed session to discuss a charge or complaint pursuant to Section 54956.86.)

(j) With respect to every item of business to be discussed in closed session pursuant to Section 54956.96:

CONFERENCE INVOLVING A JOINT POWERS AGENCY (Specify by name)

Discussion will concern: (Specify closed session description used by the joint powers agency)

Name of local agency representative on joint powers agency board: (Specify name)

(Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives.)

(k) With respect to every item of business to be discussed in closed session pursuant to Section 54956.75:

AUDIT BY CALIFORNIA STATE AUDITOR’S OFFICE

SEC. 37.1. Section 54954.5 of the Government Code is amended to read:

54954.5. For purposes of describing closed session items pursuant to Section 54954.2, except as required in subdivision (e) of Section 54954.2, the agenda may describe closed sessions as provided below. A legislative body or elected official shall not be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to Section 54956.7:

LICENSE/PERMIT DETERMINATION

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators attending the closed session) (If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent))

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(c) With respect to every item of business to be discussed in closed session pursuant to Section 54956.9:

CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION

(Subdivision (a) of Section 54956.9)

Name of case: (Specify by reference to claimant’s name, names of parties, case or claim numbers)

or

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: (Specify number of potential cases)

(In addition to the information noticed above, the agency may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to subparagraphs (B) to (E), inclusive, of paragraph (3) of subdivision (b) of Section 54956.9.)

Initiation of litigation pursuant to subdivision (c) of Section 54956.9: (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:

CASE REVIEW/PLANNING

(No additional information is required in connection with a closed session to consider case review or planning.)

(h) With respect to every item of business to be discussed in closed session pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code:

REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

HEARINGS

Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

(i) With respect to every item of business to be discussed in closed session pursuant to Section 54956.86:

CHARGE OR COMPLAINT INVOLVING INFORMATION PROTECTED BY FEDERAL LAW

(No additional information is required in connection with a closed session to discuss a charge or complaint pursuant to Section 54956.86.)

(j) With respect to every item of business to be discussed in closed session pursuant to Section 54956.96:

CONFERENCE INVOLVING A JOINT POWERS AGENCY (Specify by name)

Discussion will concern: (Specify closed session description used by the joint powers agency)

Name of local agency representative on joint powers agency board: (Specify name)

(Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives.)

(k) With respect to every item of business to be discussed in closed session pursuant to Section 54956.75:

AUDIT BY CALIFORNIA STATE AUDITOR’S OFFICE

SEC. 37.2. Section 54954.5 of the Government Code is amended to read:

54954.5. For purposes of describing closed session items pursuant to Section 54954.2, the agenda may describe closed sessions as provided below. No legislative body or elected official shall be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to Section 54956.7:

LICENSE/PERMIT DETERMINATION

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators attending the closed session) (If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent))

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(c) With respect to every item of business to be discussed in closed session pursuant to Section 54956.9:

CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION

(Paragraph (1) of subdivision (d) of Section 54956.9)

Name of case: (Specify by reference to claimant's name, names of parties, case or claim numbers)

or

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: (Specify number of potential cases)

(In addition to the information noticed above, the agency may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to paragraphs (2) to (5), inclusive, of subdivision (e) of Section 54956.9.)

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

THREAT TO PUBLIC SERVICES OR FACILITIES

Consultation with: (Specify name of law enforcement agency and title of officer, or name of applicable agency representative and title)

PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)

PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:
CASE REVIEW/PLANNING

(No additional information is required in connection with a closed session to consider case review or planning.)

(h) With respect to every item of business to be discussed in closed session pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code:

REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

HEARINGS

Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

(i) With respect to every item of business to be discussed in closed session pursuant to Section 54956.86:

CHARGE OR COMPLAINT INVOLVING INFORMATION PROTECTED BY FEDERAL LAW

(No additional information is required in connection with a closed session to discuss a charge or complaint pursuant to Section 54956.86.)

(j) With respect to every item of business to be discussed in closed session pursuant to Section 54956.96:

CONFERENCE INVOLVING A JOINT POWERS AGENCY (Specify by name)

Discussion will concern: (Specify closed session description used by the joint powers agency)

Name of local agency representative on joint powers agency board: (Specify name)

(Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives.)

(k) With respect to every item of business to be discussed in closed session pursuant to Section 54956.75:

AUDIT BY CALIFORNIA STATE AUDITOR'S OFFICE

SEC. 37.3. Section 54954.5 of the Government Code is amended to read:

54954.5. For purposes of describing closed session items pursuant to Section 54954.2, except as required by subdivision (e) of Section 54954.2, the agenda may describe closed sessions as provided below. A legislative body or elected official shall not be in violation of Section 54954.2 or 54956 if the closed session items were described in substantial compliance with this section. Substantial compliance is satisfied by including the information provided below, irrespective of its format.

(a) With respect to a closed session held pursuant to Section 54956.7:
LICENSE/PERMIT DETERMINATION

Applicant(s): (Specify number of applicants)

(b) With respect to every item of business to be discussed in closed session pursuant to Section 54956.8:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (Specify street address, or if no street address, the parcel number or other unique reference, of the real property under negotiation)

Agency negotiator: (Specify names of negotiators attending the closed session) (If circumstances necessitate the absence of a specified negotiator, an agent or designee may participate in place of the absent negotiator so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Negotiating parties: (Specify name of party (not agent))

Under negotiation: (Specify whether instruction to negotiator will concern price, terms of payment, or both)

(c) With respect to every item of business to be discussed in closed session pursuant to Section 54956.9:

CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)

Name of case: (Specify by reference to claimant’s name, names of parties, case or claim numbers)

or

Case name unspecified: (Specify whether disclosure would jeopardize service of process or existing settlement negotiations)

CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956.9: (Specify number of potential cases)

(In addition to the information noticed above, the agency may be required to provide additional information on the agenda or in an oral statement prior to the closed session pursuant to paragraphs (2) to (5), inclusive, of subdivision (e) of Section 54956.9.)

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (Specify number of potential cases)

(d) With respect to every item of business to be discussed in closed session pursuant to Section 54956.95:

LIABILITY CLAIMS

Claimant: (Specify name unless unspecified pursuant to Section 54961)

Agency claimed against: (Specify name)

(e) With respect to every item of business to be discussed in closed session pursuant to Section 54957:

PUBLIC EMPLOYEE APPOINTMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYMENT

Title: (Specify description of position to be filled)

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Title: (Specify position title of employee being reviewed)
PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

(No additional information is required in connection with a closed session to consider discipline, dismissal, or release of a public employee. Discipline includes potential reduction of compensation.)

(f) With respect to every item of business to be discussed in closed session pursuant to Section 54957.6:

CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: (Specify names of designated representatives attending the closed session) (If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.)

Employee organization: (Specify name of organization representing employee or employees in question)

or

Unrepresented employee: (Specify position title of unrepresented employee who is the subject of the negotiations)

(g) With respect to closed sessions called pursuant to Section 54957.8:

CASE REVIEW/PLANNING

(No additional information is required in connection with a closed session to consider case review or planning.)

(h) With respect to every item of business to be discussed in closed session pursuant to Sections 1461, 32106, and 32155 of the Health and Safety Code or Sections 37606 and 37624.3 of the Government Code:

REPORT INVOLVING TRADE SECRET

Discussion will concern: (Specify whether discussion will concern proposed new service, program, or facility)

Estimated date of public disclosure: (Specify month and year)

HEARINGS

Subject matter: (Specify whether testimony/deliberation will concern staff privileges, report of medical audit committee, or report of quality assurance committee)

(i) With respect to every item of business to be discussed in closed session pursuant to Section 54956.86:

CHARGE OR COMPLAINT INVOLVING INFORMATION PROTECTED BY FEDERAL LAW

(No additional information is required in connection with a closed session to discuss a charge or complaint pursuant to Section 54956.86.)

(j) With respect to every item of business to be discussed in closed session pursuant to Section 54956.96:

CONFERENCE INVOLVING A JOINT POWERS AGENCY (Specify by name)

Discussion will concern: (Specify closed session description used by the joint powers agency)

Name of local agency representative on joint powers agency board:
(Specify name)

(Additional information listing the names of agencies or titles of representatives attending the closed session as consultants or other representatives.)

(k) With respect to every item of business to be discussed in closed session pursuant to Section 54956.75:

AUDIT BY CALIFORNIA STATE AUDITOR'S OFFICE

SEC. 38. Section 130506 of the Health and Safety Code is amended to read:

130506. (a) The department shall negotiate drug discount agreements with manufacturers to provide discounts for single-source and multiple-source prescription drugs through the program. The department shall attempt to negotiate the maximum possible discount for an eligible Californian. The department shall attempt to negotiate, with each manufacturer, discounts to offer single-source prescription drugs under the program at a volume weighted average discount that is equal to or below any one of the following benchmark prices:

(1) Eighty-five percent of the average manufacturer price for a drug, as published by the federal Centers for Medicare and Medicaid Services.

(2) The lowest price provided to any nonpublic entity in the state by a manufacturer to the extent that the Medicaid best price exists under federal law.

(3) The Medicaid best price, to the extent that this price exists under federal law.

(b) The department may require the drug manufacturer to provide information that is reasonably necessary for the department to carry out its duties pursuant to this division.

(c) The department shall pursue manufacturer discount agreements to ensure that the number and type of drugs available through the program is sufficient to give an eligible Californian a formulary comparable to the Medi-Cal list of contract drugs, or if this information is available to the department, a formulary that is comparable to that provided to CalPERS enrollees.

(d) To obtain the most favorable discounts, the department may limit the number of drugs available through the program.

(e) The drug discount agreements negotiated pursuant to this section shall be used to reduce the cost of drugs purchased by program participants and to fund program costs pursuant to Section 130542.1.

(f) All information reported by a manufacturer to, negotiations with, and agreements executed with, the department or its third-party vendor pursuant to this section, shall be considered confidential and corporate proprietary information. This information shall not be subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). The California State Auditor's Office and the Controller shall have access to pricing information in a manner that is consistent with their access to this

information under the Medi-Cal program and under law. The California State Auditor's Office and the Controller may use this information only to investigate or audit the administration of the program. Neither the California State Auditor's Office, the Controller, nor the department may disclose this information in a form that identifies a specific manufacturer or wholesaler or prices charged for drugs of this manufacturer or wholesaler. Information provided to the department pursuant to subdivision (e) of Section 130530 shall not be affected by the confidentiality protections established by this subdivision.

(g) (1) Any pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code may participate in the program.

(2) Any manufacturer may participate in the program.

SEC. 39. Section 1872.83 of the Insurance Code is amended to read:

1872.83. (a) The commissioner shall ensure that the Fraud Division aggressively pursues all reported incidents of probable workers' compensation fraud, as defined in Sections 11760 and 11880, and in subdivision (a) of Section 1871.4, and in Section 549 of the Penal Code, and forwards to the appropriate disciplinary body the names, along with all supporting evidence, of any individuals licensed under the Business and Professions Code who are suspected of actively engaging in fraudulent activity. The Fraud Division shall forward to the Insurance Commissioner or the Director of Industrial Relations, as appropriate, the name, along with all supporting evidence, of any insurer, as defined in subdivision (c) of Section 1877.1, suspected of actively engaging in the fraudulent denial of claims.

(b) To fund increased investigation and prosecution of workers' compensation fraud, and of willful failure to secure payment of workers' compensation, in violation of Section 3700.5 of the Labor Code, there shall be an annual assessment as follows:

(1) The aggregate amount of the assessment shall be determined by the Fraud Assessment Commission, which is hereby established. The commission shall be composed of seven members consisting of two representatives of organized labor, two representatives of self-insured employers, one representative of insured employers, one representative of workers' compensation insurers, and the President of the State Compensation Insurance Fund, or his or her designee.

The Governor shall appoint members representing organized labor, self-insured employers, insured employers, and insurers. The term of office of members of the commission shall be four years, and a member shall hold office until the appointment of a successor. The President of the State Compensation Insurance Fund shall be an ex officio, voting member of the commission. Members of the commission shall receive one hundred dollars (\$100) for each day of actual attendance at commission meetings and other official commission business, and shall also receive their actual and necessary traveling expenses incurred in the performance of commission duties. Payment of per diem and travel expenses shall be made from the

Workers' Compensation Fraud Account in the Insurance Fund, established in paragraph (4), upon appropriation by the Legislature.

(2) In determining the aggregate amount of the assessment, the Fraud Assessment Commission shall consider the advice and recommendations of the Fraud Division and the commissioner.

(3) The aggregate amount of the assessment shall be collected by the Director of Industrial Relations pursuant to Section 62.6 of the Labor Code. The Fraud Assessment Commission shall annually advise the Director of Industrial Relations, not later than March 15, of the aggregate amount to be assessed for the next fiscal year.

(4) The amount collected, together with the fines collected for violations of the unlawful acts specified in Sections 1871.4, 11760, and 11880, Section 3700.5 of the Labor Code, and Section 549 of the Penal Code, shall be deposited in the Workers' Compensation Fraud Account in the Insurance Fund, which is hereby created, and may be used, upon appropriation by the Legislature, only for enhanced investigation and prosecution of workers' compensation fraud and of willful failure to secure payment of workers' compensation as provided in this section.

(c) For each fiscal year, the total amount of revenues derived from the assessment pursuant to subdivision (b) shall, together with amounts collected pursuant to fines imposed for unlawful acts described in Sections 1871.4, 11760, and 11880, Section 3700.5 of the Labor Code, and Section 549 of the Penal Code, not be less than three million dollars (\$3,000,000). Any funds appropriated by the Legislature pursuant to subdivision (b) that are not expended in the fiscal year for which they have been appropriated, and that have not been allocated under subdivision (f), shall be applied to satisfy for the immediately following fiscal year the minimum total amount required by this subdivision. In no case may that money be transferred to the General Fund.

(d) After incidental expenses, at least 40 percent of the funds to be used for the purposes of this section shall be provided to the Fraud Division of the Department of Insurance for enhanced investigative efforts, and at least 40 percent of the funds shall be distributed to district attorneys, pursuant to a determination by the commissioner with the advice and consent of the division and the Fraud Assessment Commission, as to the most effective distribution of moneys for purposes of the investigation and prosecution of workers' compensation fraud cases and cases relating to the willful failure to secure the payment of workers' compensation. Each district attorney seeking a portion of the funds shall submit to the commissioner an application setting forth in detail the proposed use of any funds provided. A district attorney receiving funds pursuant to this subdivision shall submit an annual report to the commissioner with respect to the success of his or her efforts. Upon receipt, the commissioner shall provide copies to the Fraud Division and the Fraud Assessment Commission of any application, annual report, or other documents with respect to the allocation of money pursuant to this subdivision. Both the application for moneys and the distribution of moneys shall be public documents. Information submitted to the

commissioner pursuant to this section concerning criminal investigations, whether active or inactive, shall be confidential.

(e) If a district attorney is determined by the commissioner to be unable or unwilling to investigate and prosecute workers' compensation fraud claims or claims relating to the willful failure to secure the payment of workers' compensation, the commissioner shall discontinue distribution of funds allocated for that county and may redistribute those funds according to this subdivision.

(1) The commissioner shall promptly determine whether any other county could assert jurisdiction to prosecute the fraud claims or claims relating to the willful failure to secure the payment of workers' compensation that would have been brought in the nonparticipating county, and if so, the commissioner may award funds to conduct the prosecutions redirected pursuant to this subdivision. These funds may be in addition to any other fraud prosecution funds or claims relating to the willful failure to secure the payment of workers' compensation prosecution otherwise awarded under this section. Any district attorney receiving funds pursuant to this subdivision shall first agree that the funds shall be used solely for investigating and prosecuting those cases of workers' compensation fraud or claims relating to the willful failure to secure the payment of workers' compensation that are redirected pursuant to this subdivision and submit an annual report to the commissioner with respect to the success of the district attorney's efforts. The commissioner shall keep the Fraud Assessment Commission fully informed of all reallocations of funds under this paragraph.

(2) If the commissioner determines that no district attorney is willing or able to investigate and prosecute the workers' compensation fraud claims or claims relating to the willful failure to secure the payment of workers' compensation arising in the nonparticipating county, the commissioner, with the advice and consent of the Fraud Assessment Commission, may award to the Attorney General some or all of the funds previously awarded to the nonparticipating county. Before the commissioner may award any funds, the Attorney General shall submit to the commissioner an application setting forth in detail his or her proposed use of any funds provided and agreeing that any funds awarded shall be used solely for investigating and prosecuting those cases of workers' compensation fraud or claims relating to the willful failure to secure the payment of workers' compensation that are redirected pursuant to this subdivision. The Attorney General shall submit an annual report to the commissioner with respect to the success of the fraud prosecution efforts of his or her office.

(3) Neither the Attorney General nor any district attorney shall be required to relinquish control of any investigation or prosecution undertaken pursuant to this subdivision unless the commissioner determines that satisfactory progress is no longer being made on the case or the case has been abandoned.

(4) A county that has become a nonparticipating county due to the inability or unwillingness of its district attorney to investigate and prosecute workers' compensation fraud or the willful failure to secure the payment of workers' compensation shall not become eligible to receive funding under

this section until it has submitted a new application that meets the requirements of subdivision (d) and the applicable regulations.

(f) If in any fiscal year the Fraud Division does not use all of the funds made available to it under subdivision (d), any remaining funds may be distributed to district attorneys pursuant to a determination by the commissioner in accordance with the same procedures set forth in subdivision (d).

(g) The commissioner shall adopt rules and regulations to implement this section in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Included in the rules and regulations shall be the criteria for redistributing funds to district attorneys and the Attorney General. The adoption of the rules and regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

(h) The department shall report to the Governor, the Legislature, to the committees of the Senate and Assembly having jurisdiction over insurance, and the Fraud Assessment Commission on the activities of the Fraud Division and district attorneys supported by the funds provided by this section in the annual report submitted pursuant to Section 12922.

The annual report shall include, but is not limited to, all of the following information for the department and each district attorney's office:

- (1) All allocations, distributions, and expenditures of funds.
- (2) The number of search warrants issued.
- (3) The number of arrests and prosecutions, and the aggregate number of parties involved in each.
- (4) The number of convictions and the names of all convicted fraud perpetrators.
- (5) The estimated value of all assets frozen, penalties assessed, and restitutions made for each conviction.
- (6) Any additional items necessary to fully inform the Fraud Assessment Commission and the Legislature of the fraud-fighting efforts financed through this section.

(i) In order to meet the requirements of subdivision (g), the department shall submit a biannual information request to those district attorneys who have applied for and received funding through the annual assessment process under this section.

(j) Assessments levied or collected to fight workers' compensation fraud and insurance fraud are not taxes. Those funds are entrusted to the state to fight fraud and the willful failure to secure the payment of workers' compensation by funding state and local investigation and prosecution efforts. Accordingly, any funds resulting from assessments, fees, penalties, fines, restitution, or recovery of costs of investigation and prosecution deposited in the Insurance Fund shall not be deemed "unexpended" funds for any purpose and, if remaining in that account at the end of any fiscal

year, shall be applied as provided in subdivision (f) and to offset or augment subsequent years' program funding.

(k) The California State Auditor's Office shall evaluate the effectiveness of the efforts of the Fraud Assessment Commission, the Fraud Division, the Department of Insurance, and the Department of Industrial Relations, as well as local law enforcement agencies, including district attorneys, in identifying, investigating, and prosecuting workers' compensation fraud and the willful failure to secure payment of workers' compensation. The report shall specifically identify areas of deficiencies. Included in this report shall be recommendations on whether the current program provides the appropriate levels of accountability for those responsible for the allocation and expenditure of funds raised from the assessment provided in this section. The California State Auditor's Office shall submit a report to the Chairperson of the Senate Committee on Labor and Industrial Relations and the Chairperson of the Assembly Committee on Insurance on or before May 1, 2004.

SEC. 40. Section 5024 of the Penal Code is amended to read:

5024. (a) The Legislature finds and declares that:

(1) State costs for purchasing drugs and medical supplies for the health care of offenders in state custody have grown rapidly in recent years and will amount to almost seventy-five million dollars (\$75,000,000) annually in the 1999–2000 fiscal year.

(2) The California State Auditor's Office found in a January 2000 audit report that the state could save millions of dollars annually by improving its current processes for the procurement of drugs for inmate health care and by pursuing alternative procurement methods.

(3) It is the intent of the Legislature that the Department of Corrections and Rehabilitation, in cooperation with the Department of General Services and other appropriate state agencies, take prompt action to adopt cost-effective reforms in its drug and medical supply procurement processes by establishing a program to obtain rebates from drug manufacturers, implementing alternative contracting and procurement reforms, or by some combination of these steps.

(b) (1) The Secretary of the Department of Corrections and Rehabilitation, pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) may adopt regulations requiring manufacturers of drugs to pay the department a rebate for the purchase of drugs for offenders in state custody that is at least equal to the rebate that would be applicable to the drug under Section 1927(c) of the federal Social Security Act (42 U.S.C. Sec. 1396r-8(c)). Any such regulation shall, at a minimum, specify the procedures for notifying drug manufacturers of the rebate requirements and for collecting rebate payments.

(2) If a rebate program is implemented, the secretary shall develop, maintain, and update as necessary a list of drugs to be provided under the rebate program, and establish a rate structure for reimbursement of each drug included in the rebate program. Rates shall not be less than the actual

cost of the drug. However, the secretary may purchase a listed drug directly from the manufacturer and negotiate the most favorable bulk price for that drug. In order to minimize state administrative costs and maximize state benefits for the rebate program, the secretary may establish a program that focuses upon obtaining rebates for those drugs that it determines are purchased by the department in relatively large volumes.

(3) If a rebate program is implemented, the department shall submit an invoice, not less than two times per year, to each manufacturer for the amount of the rebate required by this subdivision. Drugs may be removed from the list for failure to pay the rebate required by this subdivision, unless the department determines that purchase of the drug is a medical necessity or that purchase of the drug is necessary to comply with a court order to ensure the appropriate provision of quality health care to offenders in state custody.

(4) In order to minimize state administrative costs and maximize state benefits for such a rebate program, if one is implemented, the Department of Corrections and Rehabilitation may enter into interagency agreements with the Department of General Services, the State Department of Health Care Services, the State Department of State Hospitals, or the State Department of Developmental Services, the University of California, another appropriate state department, or with more than one of those entities, for joint participation in a rebate program, collection and monitoring of necessary drug price and rebate data, the billing of manufacturers for rebates, the resolution of any disputes over rebates, and any other services necessary for the cost-effective operation of the rebate program.

(5) The Department of Corrections and Rehabilitation, separately or in cooperation with other state agencies, may contract for the services of a pharmaceutical benefits manager for any services necessary for the cost-effective operation of the rebate program, if one is implemented, or for other services to improve the contracting and procurement of drugs and medical supplies for inmate health care.

(c) Nothing in this section shall prohibit the department, as an alternative to or in addition to establishing a rebate program for drugs for inmate health care, from implementing, in cooperation with the Department of General Services and other appropriate state agencies, other cost-effective strategies for procurement of drugs and medical supplies for offenders in state custody, including, but not limited to:

(1) Improvements in the existing statewide master agreement procedures for purchasing contract and noncontract drugs at a discount from drug manufacturers.

(2) Participation by offenders in state custody infected with human immunodeficiency virus (HIV), the etiologic agent of acquired immune deficiency syndrome (AIDS), in the AIDS Drug Assistance Program.

(3) Membership in the Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP) or other cooperative purchasing arrangements with other governmental entities.

(4) Greater centralization or standardization of procurement of drugs and medical supplies among individual prisons in the Department of Corrections and Rehabilitation prison system.

(d) The California State Auditor's Office shall report to the Legislature and the Governor by January 10, 2002, its findings in regard to:

(1) An evaluation of the trends in state costs for the procurement of drugs and medical supplies for offenders in state custody, and an assessment of the major factors affecting those trends.

(2) A summary of the steps taken by the Department of Corrections and Rehabilitation, the Department of General Services, and other appropriate state agencies to implement this section.

(3) An evaluation of the compliance by these state agencies with the findings and recommendations of the January 2000 California State Auditor's Office report for reform of procurement of drugs and medical supplies for offenders in state custody.

(4) Any further recommendations of the California State Auditor's Office for reform of state drug procurement practices, policies, or statutes.

SEC. 41. Section 71560 of the Public Resources Code is amended to read:

71560. (a) The endowment may receive charitable contributions or any sources of income that may be lawfully received, including loans from the state.

(b) The endowment shall administer any funds it receives in accordance with this division.

(c) (1) Except as provided in paragraph (2), the endowment shall invest and manage any funds it receives so that the investments shall provide a source of income in perpetuity and the principal amount consisting of charitable contributions and donations, including cost savings donated pursuant to Section 6618 of the Fish and Game Code, shall not be spent. Any returns on investments made by the endowment are the only funds that shall be available for expenditure by the endowment.

(2) Ten percent of any funds received by the endowment pursuant to Section 6618 of the Fish and Game Code in a calendar year shall be allocated by the endowment board, pursuant to Section 71552, as grants for projects or programs consistent with the purpose of this chapter within 24 months of receipt of the funds. The majority of these funds shall be granted to state agencies engaged in coastal and ocean protection.

(d) The endowment shall invest and manage any funds it receives in accordance with the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code).

(e) The accounts of the endowment shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants.

(f) The financial transactions of the endowment for any fiscal year may be audited by the California State Auditor's Office.

(g) Each recipient of assistance by grant, contract, or loan pursuant to this division shall keep records reasonably necessary to disclose fully the amount of the assistance, the disposition of the assistance, the total cost of the project or undertaking in connection with which the assistance is given or used, the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and other records that will facilitate an effective audit. Each recipient of a fixed price contract awarded pursuant to competitive bidding procedures is exempt from this subdivision.

(h) The endowment, or its authorized representative, and the California State Auditor's Office shall have access to any records necessary for the purpose of auditing and examining all funds received or expended by the recipients of assistance.

SEC. 42. Section 421 of the Public Utilities Code is amended to read:

421. (a) The commission shall annually determine a fee to be paid by every passenger stage corporation, charter-party carrier of passengers, pipeline corporation, for-hire vessel operator, common carrier vessel operator, railroad corporation, and commercial air operator, and every other common carrier and related business subject to the jurisdiction of the commission, except as otherwise provided in Article 3 (commencing with Section 431) of this chapter and Chapter 6 (commencing with Section 5001) of Division 2.

(b) The annual fee shall be established to produce a total amount equal to the amount established in the authorized commission budget for the same year, including adjustments appropriated by the Legislature and an appropriate reserve, to regulate common carriers and related businesses, less the amount to be paid from special accounts or funds pursuant to Section 403, reimbursements, federal funds, other revenues, and unencumbered funds from the preceding year.

(c) Notwithstanding any other provision of law, the fees paid by railroad corporations shall be used for state-funded railroad investigation and enforcement activities of the commission, other than the rail safety activities funded by the Transportation Planning and Development Account pursuant to Section 99315. The railroad fees shall be set annually at a level which generates not less than the amount sufficient to fund activities pursuant to Sections 765.5, 7711, and 7712.

(d) On January 1, 1992, the commission shall submit to the Legislature a detailed budget implementing this section for the 1992-93 fiscal year. The commission shall also submit to the Legislature by January 1, 1993, and on each January 1 thereafter, a detailed budget for expenditure of railroad corporation fees for the ensuing budget year. The budget for expenditure of railroad corporation fees, for each of the 1996-97 and 1997-98 fiscal years, shall not exceed the amount of three million dollars (\$3,000,000). Expenditures of this budget shall be limited to the following items:

(1) Expenditures for employees occupying, and actually performing service in, railroad-safety personnel positions that are directly involved in inspecting railroads and enforcing rail safety regulations. The commission shall expend the funds budgeted pursuant to this subdivision for the salaries,

per diem, and travel expenses of employees specified in this paragraph, unless, by statute, the commission is specifically prohibited from expending all or part of those funds.

(2) Expenditures for employees occupying, and actually performing service in, clerical and support staff positions that are directly associated with railroad-safety inspections.

(3) Expenditures for legal personnel who actually pursue violations of rail safety regulations beyond the informal complaint level.

(4) Expenditures for an audit by the California State Auditor's Office pursuant to subdivision (f), not to exceed seventy-five thousand dollars (\$75,000).

(5) Expenditures for the pro rata share of the commission's overhead costs while state personnel are actually occupying the positions, and are performing the duties specified in paragraphs (1) to (4), inclusive.

(e) The Department of Finance shall notify the Joint Legislative Budget Committee, pursuant to Section 28.00 of the annual Budget Act, prior to authorizing any change in the Budget Act appropriation for railroad corporation fees that is larger than one hundred thousand dollars (\$100,000), or 10 percent of the amount budgeted, whichever is less.

(f) Except as otherwise provided in this subdivision, commencing with the 1993-94 fiscal year, and in each subsequent fiscal year until the 1999-2000 fiscal year, the commission shall conduct an audit of the expenditure of the funds received pursuant to this section, except that for the 1996-97 fiscal year and fiscal years thereafter the audit shall be conducted by the California State Auditor's Office. The results of this audit shall be reported, in writing, commencing on or before February 15, 1995, with respect to the audit for the 1993-94 fiscal year, and on or before January 15 of each year thereafter, with respect to the audit for the fiscal year ending on the previous June 30, to the appropriate policy and budget committees of the respective houses of the Legislature. The commission shall reimburse the California State Auditor's Office for the costs of the audits beginning with the 1996-97 fiscal year.

(g) On or before January 1, 1994, the commission shall hire a minimum of four additional operating practices inspectors, exclusive of supervisory personnel, who are, or shall become by July 1, 1994, federally certified, for the purpose of enforcing compliance by railroads operating in this state with state and federal safety regulations.

(h) The commission, in performing its duties, shall limit the expenditure of funds for rail safety division purposes to those railroad corporation fees collected pursuant to subdivision (d). In no event, shall the commission fund railroad safety activities utilizing funds from other commission accounts unrelated to railroad safety.

SEC. 43. Section 80270 of the Water Code is amended to read:

80270. The California State Auditor's Office shall conduct a financial and performance audit of the department's implementation of this division. The audit shall be completed before December 31, 2001. The office shall issue a final report on or before March 31, 2003.

SEC. 44. No existing supplies, forms, insignias, signs, or logos shall be destroyed or changed as a result of changing the name of the Bureau of State Audits to the California State Auditor's Office or the name of the State Auditor to the California State Auditor, and those materials shall continue to be used until exhausted or unserviceable.

SEC. 45. (a) Section 37.1 of this bill incorporates amendments to Section 54954.5 of the Government Code proposed by both this bill and Assembly Bill 1736. It shall become operative only if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 54954.5 of the Government Code, (3) Assembly Bill 2690 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 1736, in which case Sections 37, 37.2, and 37.3 of this bill shall not become operative.

(b) Section 37.2 of this bill incorporates amendments to Section 54954.5 of the Government Code proposed by both this bill and Assembly Bill 2690. It shall become operative only if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 54954.5 of the Government Code, (3) Assembly Bill 1736 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 2690 in which case Sections 37, 37.1, and 37.3 of this bill shall not become operative.

(c) Section 37.3 of this bill incorporates amendments to Section 54954.5 of the Government Code proposed by this bill, Assembly Bill 1736, and Assembly Bill 2690. It shall become operative only if (1) all three bills are enacted and become effective on or before January 1, 2013, (2) all three bills amend Section 54954.5 of the Government Code, and (3) this bill is enacted after Assembly Bill 1736 and Assembly Bill 2690, in which case Sections 37, 37.1, and 37.2 of this bill shall not become operative.