

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 493

Introduced by Assembly Member Tran

February 24, 2009

~~An act to amend Section 401 of the Unemployment Insurance Code, relating to unemployment insurance.~~ *An act to amend Section 56.30 of the Civil Code, to amend Sections 1330, 68120.5, and 89529.15 of the Education Code, to amend Sections 6276.48, 8920, 11041, 11351, 11435.15, 11435.25, 11553, 11553.5, 11555, 11556, 12813, 19878, 20130, 21164, 21166, 21167, 21168, 21169, 21170, 21171, 21174, 21430, 21537, 21537.5, 21538, 21540, 21540.5, 21544, 22820, and 87406 of the Government Code, to amend Sections 6276 and 6869 of the Harbors and Navigation Code, to amend Section 18947 of the Health and Safety Code, to amend Sections 1063.1, 11659, 11698.1, and 11698.2 of the Insurance Code, to amend Sections 53, 96, 110, 111, 148, 148.1, 148.2, 3205.5, and 6101 of, to add Section 148.01 to, and to repeal Sections 112, 113, 115, and 116 of, the Labor Code, and to amend Section 401 of, to repeal Section 402 of, and to repeal and add the heading of Article 3 (commencing with Section 401) of Chapter 2 of Part 1 of Division 1 of, the Unemployment Insurance Code, relating to state government organization.*

LEGISLATIVE COUNSEL'S DIGEST

AB 493, as amended, Tran. ~~Unemployment Insurance~~ *Employment and Benefits Appeals Board.*

Existing law establishes in the Employment Development Department the Unemployment Insurance Appeals Board to review the decisions of administrative law judges regarding petitions for unemployment

insurance benefits. Existing law establishes within the Labor and Workforce Development Agency the California Occupational Safety and Health Appeals Board to conduct hearings when an employer served with a special order relating to occupational safety and health appeals that order, and also establishes the Workers' Compensation Appeals Board which has jurisdiction to determine workers' compensation claims of an employee for injuries sustained in the course of his or her employment.

This bill would abolish the Unemployment Insurance Appeals Board, the California Occupational Safety and Health Appeals Board, and the Workers' Compensation Appeals Board and transfer their duties to the Employment and Benefits Appeals Board, which this bill would create in the Labor and Workforce Development Agency. The bill would make conforming changes to existing law.

~~Existing law establishes the Unemployment Insurance Appeals Board in the Employment Development Department, and prescribes the membership, functions, and duties of the board.~~

~~This bill would make technical, nonsubstantive changes in those provisions governing the membership, functions, and duties of the board.~~

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

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

- 1 SECTION 1. Section 56.30 of the Civil Code is amended to
- 2 read:
- 3 56.30. The disclosure and use of the following medical
- 4 information shall not be subject to the limitations of this part:
- 5 (a) (Mental health and developmental disabilities) Information
- 6 and records obtained in the course of providing services under
- 7 Division 4 (commencing with Section 4000), Division 4.1
- 8 (commencing with Section 4400), Division 4.5 (commencing with
- 9 Section 4500), Division 5 (commencing with Section 5000),
- 10 Division 6 (commencing with Section 6000), or Division 7
- 11 (commencing with Section 7100) of the Welfare and Institutions
- 12 Code.
- 13 (b) (Public social services) Information and records that are
- 14 subject to Sections 10850, 14124.1, and 14124.2 of the Welfare
- 15 and Institutions Code.

1 (c) (State health services, communicable diseases, developmental
2 disabilities) Information and records maintained pursuant to former
3 Chapter 2 (commencing with Section 200) of Part 1 of Division 1
4 of the Health and Safety Code and pursuant to the Communicable
5 Disease Prevention and Control Act (subdivision (a) of Section
6 27 of the Health and Safety Code).

7 (d) (Licensing and statistics) Information and records maintained
8 pursuant to Division 2 (commencing with Section 1200) and Part
9 1 (commencing with Section 102100) of Division 102 of the Health
10 and Safety Code; pursuant to Chapter 3 (commencing with Section
11 1200) of Division 2 of the Business and Professions Code; and
12 pursuant to Section 8608, 8817, or 8909 of the Family Code.

13 (e) (Medical survey, workers' safety) Information and records
14 acquired and maintained or disclosed pursuant to Sections 1380
15 and 1382 of the Health and Safety Code and pursuant to Division
16 5 (commencing with Section 6300) of the Labor Code.

17 (f) (Industrial accidents) Information and records acquired,
18 maintained, or disclosed pursuant to Division 1 (commencing with
19 Section 50), Division 4 (commencing with Section 3200), Division
20 4.5 (commencing with Section 6100), and Division 4.7
21 (commencing with Section 6200) of the Labor Code.

22 (g) (Law enforcement) Information and records maintained by
23 a health facility which are sought by a law enforcement agency
24 under Chapter 3.5 (commencing with Section 1543) of Title 12 of
25 Part 2 of the Penal Code.

26 (h) (Investigations of employment accident or illness)
27 Information and records sought as part of an investigation of an
28 on-the-job accident or illness pursuant to Division 5 (commencing
29 with Section 6300) of the Labor Code or pursuant to Section
30 105200 of the Health and Safety Code.

31 (i) (Alcohol or drug abuse) Information and records subject to
32 the federal alcohol and drug abuse regulations (Part 2 (commencing
33 with Section 2.1) of subchapter A of Chapter 1 of Title 42 of the
34 Code of Federal Regulations) or to Section 11977 of the Health
35 and Safety Code dealing with narcotic and drug abuse.

36 (j) (Patient discharge data) Nothing in this part shall be construed
37 to limit, expand, or otherwise affect the authority of the California
38 Health Facilities Commission to collect patient discharge
39 information from health facilities.

1 (k) Medical information and records disclosed to, and their use
2 by, the Insurance Commissioner, the Director of the Department
3 of Managed Health Care, the Division of Industrial Accidents, the
4 ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board,
5 the Department of Insurance, or the Department of Managed Health
6 Care.

7 *SEC. 2. Section 1330 of the Education Code is amended to*
8 *read:*

9 1330. (a) ~~The Superintendent of Public Instruction or the Board~~
10 of Governors of the California Community Colleges, as
11 appropriate, shall represent, and exercise rights of appeal to the
12 ~~Unemployment Insurance~~ *Employment and Benefits* Appeals Board
13 under this part on behalf of school employers held under Section
14 1336 of the Unemployment Insurance Code.

15 (b) ~~The Superintendent of Public Instruction or Board of~~
16 Governors of the California Community Colleges is hereby
17 authorized to obtain pertinent personnel records and data from any
18 school employer and to act as an agent individually or collectively
19 for school employers in matters pertaining to unemployment
20 insurance.

21 (c) Each county superintendent of schools shall have the
22 responsibility of establishing, coordinating, and maintaining, either
23 directly or by contract, an unemployment insurance management
24 system for each school employer participating in the School
25 Employees Fund under Article 6 (commencing with Section 821)
26 of Chapter 3 of Part 1 of Division 1 of the Unemployment
27 Insurance Code. A management system shall include general
28 administration, claims management, appointment of hearing
29 representatives, representation of school employers at hearings,
30 and other duties related to the unemployment insurance program
31 in their jurisdiction. These duties and responsibilities may be
32 delegated to any school district, community college district, another
33 county superintendent of schools, or any combination of these
34 entities, including programs under joint powers agreements for
35 the purpose of consolidation for economy and employment of
36 specialists, including the services of a regional data center operated
37 by a county superintendent of schools or the data-processing
38 services of a school district or a community college district. School
39 employers not participating in the School Employees Fund shall
40 be responsible for the development and maintenance of their own

1 unemployment insurance management system required by this
2 subdivision.

3 (d) Each school employer shall perform pursuant to the type of
4 financing elected, and shall, as required, respond to the
5 Superintendent of ~~Public Instruction~~ or Board of Governors of the
6 California Community Colleges and the county superintendent of
7 schools or designated agency as soon as possible, in no case later
8 than 48 hours, to inquiries made on behalf of the county
9 superintendent or the Superintendent of ~~Public Instruction~~ or Board
10 of Governors of the California Community Colleges in reference
11 to any aspect of eligibility, notice of claim or appeal under the
12 unemployment insurance program. Each county superintendent or
13 agent thereof who is responsible for administering the
14 unemployment insurance program shall be responsible for timely
15 responses to any inquiry by the administrator, Superintendent of
16 ~~Public Instruction~~, State Treasurer, Controller, or other officer or
17 person responsible for disbursements from the School Employees
18 Fund in the State Treasury as established by Section 822 of the
19 Unemployment Insurance Code, or the Unemployment Fund in
20 the State Treasury. Any school employer ~~which~~ *that* fails to pay
21 the contributions, interest, charges or levies within the time
22 required shall be liable for interest on moneys due at the rate of 1
23 percent per month or fraction thereof from and after the date of
24 delinquency until paid. If the school employer fails, without good
25 cause, to pay any sums required within the time required, a penalty
26 of 10 percent of the amount noticed, billed or required shall be
27 made by the administrator. The administrator may for good cause
28 waive all or a portion of interest and penalty.

29 (e) The administrator of the School Employees Fund shall, from
30 available interest earnings, pursuant to investments authorized by
31 Section 822 of the Unemployment Insurance Code, transfer each
32 year an amount equal to two dollars (\$2) per covered employee
33 for all districts participating in the School Employees Fund under
34 Article 6 (commencing with Section 821) of Chapter 3 of Part 1
35 of Division 1 of the Unemployment Insurance Code, to the
36 Superintendent of ~~Public Instruction~~ or the Board of Governors of
37 the California Community Colleges, as appropriate. The
38 Superintendent of ~~Public Instruction~~ or the Board of Governors of
39 the California Community Colleges, as appropriate, shall apportion
40 the two dollars (\$2) per covered employee amount, less actual state

1 administrative costs not to exceed five cents (\$0.05) per covered
2 employee, to the county superintendent of schools to cover costs
3 of administering the unemployment insurance management system
4 specified in subdivision (c).

5 (f) For the fiscal year 1978–79, and each fiscal year thereafter,
6 the administrator of the School Employees Fund shall transfer the
7 funds by December 31 of each year based on the reports received
8 from the Superintendent of ~~Public Instruction~~ or Board of
9 Governors of the California Community Colleges by November
10 30 of each year. The reports shall be compiled from the number
11 of covered employees as reported by the county superintendent of
12 schools or community colleges, as appropriate, to the
13 Superintendent of ~~Public Instruction~~ or the Board of Governors of
14 the California Community Colleges by November 1 of each year,
15 based on the covered employees employed in the preceding
16 calendar month. The funds shall be apportioned by the
17 Superintendent of ~~Public Instruction~~ and the Board of Governors
18 of the California Community Colleges prior to January 31 of each
19 year to the county superintendent of schools, less the actual
20 administrative costs of the Superintendent of ~~Public Instruction~~ or
21 the Board of Governors of the California Community Colleges,
22 which shall not exceed an aggregate amount of five cents (\$0.05)
23 per covered employee. Funds for the cost of administering the
24 unemployment insurance management system shall be apportioned
25 to each county superintendent of schools according to the number
26 of covered employees in each district reported by him or her, and
27 shall be used only for the purpose of covering actual administrative
28 costs incurred pursuant to Section 1330.

29 *SEC. 3. Section 68120.5 of the Education Code is amended to*
30 *read:*

31 68120.5. Any determination of eligibility pursuant to Section
32 68120 shall be consistent with any findings of the ~~Workers'~~
33 ~~Compensation~~ *Employment and Benefits Appeals Board*, using the
34 same procedures as in workers' compensation hearings, as to
35 whether the death of the person described under subdivision (a)
36 of that section was industrial.

37 *SEC. 4. Section 89529.15 of the Education Code is amended*
38 *to read:*

39 89529.15. As used in this article:

40 (a) "Employee" means any of the following:

1 (1) A permanent or probationary full-time employee of the
2 trustees, regardless of period of service, who is a member of the
3 Public Employees' Retirement System or the State Teachers'
4 Retirement System in compensated employment on or after October
5 1, 1976.

6 (2) A permanent or probationary part-time or intermittent
7 employee of the trustees with at least the equivalent of six monthly
8 compensated pay periods of service in the 18 months of pay periods
9 immediately preceding the pay period in which the disability
10 begins, who is a member of the Public Employees' Retirement
11 System or the State Teachers' Retirement System in compensated
12 employment on or after January 1, 1979.

13 (3) In addition to those eligible under paragraph (1), an
14 employee of the trustees appointed half-time or more for one year
15 of service or one academic year, as defined by the trustees, or
16 more, who is a member of the Public Employees' Retirement
17 System or the State Teachers' Retirement System in compensated
18 employment on or after January 1, 1979.

19 (4) A permanent or probationary full-time employee of the
20 trustees, regardless of period of service, who is a participant in the
21 optional retirement program pursuant to Chapter 5.5 (commencing
22 with Section 89600), provided that he or she would otherwise be
23 eligible to participate in the Public Employees' Retirement System
24 except for the election to participate in the optional retirement
25 program.

26 (b) "Full pay" means the gross base salary earnable by the
27 employee and subject to retirement contribution on the date of the
28 commencement of his or her disability.

29 (c) "Disability" or "disabled" includes mental or physical illness
30 and mental or physical injury including any illness or injury
31 resulting from pregnancy, childbirth, or related medical condition.
32 An employee is deemed disabled on any day in which, because of
33 his or her physical, mental, or medical condition, he or she is
34 unable to perform his or her regular or customary work.

35 (d) "Disability benefit ~~period~~", *period*," with respect to any
36 individual, means the continuous period of disability beginning
37 with the first day with respect to which the individual files a valid
38 claim for nonindustrial disability benefits. For the purpose of this
39 article, two consecutive periods of disability due to the same or

1 related cause or condition and separated by a period of not more
2 than 14 days shall be considered as one disability benefit period.

3 (e) “Appeals board” means the ~~California Unemployment~~
4 ~~Insurance~~ *Employment and Benefits* Appeals Board.

5 SEC. 5. Section 6276.48 of the Government Code is amended
6 to read:

7 6276.48. Wards and dependent children, release of description
8 information about minor escapees, Section 828, Welfare and
9 Institutions Code.

10 Wards, petition for sealing records, Section 781, Welfare and
11 Institutions Code.

12 Welfare, statewide automated system work plan, confidentiality
13 of data on individuals, Section 10818, Welfare and Institutions
14 Code.

15 Wills, confidentiality of, Section 6389, Probate Code.

16 Winegrowers of California commission, confidentiality of
17 producers’ or vintners’ proprietary information, Sections 74655
18 and 74955, Food and Agricultural Code.

19 ~~Workers’ Compensation~~

20 *Employment and Benefits* Appeals Board, injury or illness report,
21 confidentiality of, Section 6412, Labor Code.

22 Workers’ compensation insurance, dividend payment to
23 policyholder, confidentiality of information, Section 11739,
24 Insurance Code.

25 Workers’ compensation insurance fraud reporting, confidentiality
26 of information, Sections 1877.3 and 1877.4, Insurance Code.

27 Workers’ compensation insurer or rating organization,
28 confidentiality of notice of noncompliance, Section 11754,
29 Insurance Code.

30 Workers’ compensation insurer, rating information,
31 confidentiality of, Section 11752.7, Insurance Code.

32 Workers’ compensation, notice to correct noncompliance,
33 Section 11754, Insurance Code.

34 Workers’ compensation, release of information to other
35 governmental agencies, Section 11752.5, Insurance Code.

36 Workers’ compensation, self-insured employers, confidentiality
37 of financial information, Section 3742, Labor Code.

38 Workplace inspection photographs, confidentiality of, Section
39 6314, Labor Code.

1 Youth Authority, parole revocation proceedings, confidentiality
2 of, Section 1767.6, Welfare and Institutions Code.

3 Youth Authority, release of information in possession of Youth
4 Authority for offenses under Sections 676, 1764.1, and 1764.2,
5 Welfare and Institutions Code.

6 Youth Authority, records, policies, and procedures, Section 1905,
7 Welfare and Institutions Code.

8 Youth Authority, records, disclosure, Section 1764, Welfare and
9 Institutions Code.

10 Youth Authority parolee, disclosure of personal information in
11 revocation proceedings, Section 1767.6, Welfare and Institutions
12 Code.

13 Youth service bureau, confidentiality of client records, Section
14 1905, Welfare and Institutions Code.

15 *SEC. 6. Section 8920 of the Government Code is amended to*
16 *read:*

17 8920. (a) No Member of the Legislature, state elective or
18 appointive officer, or judge or justice shall, while serving as such,
19 have any interest, financial or otherwise, direct or indirect, or
20 engage in any business or transaction or professional activity, or
21 incur any obligation of any nature, which is in substantial conflict
22 with the proper discharge of his duties in the public interest and
23 of his responsibilities as prescribed in the laws of this state.

24 (b) No Member of the Legislature shall do any of the following:

25 (1) Accept other employment which he *or she* has reason to
26 believe will either impair his *or her* independence of judgment as
27 to his *or her* official duties or require him *or her*, or induce him
28 *or her*, to disclose confidential information acquired by him *or*
29 *her* in the course of and by reason of his *or her* official duties.

30 (2) Willfully and knowingly disclose, for pecuniary gain, to any
31 other person, confidential information acquired by him *or her* in
32 the course of and by reason of his *or her* official duties or use any
33 such information for the purpose of pecuniary gain.

34 (3) Accept or agree to accept, or be in partnership with any
35 person who accepts or agrees to accept, any employment, fee, or
36 other thing of monetary value, or portion thereof, in consideration
37 of his *or her* appearing, agreeing to appear, or taking any other
38 action on behalf of another person before any state board or agency.

39 This subdivision shall not be construed to prohibit a member
40 who is an attorney at law from practicing in that capacity before

1 any court or before the ~~Workers' Compensation~~ *Employment and*
2 *Benefits Appeals Board* and receiving compensation therefor. This
3 subdivision shall not act to prohibit a member from acting as an
4 advocate without compensation or making inquiry for information
5 on behalf of a constituent before a state board or agency, or from
6 engaging in activities on behalf of another which require purely
7 ministerial acts by the board or agency and which in no way require
8 the board or agency to exercise any discretion, or from engaging
9 in activities involving a board or agency which are strictly on his
10 or her own behalf. The prohibition contained in this subdivision
11 shall not apply to a partnership or firm of which the Member of
12 the Legislature is a member if the Member of the Legislature does
13 not share directly or indirectly in the fee, less any expenses
14 attributable to that fee, resulting from the transaction. The
15 prohibition contained in this subdivision as it read immediately
16 prior to January 1, 1983, shall not apply in connection with any
17 matter pending before any state board or agency on or before
18 January 2, 1967, if the affected Member of the Legislature was an
19 attorney of record or representative in the matter prior to January
20 2, 1967. The prohibition contained in this subdivision, as amended
21 and operative on January 1, 1983, shall not apply to any activity
22 of any Member in connection with a matter pending before any
23 state board or agency on January 1, 1983, which was not prohibited
24 by this section prior to that date, if the affected Member of the
25 Legislature was an attorney of record or representative in the matter
26 prior to January 1, 1983.

27 (4) Receive or agree to receive, directly or indirectly, any
28 compensation, reward, or gift from any source except the State of
29 California for any service, advice, assistance or other matter related
30 to the legislative process, except fees for speeches or published
31 works on legislative subjects and except, in connection therewith,
32 reimbursement of expenses for actual expenditures for travel and
33 reasonable subsistence for which no payment or reimbursement
34 is made by the State of California.

35 (5) Participate, by voting or any other action, on the floor of
36 either house, in committee, or elsewhere, in the passage or defeat
37 of legislation in which he has a personal interest, except as follows:

38 (i)

39 (A) If, on the vote for final passage by the house of which he
40 or she is a member, of the legislation in which he or she has a

1 personal interest, he *or she* first files a statement (which shall be
2 entered verbatim on the journal) stating in substance that he *or she*
3 has a personal interest in the legislation to be voted on and,
4 notwithstanding that interest, he *or she* is able to cast a fair and
5 objective vote on that legislation, he *or she* may cast his *or her*
6 vote without violating any provision of this article.

7 (ii)

8 (B) If the member believes that, because of his *or her* personal
9 interest, he *or she* should abstain from participating in the vote on
10 the legislation, he *or she* shall so advise the presiding officer prior
11 to the commencement of the vote and shall be excused from voting
12 on the legislation without any entry on the journal of the fact of
13 his *or her* personal interest. In the event a rule of the house
14 requiring that each member who is present vote aye or nay is
15 invoked, the presiding officer shall order the member excused
16 from compliance and shall order entered on the journal a simple
17 statement that the member was excused from voting on the
18 legislation pursuant to law.

19 The provisions of this section do not apply to persons who are
20 members of the state civil service as defined in Article VII of the
21 California Constitution.

22 *SEC. 7. Section 11041 of the Government Code is amended to*
23 *read:*

24 11041. (a) Sections 11042 and 11043 do not apply to the
25 Regents of the University of California, the Trustees of the
26 California State University, Legal Division of the Department of
27 Transportation, Division of Labor Standards Enforcement of the
28 Department of Industrial Relations, ~~Workers' Compensation~~
29 *Employment and Benefits* Appeals Board, Public Utilities
30 Commission, State Compensation Insurance Fund, Legislative
31 Counsel Bureau, Inheritance Tax Department, Secretary of State,
32 State Lands Commission, Alcoholic Beverage Control Appeals
33 Board (except when the board affirms the decision of the
34 Department of Alcoholic Beverage Control), State Department of
35 Education, and Treasurer with respect to bonds, nor to any other
36 state agency which, by law enacted after Chapter 213 of the
37 Statutes of 1933, is authorized to employ legal counsel.

38 (b) The Trustees of the California State University shall pay the
39 cost of employing legal counsel from their existing resources.

1 *SEC. 8. Section 11351 of the Government Code is amended to*
2 *read:*

3 11351. (a) Except as provided in subdivision (b), Article 5
4 (commencing with Section 11346), Article 6 (commencing with
5 Section 11349), Article 7 (commencing with Section 11349.7),
6 and Article 8 (commencing with Section 11350) shall not apply
7 to the Public Utilities Commission or the ~~Workers' Compensation~~
8 *Employment and Benefits Appeals Board*, and Article 3
9 (commencing with Section 11343) and Article 4 (commencing
10 with Section 11344) shall apply only to the rules of procedure of
11 these state agencies.

12 (b) The Public Utilities Commission and the ~~Workers'~~
13 ~~Compensation~~ *Employment and Benefits Appeals Board* shall
14 comply with paragraph (5) of subdivision (a) of Section 11346.4
15 with respect to regulations that are required to be filed with the
16 Secretary of State pursuant to Section 11343.

17 (c) Article 8 (commencing with Section 11350) shall not apply
18 to the Division of Workers' Compensation.

19 *SEC. 9. Section 11435.15 of the Government Code is amended*
20 *to read:*

21 11435.15. (a) The following state agencies shall provide
22 language assistance in adjudicative proceedings to the extent
23 provided in this article:

24 Agricultural Labor Relations Board
25 Department of Alcohol and Drug Abuse
26 State Athletic Commission
27 ~~California Unemployment Insurance~~
28 *Employment and Benefits Appeals Board*
29 ~~Board of Prison Terms Parole Hearings~~
30 State Board of Barbering and Cosmetology
31 State Department of Developmental Services
32 Public Employment Relations Board
33 Franchise Tax Board
34 State Department of ~~Health Services~~ *Public Health*
35 Department of Housing and Community Development
36 Department of Industrial Relations
37 State Department of Mental Health
38 Department of Motor Vehicles
39 Notary Public Section, Office of the Secretary of State
40 Public Utilities Commission

1 Office of Statewide Health Planning and Development
2 State Department of Social Services
3 ~~Workers' Compensation Appeals Board~~
4 ~~Department of the Youth Authority~~
5 *Juvenile Justice Division of the Department of Corrections and*
6 *Rehabilitation*

7 Youthful Offender Parole Board
8 Department of Insurance
9 State Personnel Board

10 California Board of Podiatric Medicine
11 Board of Psychology

12 (b) Nothing in this section prevents an agency other than an
13 agency listed in subdivision (a) from electing to adopt any of the
14 procedures in this article, provided that any selection of an
15 interpreter is subject to Section 11435.30.

16 (c) Nothing in this section prohibits an agency from providing
17 an interpreter during a proceeding to which this chapter does not
18 apply, including an informal factfinding or informal investigatory
19 hearing.

20 (d) This article applies to an agency listed in subdivision (a)
21 notwithstanding a general provision that this chapter does not apply
22 to some or all of an agency's adjudicative proceedings.

23 *SEC. 10. Section 11435.25 of the Government Code is amended*
24 *to read:*

25 11435.25. (a) The cost of providing an interpreter under this
26 article shall be paid by the agency having jurisdiction over the
27 matter if the presiding officer so directs, otherwise by the party at
28 whose request the interpreter is provided.

29 (b) The presiding officer's decision to direct payment shall be
30 based upon an equitable consideration of all the circumstances in
31 each case, such as the ability of the party in need of the interpreter
32 to pay.

33 (c) Notwithstanding any other provision of this section, in a
34 hearing before the ~~Workers' Compensation Employment and~~
35 ~~Benefits Appeals Board~~ or the Division of Workers' Compensation
36 relating to workers' compensation claims, the payment of the costs
37 of providing an interpreter shall be governed by the rules and
38 regulations promulgated by the ~~Workers' Compensation~~
39 ~~Employment and Benefits Appeals Board~~ or the Administrative
40 Director of the Division of Workers' Compensation, as appropriate.

1 *SEC. 11. Section 11553 of the Government Code is amended*
2 *to read:*

3 11553. (a) Effective January 1, 1988, an annual salary of
4 eighty-one thousand six hundred thirty-five dollars (\$81,635) shall
5 be paid to each of the following:

6 ~~(1) Chairperson of the Unemployment Insurance Appeals Board.~~

7 ~~(2)~~

8 (1) Chairperson of the Agricultural Labor Relations Board.

9 ~~(3)~~

10 (2) President of the Public Utilities Commission.

11 ~~(4)~~

12 (3) Chairperson of the Fair Political Practices Commission.

13 ~~(5)~~

14 (4) Chairperson of the Energy Resources Conservation and
15 Development Commission.

16 ~~(6)~~

17 (5) Chairperson of the Public Employment Relations Board.

18 ~~(7) Chairperson of the Workers' Compensation Appeals Board.~~

19 ~~(8)~~

20 (6) Administrative Director of the Division of Industrial
21 Accidents.

22 ~~(9)~~

23 (7) Chairperson of the State Water Resources Control Board.

24 ~~(10)~~

25 (8) Chairperson and each member of the California Integrated
26 Waste Management Board.

27 (b) The annual compensation provided by this section shall be
28 increased in any fiscal year in which a general salary increase is
29 provided for state employees. The amount of the increase provided
30 by this section shall be comparable to, but shall not exceed, the
31 percentage of the general salary increases provided for state
32 employees during that fiscal year.

33 (c) Notwithstanding subdivision (b), any salary increase is
34 subject to Section 11565.5.

35 *SEC. 12. Section 11553.5 of the Government Code is amended*
36 *to read:*

37 11553.5. (a) Effective January 1, 1988, an annual salary of
38 seventy-nine thousand one hundred twenty-two dollars (\$79,122)
39 shall be paid to the following:

40 (1) Member of the Agricultural Labor Relations Board.

1 (2) Member of the State Energy Resources Conservation and
2 Development Commission.

3 (3) Member of the Public Utilities Commission.

4 (4) Member of the Public Employment Relations Board.

5 ~~(5) Member of the Unemployment Insurance Appeals Board.~~

6 ~~(6) Member of the Workers' Compensation Appeals Board.~~

7 ~~(7)~~

8 (5) Member of the State Water Resources Control Board.

9 (b) The annual compensation provided by this section shall be
10 increased in any fiscal year in which a general salary increase is
11 provided for state employees. The amount of the increase provided
12 by this section shall be comparable to, but shall not exceed, the
13 percentage of the general cost-of-living salary increases provided
14 for state employees during that fiscal year.

15 (c) Notwithstanding subdivision (b), any salary increase is
16 subject to Section 11565.5.

17 *SEC. 13. Section 11555 of the Government Code is amended*
18 *to read:*

19 11555. (a) Effective January 1, 1988, an annual salary of
20 seventy-one thousand five hundred eighty-seven dollars (\$71,587)
21 shall be paid to the following:

22 ~~(1) Chairperson~~ *chairperson* of the Board of Parole Hearings.

23 ~~(2) Chairperson of the Occupational Safety and Health Appeals~~
24 ~~Board.~~

25 (b) The annual compensation provided by this section shall be
26 increased in any fiscal year in which a general salary increase is
27 provided for state employees. The amount of the increase provided
28 by this section shall be comparable to, but shall not exceed, the
29 percentage of the general salary increases provided for state
30 employees during that fiscal year.

31 (c) Notwithstanding subdivision (b), any salary increase is
32 subject to Section 11565.5.

33 *SEC. 14. Section 11556 of the Government Code is amended*
34 *to read:*

35 11556. (a) Effective January 1, 1988, an annual salary of
36 sixty-nine thousand seventy-six dollars (\$69,076) shall be paid to
37 each of the following:

38 ~~(1) Commissioner~~ *a member* of the Board of Parole Hearings.

39 ~~(2) Member of the Occupational Safety and Health Appeals~~
40 ~~Board.~~

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

(c) Notwithstanding subdivision (b), any salary increase is subject to Section 11565.5.

SEC. 15. Section 12813 of the Government Code is amended to read:

12813. The Labor and Workforce Development Agency consists of the following:

(a) Office of the Secretary of Labor and Workforce Development.

(b) Agricultural Labor Relations Board.

(c) California Workforce Investment Board.

(d) Department of Industrial Relations, including the California Apprenticeship Council, ~~California Occupational Safety and Health Appeals Board~~, California Occupational Safety and Health Standards Board, Commission on Health and Safety and Workers' Compensation, Industrial Welfare Commission, and State Compensation Insurance Fund, ~~and Workers' Compensation Appeals Board~~.

(e) Employment Development Department, including ~~the California Unemployment Insurance Appeals Board~~, and the Employment Training Panel.

(f) *Employment and Benefits Appeals Board*.

SEC. 16. Section 19878 of the Government Code is amended to read:

19878. As used in this article:

(a) "Employee" means any of the following:

(1) A permanent or probationary full-time state officer or employee, regardless of period of service, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on and after October 1, 1976. Commencing January 1, 1979, it also means a full-time state officer or employee, whether or not a member of such systems, who is an employee of the Legislature and is not a member of the civil service.

(2) A permanent or probationary part-time or intermittent state officer or employee, with at least the equivalent of six monthly compensated pay periods of service in the 18 months of pay periods immediately preceding the pay period in which the disability begins, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System, in compensated employment on or after January 1, 1979, or a part-time or intermittent employee of the Legislature, whether or not a member of the Public Employees' Retirement System, in compensated employment on or after January 1, 1984.

(b) "Full pay" means the gross base salary earnable by the employee, and subject to retirement contribution on the date of the commencement of his or her disability.

(c) "Disability" or "disabled" includes mental or physical illness and mental or physical injury, including any illness or injury resulting from pregnancy, childbirth, or related medical condition. An employee is deemed disabled on any day in which, because of his or her physical, mental, or medical condition, he or she is unable to perform his or her regular or customary work.

(d) "Disability benefit-period", *period*," with respect to any individual, means the continuous period of disability beginning with the first day with respect to which the individual files a valid claim for nonindustrial disability benefits. For the purposes of this article, two consecutive periods of disability due to the same or related cause or condition and separated by a period of not more than 14 days shall be considered as one disability benefit period.

(e) "Appeals board" means the California—Unemployment Insurance Employment and Benefits Appeals Board.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 17. Section 20130 of the Government Code is amended to read:

20130. The board may enter into an agreement with the State Compensation Insurance Fund under which the latter shall represent this system, as its agent, or the Attorney General under which the

1 latter shall represent this system, in proceedings instituted or to be
2 instituted before the ~~Workers' Compensation~~ *Employment and*
3 *Benefits* Appeals Board as may be referred to it by the board to
4 determine whether the death or disability of a member is industrial.
5 The agreed cost of this service and the expenses incidental thereto
6 shall be paid from the retirement fund, except that there shall be
7 no charge to this system by the Attorney General in cases involving
8 members of this system who are employees of the General Fund
9 state agencies.

10 *SEC. 18. Section 21164 of the Government Code is amended*
11 *to read:*

12 21164. Notwithstanding any other provision of this article, the
13 retirement for disability of a local safety member, other than a
14 school safety member, shall not be effective without the member's
15 consent earlier than the date upon which leave of absence without
16 loss of salary under Section 4850 of the Labor Code because of
17 the disability terminates, or the earlier date during the leave as of
18 which the disability is permanent and stationary as found by the
19 ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board.

20 *SEC. 19. Section 21166 of the Government Code is amended*
21 *to read:*

22 21166. If a member is entitled to a different disability
23 retirement allowance according to whether the disability is
24 industrial or nonindustrial and the member claims that the disability
25 as found by the board, or in the case of a local safety member by
26 the governing body of his or her employer, is industrial and the
27 claim is disputed by the board, or in case of a local safety member
28 by the governing body, the ~~Workers' Compensation~~ *Employment*
29 *and Benefits* Appeals Board, using the same procedure as in
30 workers' compensation hearings, shall determine whether the
31 disability is industrial.

32 The jurisdiction of the ~~Workers' Compensation~~ *Employment*
33 *and Benefits* Appeals Board shall be limited solely to the issue of
34 industrial causation, and this section shall not be construed to
35 authorize the ~~Workers' Compensation~~ *Employment and Benefits*
36 Appeals Board to award costs against this system pursuant to
37 Section 4600, 5811, or any other provision of the Labor Code.

38 *SEC. 20. Section 21167 of the Government Code is amended*
39 *to read:*

1 21167. At any time within 20 days after the service of any
2 findings of fact by the ~~Workers' Compensation~~ *Employment and*
3 *Benefits* Appeals Board under this part, any party aggrieved
4 thereby, or the board, may petition for a rehearing upon one or
5 more of the following grounds, and no other:

6 (a) That the ~~Workers' Compensation~~ *Employment and Benefits*
7 Appeals Board acted without or in excess of its powers.

8 (b) That the findings of fact were procured by fraud.

9 (c) That the evidence does not justify the findings of fact.

10 (d) That the petitioner has discovered new evidence material to
11 him or her, that he or she could not, with reasonable diligence,
12 have discovered and produced at the hearing.

13 SEC. 21. *Section 21168 of the Government Code is amended*
14 *to read:*

15 21168. Within 30 days after the petition for rehearing is denied,
16 or, if the petition is granted, within 30 days after the rendition of
17 amended findings of fact on rehearing, any person affected thereby,
18 including this system, may apply to the Supreme Court or to the
19 court of appeal of the appellate district in which he or she resides,
20 for a writ of review, for the purpose of inquiring into and
21 determining the lawfulness of the findings of the ~~Workers'~~
22 ~~Compensation~~ *Employment and Benefits* Appeals Board.

23 SEC. 22. *Section 21169 of the Government Code is amended*
24 *to read:*

25 21169. The writ of review shall be made returnable not later
26 than 30 days after the date of issuance thereof, and shall direct the
27 ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board
28 to certify its record in the case to the court. On the return day the
29 cause shall be heard in the court unless continued for good cause.
30 No new or additional evidence shall be introduced in the court,
31 but the cause shall be heard on the record of the appeals board, as
32 certified to by it.

33 SEC. 23. *Section 21170 of the Government Code is amended*
34 *to read:*

35 21170. The review by the court shall not be extended further
36 than to determine whether the ~~Workers' Compensation~~ *Employment*
37 *and Benefits* Appeals Board acted without or in excess of its
38 powers, or unreasonably, or whether its act was procured by fraud.

39 SEC. 24. *Section 21171 of the Government Code is amended*
40 *to read:*

1 21171. ~~The Workers' Compensation~~ *Employment and Benefits*
2 Appeals Board shall have continuing jurisdiction over its
3 determinations made under Section 21166 and may at any time
4 within five years of the date of injury, upon notice and after an
5 opportunity to be heard is given to the parties in interest, rescind,
6 alter, or amend the determination, good cause appearing therefor.

7 SEC. 25. *Section 21174 of the Government Code is amended*
8 *to read:*

9 21174. If it is not claimed that the disability is industrial or if
10 the claim is made and the member so requests, the board shall
11 proceed with retirement and with the payment of the benefits as
12 are payable when disability is not industrial. If the ~~Workers'~~
13 ~~Compensation~~ *Employment and Benefits* Appeals Board
14 subsequently determines that disability is industrial, an amount
15 equal to the benefits paid shall be deducted from the benefits
16 payable under this system because of the determination. No
17 additional benefits shall be payable, however, because disability
18 is determined to be industrial unless the application for that
19 determination is filed with the ~~Workers' Compensation~~
20 *Employment and Benefits* Appeals Board or in the office of this
21 system in Sacramento, for transmission to the ~~Workers'~~
22 ~~Compensation~~ *Employment and Benefits* Appeals Board within
23 two years after the effective date of the member's retirement.

24 SEC. 26. *Section 21430 of the Government Code is amended*
25 *to read:*

26 21430. Upon retirement of a local safety member for industrial
27 disability, the member shall receive in lieu of the allowance
28 otherwise provided by this article a disability retirement allowance
29 in the amount of the percentage of final compensation equal to the
30 percentage of permanent disability determined by the ~~Workers'~~
31 ~~Compensation~~ *Employment and Benefits* Appeals Board for the
32 purposes of permanent disability payments pursuant to Article 3
33 (commencing with Section 4650) of Chapter 2 of Part 2 of the
34 Labor Code with respect solely to the injury resulting in the
35 disability retirement and giving effect to Section 4750 of the Labor
36 Code, but not less than 50 percent nor in excess of 90 percent of
37 the member's final compensation.

38 This section shall not apply to any contracting agency nor to the
39 employees of any contracting agency unless and until the agency
40 elects to be subject to the provisions of this section by amendment

1 to its contract made in the manner prescribed for approval of
2 contracts, or in the case of contracts made after June 14, 1975, by
3 express provision in such contract making the contracting agency
4 subject to the provisions of this section.

5 This section shall only apply to members who retire for disability
6 on and after the date the agency elects to be subject to this section.

7 *SEC. 27. Section 21537 of the Government Code is amended*
8 *to read:*

9 21537. (a) The special death benefit is payable if the deceased
10 was a patrol, state peace officer/firefighter, state safety, state
11 industrial, or local safety member, if his or her death was industrial
12 and if there is a survivor who qualifies under subdivision (b) of
13 Section 21541. The ~~Workers' Compensation~~ *Employment and*
14 *Benefits* Appeals Board, using the same procedures as in workers'
15 compensation hearings, shall in disputed cases determine whether
16 the death of a member was industrial.

17 (b) The jurisdiction of the ~~Workers' Compensation~~ *Employment*
18 *and Benefits* Appeals Board shall be limited solely to the issue of
19 industrial causation, and this section shall not be construed to
20 authorize the ~~Workers' Compensation~~ *Employment and Benefits*
21 Appeals Board to award costs against this system pursuant to
22 Section 4600, 5811, or any other provision of the Labor Code.

23 (c) This section does not apply to state safety members described
24 in Section 20401.5 or local safety members described in Section
25 20423.6.

26 *SEC. 28. Section 21537.5 of the Government Code is amended*
27 *to read:*

28 21537.5. (a) The special death benefit is payable if the
29 deceased was a state miscellaneous member in State Bargaining
30 Unit 12 employed by the Department of Transportation, if his or
31 her death occurred as a direct result of injury arising out of and in
32 the course of his or her official duties with the department working
33 on the California highway system performing highway
34 maintenance, and if there is a survivor who qualifies under
35 subdivision (b) of Section 21541. The ~~Workers' Compensation~~
36 *Employment and Benefits* Appeals Board, using the same
37 procedures as in workers' compensation hearings, shall in disputed
38 cases determine whether the death of the member occurred as a
39 result of that injury.

(b) The jurisdiction of the ~~Workers' Compensation Employment and Benefits~~ Appeals Board shall be limited solely to the issue of industrial causation, and this section may not be construed to authorize the ~~Workers' Compensation Employment Benefits~~ Appeals Board to award costs against this system pursuant to Section 4600, 5811, or any other provision of the Labor Code.

(c) This section shall not become operative unless and until a memorandum of understanding has been agreed to by the state employer and the recognized employee organization making this section applicable to those members described in subdivision (a).

SEC. 29. Section 21538 of the Government Code is amended to read:

21538. The special death benefit is also payable if the deceased was a state member appointed by the Governor, the Director of Corrections *and Rehabilitation*, or the Board of ~~Prison Terms Parole Hearings~~, if his or her death occurred as a result of injury or disease arising out of and in the course of his or her official duties within a state prison or facility of the Department of Corrections *and Rehabilitation*, and if there is a survivor who qualifies under subdivision (b) of Section 21541. The ~~Workers' Compensation Employment and Benefits~~ Appeals Board, using the same procedure as in workers' compensation hearings, shall in disputed cases determine whether the death of the member occurred as a result of the injury or disease.

The jurisdiction of the ~~Workers' Compensation Employment and Benefits~~ Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the ~~Workers' Compensation Employment and Benefits~~ Appeals Board to award costs against this system pursuant to Section 4600 or 5811 or any other provision of the Labor Code.

SEC. 30. Section 21540 of the Government Code is amended to read:

21540. The special death benefit is also payable if the deceased was the Secretary of the Youth and Adult Corrections Agency, or was a state member appointed by the Secretary of the Youth and Adult Corrections Agency, the Department of the Youth Authority, the Superintendent of the California Institution for Women, or the Women's Board of Terms and Paroles, the Board of Corrections, or was a member of the Board of Corrections or the Department of the Youth Authority not already classified as a prison member,

provided that his or her death occurred as a result of misconduct of an inmate of a state prison, correctional school, or facility of the Department of Corrections or the Department of the Youth Authority, *or any successor agency*, or a parolee therefrom.

The special death benefit provided by this section is not payable unless the death of the member arose out of and was in the course of his or her official duties and unless there is a survivor who qualifies under subdivision (b) of Section 21541. The ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board, using the same procedure as in workers' compensation hearings, shall, in disputed cases, determine whether the member's death arose out of and in the course of his or her official duties.

A natural parent of surviving children eligible to receive an allowance payable under this section shall not be required to become the guardian of surviving unmarried children under 18 years of age in order to be paid the benefits prescribed for those children.

The jurisdiction of the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board shall be limited solely to the issue of industrial causation, and this section shall not be construed to authorize the ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board to award costs against this system pursuant to Section 4600 or 5811 or any other provision of the Labor Code.

SEC. 31. Section 21540.5 of the Government Code is amended to read:

21540.5. (a) The special death benefit is also payable if the deceased was a state, school, or local miscellaneous member, a local safety member described in Section 20423.6, or a state safety member described in Section 20401.5, if the death of the member was a direct consequence of a violent act perpetrated on his or her person that arose out of and was in the course of his or her official duties and there is a survivor who qualifies under paragraph (2) of subdivision (a) of Section 21541. The ~~Workers' Compensation~~ *Employment and Benefits* Appeals Board, using the same procedure as in workers' compensation hearings, shall, in disputed cases determine whether the member's death was a direct consequence of a violent act perpetrated on his or her person that arose out of and in the course of his or her official duties.

(b) A natural parent of surviving children eligible to receive an allowance payable under this section is not required to become the

1 guardian of surviving unmarried children under 18 years of age in
2 order to be paid the benefits prescribed for those children.

3 (c) The jurisdiction of the ~~Workers' Compensation Employment~~
4 ~~and Benefits~~ Appeals Board shall be limited solely to the issue of
5 industrial causation, and this section may not be construed to
6 authorize the ~~Workers' Compensation Employment and Benefits~~
7 Appeals Board to award costs against this system pursuant to
8 Section 4600 or 5811 or any other provision of the Labor Code.

9 (d) This section does not apply to a contracting agency nor its
10 employees unless and until the agency elects to be subject to it by
11 amendment to its contract made in the manner prescribed for
12 approval of contracts, or in the case of a new contract, by express
13 provision of the contract.

14 *SEC. 32. Section 21544 of the Government Code is amended*
15 *to read:*

16 21544. Upon notice of a death as a result of which the special
17 death benefit may be payable, and when there is a survivor who
18 would qualify under subdivision (b) of Section 21541, the board,
19 or in disputed cases, the ~~Workers' Compensation Employment and~~
20 ~~Benefits~~ Appeals Board, shall determine whether the death was
21 industrial, and pending final determination of the issue, the board
22 shall temporarily pay special death benefits. The temporary
23 payments shall be deducted from any other death benefits otherwise
24 payable if the death is determined not to be industrial.

25 *SEC. 33. Section 22820 of the Government Code is amended*
26 *to read:*

27 22820. (a) Upon the death, on or after January 1, 2002, of a
28 firefighter employed by a county, city, city and county, district,
29 or other political subdivision of the state, a firefighter employed
30 by the Department of Forestry and Fire Protection, a firefighter
31 employed by the federal government who was a resident of this
32 state and whose regular duty assignment was to perform
33 firefighting services within this state, or a peace officer as defined
34 in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34,
35 830.35, 830.36, 830.37, 830.38, 830.39, 830.4, 830.5, 830.55, or
36 830.6 of the Penal Code, if the death occurred as a result of injury
37 or disease arising out of and in the course of his or her official
38 duties, the surviving spouse or other eligible family member of
39 the deceased firefighter or peace officer, if uninsured, is deemed
40 to be an annuitant under Section 22760 for purposes of enrollment.

1 All eligible family members of the deceased firefighter or peace
2 officer who are uninsured may enroll in a health benefit plan of
3 the surviving spouse's choice. However, an unmarried child of the
4 surviving spouse is not eligible to enroll in a health benefit plan
5 under this section if the child was not a family member under
6 Section 22775 and regulations pertinent thereto prior to the
7 firefighter's or peace officer's date of death. The employer of the
8 deceased firefighter or peace officer shall notify the board within
9 10 days of the death of the employee if a spouse or family member
10 may be eligible for enrollment in a health benefit plan under this
11 section.

12 (b) Upon notification, the board shall promptly determine
13 eligibility and shall forward to the eligible spouse or family
14 member the materials necessary for enrollment. In the event of a
15 dispute regarding whether a firefighter's or peace officer's death
16 occurred as a result of injury or disease arising out of and in the
17 course of his or her official duties as required under subdivision
18 (a), that dispute shall be determined by the ~~Workers' Compensation~~
19 *Employment and Benefits Appeals Board*, subject to the same
20 procedures and standards applicable to hearings relating to claims
21 for workers' compensation benefits. The jurisdiction of the
22 ~~Workers' Compensation~~ *Employment and Benefits Appeals Board*
23 under this section is limited to the sole issue of industrial causation
24 and this section does not authorize the ~~Workers' Compensation~~
25 *Employment and Benefits Appeals Board* to award costs against
26 the system.

27 (c) (1) Notwithstanding any other provision of law, and except
28 as otherwise provided in subdivision (d), the state shall pay the
29 employer contribution required for enrollment under this part for
30 the uninsured surviving spouse of a deceased firefighter or peace
31 officer for life, and the other uninsured eligible family members
32 of a deceased firefighter or peace officer, provided the family
33 member meets the eligibility requirements of Section 22775 and
34 regulations pertinent thereto.

35 (2) The contribution payable by the state for each uninsured
36 surviving spouse and other uninsured eligible family members
37 shall be adjusted annually and be equal to the amount specified in
38 Section 22871.

39 (3) The state's contribution under this section shall commence
40 on the effective date of enrollment of the uninsured surviving

1 spouse or other uninsured eligible family members. The
2 contribution of each surviving spouse and eligible family member
3 shall be the total cost per month of the benefit coverage afforded
4 him or her under the plan less the portion contributed by the state
5 pursuant to this section.

6 (d) The cancellation of coverage by an annuitant, as defined in
7 this section, shall be final without option to reenroll, unless
8 coverage is canceled because of enrollment in an insurance plan
9 from another source.

10 (e) For purposes of this section, “surviving spouse” means a
11 husband or wife who was married to the deceased firefighter or
12 peace officer on the deceased’s date of death and either for a
13 continuous period of at least one year prior to the date of death or
14 prior to the date the deceased firefighter or peace officer sustained
15 the injury or disease resulting in death.

16 (f) For purposes of this section, “uninsured” means that the
17 surviving spouse is not enrolled in an employer-sponsored health
18 plan under which the employer contribution covers 100 percent
19 of the cost of health care premiums.

20 (g) The board has no duty to identify, locate, or notify any
21 surviving spouse or eligible family member who may be or may
22 become eligible for benefits under this section.

23 *SEC. 34. Section 87406 of the Government Code is amended*
24 *to read:*

25 87406. (a) This section shall be known, and may be cited, as
26 the Milton Marks Postgovernment Employment Restrictions Act
27 of 1990.

28 (b) No Member of the Legislature, for a period of one year after
29 leaving office, shall, for compensation, act as agent or attorney
30 for, or otherwise represent, any other person by making any formal
31 or informal appearance, or by making any oral or written
32 communication, before the Legislature, any committee or
33 subcommittee thereof, any present Member of the Legislature, or
34 any officer or employee thereof, if the appearance or
35 communication is made for the purpose of influencing legislative
36 action.

37 (c) No elected state officer, other than a Member of the
38 Legislature, for a period of one year after leaving office, shall, for
39 compensation, act as agent or attorney for, or otherwise represent,
40 any other person by making any formal or informal appearance,

or by making any oral or written communication, before any state administrative agency, or any officer or employee thereof, if the appearance or communication is for the purpose of influencing administrative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this subdivision, an appearance before a “state administrative agency” does not include an appearance in a court of law, before an administrative law judge, or before the ~~Workers’ Compensation~~ *Employment and Benefits* Appeals Board.

(d) (1) No designated employee of a state administrative agency, any officer, employee, or consultant of a state administrative agency who holds a position which entails the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest, and no member of a state administrative agency, for a period of one year after leaving office or employment, shall, for compensation, act as agent or attorney for, or otherwise represent, any other person, by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or officer or employee thereof, for which he or she worked or represented during the 12 months before leaving office or employment, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this paragraph, an appearance before a state administrative agency does not include an appearance in a court of law, before an administrative law judge, or before the ~~Workers’ Compensation~~ *Employment and Benefits* Appeals Board. The prohibition of this paragraph shall only apply to designated employees employed by a state administrative agency on or after January 7, 1991.

(2) For purposes of paragraph (1), a state administrative agency of a designated employee of the Governor’s office includes any state administrative agency subject to the direction and control of the Governor.

(e) The prohibitions contained in subdivisions (b), (c), and (d) shall not apply to any individual subject to this section who is or becomes any of the following:

(1) An officer or employee of another state agency, board, or commission if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the state agency, board, or commission.

(2) An official holding an elective office of a local government agency if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the local government agency.

(f) This section shall become operative on January 1, 1991, but only if Senate Constitutional Amendment No. 32 of the 1989–90 Regular Session is approved by the voters. With respect to Members of the Legislature whose current term of office on January 1, 1991, began in December 1988, this section shall not apply until January 1, 1993.

SEC. 35. Section 6276 of the Harbors and Navigation Code is amended to read:

6276. (a) In lieu of the benefits afforded pursuant to Division 4 (commencing with Section 3200) and Division 4.7 (commencing with Section 6200) of the Labor Code, the district may agree to provide workers' compensation benefits to its stevedore employees in amounts, and under ~~such~~ conditions, ~~as that~~ would be payable to stevedore employees of private employers pursuant to the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901; et seq.).

(b) ~~Such an~~ The agreement shall be binding upon the parties only if it is in writing and signed by the employee and by a representative of the district. It shall acknowledge, in writing, that the benefits agreed upon are authorized by this section and are expressly in lieu of any benefits available under Division 4 (commencing with Section 3200) and Division 4.7 (commencing with Section 6200) of the Labor Code.

(c) All claims for benefits against the district ~~which that~~ are authorized by this section shall be determined pursuant to law and the rules and regulations of the ~~Workers' Compensation Employment and Benefits Appeals Board~~. To the fullest extent possible, the ~~Workers' Compensation Employment and Benefits Appeals Board~~ shall attempt to apply the Longshoremen's and

Harbor Workers' Compensation Act to employees covered by this section in the same manner as applicable to private employees.

(d) Notwithstanding the provisions of Sections 11779 and 11870 of the Insurance Code or any other provision of law, the State Compensation Insurance Fund or any private insurer may provide insurance coverage for the benefits authorized by this section.

SEC. 36. Section 6869 of the Harbors and Navigation Code is amended to read:

6869. (a) In lieu of the benefits afforded pursuant to Division 4 (commencing with Section 3200) and Division 4.7 (commencing with Section 6200) of the Labor Code, the district may agree to provide workers' compensation benefits to its stevedore employees in amounts, and under ~~such~~ conditions, ~~as that~~ would be payable to stevedore employees of private employers pursuant to the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901; et seq.).

(b) ~~Such an~~ The agreement shall be binding upon the parties only if it is in writing and signed by the employee and by a representative of the district. It shall acknowledge, in writing, that the benefits agreed upon are authorized by this section and are expressly in lieu of any benefits available under Division 4 (commencing with Section 3200) and Division 4.7 (commencing with Section 6200) of the Labor Code.

(c) All claims for benefits against the district ~~which~~ that are authorized by this section shall be determined pursuant to law and the rules and regulations of the ~~Workers' Compensation Employment and Benefits Appeals Board~~. To the fullest extent possible, the ~~Workers' Compensation Employment and Benefits Appeals Board~~ shall attempt to apply the Longshoremen's and Harbor Workers' Compensation Act to employees covered by this section in the same manner as applicable to private employees.

(d) Notwithstanding the provisions of Section 11779 of the Insurance Code or any other provision of law, the State Compensation Insurance Fund may provide insurance coverage for the benefits authorized by this section.

SEC. 37. Section 18947 of the Health and Safety Code is amended to read:

18947. Where the appeal issue results from the enforcement of a standard for occupational safety and health by an inspector of the Division of Occupational Safety and Health of the Department

1 of Industrial Relations, the employer shall appeal directly to the
2 ~~Occupational Safety and Health~~ *Employment and Benefits* Appeals
3 Board, and the appeal shall be conducted pursuant to the provisions
4 of Chapter 7 (commencing with Section 6600) of Part 1 of Division
5 5 of the Labor Code. Such an appeal, if sent to the commission in
6 error, shall be forwarded immediately to the ~~Occupational Safety~~
7 ~~and Health~~ *Employment and Benefits* Appeals Board. The date of
8 receipt of any such appeal by the commission shall be considered
9 the date of filing for purposes of meeting the filing time
10 requirements of Section 6600 of the Labor Code.

11 *SEC. 38. Section 1063.1 of the Insurance Code is amended to*
12 *read:*

13 1063.1. As used in this article:

14 (a) “Member insurer” means an insurer required to be a member
15 of the association in accordance with subdivision (a) of Section
16 1063, except and to the extent that the insurer is participating in
17 an insolvency program adopted by the United States government.

18 (b) “Insolvent insurer” means an insurer that was a member
19 insurer of the association, consistent with paragraph (11) of
20 subdivision (c), either at the time the policy was issued or when
21 the insured event occurred, and against which an order of
22 liquidation or receivership with a finding of insolvency has been
23 entered by a court of competent jurisdiction, or, in the case of the
24 State Compensation Insurance Fund, if a finding of insolvency is
25 made by a duly enacted legislative measure.

26 (c) (1) “Covered claims” means the obligations of an insolvent
27 insurer, including the obligation for unearned premiums, (A)
28 imposed by law and within the coverage of an insurance policy of
29 the insolvent insurer; (B) which were unpaid by the insolvent
30 insurer; (C) which are presented as a claim to the liquidator in this
31 state or to the association on or before the last date fixed for the
32 filing of claims in the domiciliary liquidating proceedings; (D)
33 which were incurred prior to the date coverage under the policy
34 terminated and prior to, on, or within 30 days after the date the
35 liquidator was appointed; (E) for which the assets of the insolvent
36 insurer are insufficient to discharge in full; (F) in the case of a
37 policy of workers’ compensation insurance, to provide workers’
38 compensation benefits under the workers’ compensation law of
39 this state; and (G) in the case of other classes of insurance if the
40 claimant or insured is a resident of this state at the time of the

insured occurrence, or the property from which the claim arises is permanently located in this state.

(2) “Covered claims” also include the obligations assumed by an assuming insurer from a ceding insurer where the assuming insurer subsequently becomes an insolvent insurer if, at the time of the insolvency of the assuming insurer, the ceding insurer is no longer admitted to transact business in this state. Both the assuming insurer and the ceding insurer shall have been member insurers at the time the assumption was made. “Covered claims” under this paragraph shall be required to satisfy the requirements of subparagraphs (A) to (G), inclusive, of paragraph (1), except for the requirement that the claims be against policies of the insolvent insurer. The association shall have a right to recover any deposit, bond, or other assets that may have been required to be posted by the ceding company to the extent of covered claim payments and shall be subrogated to any rights the policyholders may have against the ceding insurer.

(3) “Covered claims” does not include obligations arising from the following:

- (A) Life, annuity, health, or disability insurance.
- (B) Mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks.
- (C) Fidelity or surety insurance including fidelity or surety bonds, or any other bonding obligations.
- (D) Credit insurance.
- (E) Title insurance.
- (F) Ocean marine insurance or ocean marine coverage under any insurance policy including claims arising from the following: the Jones Act (46 U.S.C. Sec. 688), the Longshore and Harbor Workers’ Compensation Act (33 U.S.C. Sec. 901 et seq.), or any other similar federal statutory enactment, or any endorsement or policy affording protection and indemnity coverage.
- (G) Any claims servicing agreement or insurance policy providing retroactive insurance of a known loss or losses, except a special excess workers’ compensation policy issued pursuant to subdivision (c) of Section 3702.8 of the Labor Code that covers all or any part of workers’ compensation liabilities of an employer that is issued, or was previously issued, a certificate of consent to self-insure pursuant to subdivision (b) of Section 3700 of the Labor Code.

(4) “Covered claims” does not include any obligations of the insolvent insurer arising out of any reinsurance contracts, nor any obligations incurred after the expiration date of the insurance policy or after the insurance policy has been replaced by the insured or canceled at the insured’s request, or after the insurance policy has been canceled by the association as provided in this chapter, or after the insurance policy has been canceled by the liquidator, nor any obligations to any state or to the federal government.

(5) “Covered claims” does not include any obligations to insurers, insurance pools, or underwriting associations, nor their claims for contribution, indemnity, or subrogation, equitable or otherwise, except as otherwise provided in this chapter.

An insurer, insurance pool, or underwriting association may not maintain, in its own name or in the name of its insured, any claim or legal action against the insured of the insolvent insurer for contribution, indemnity or by way of subrogation, except insofar as, and to the extent only, that the claim exceeds the policy limits of the insolvent insurer’s policy. In those claims or legal actions, the insured of the insolvent insurer is entitled to a credit or setoff in the amount of the policy limits of the insolvent insurer’s policy, or in the amount of the limits remaining, where those limits have been diminished by the payment of other claims.

(6) “Covered claims,” except in cases involving a claim for workers’ compensation benefits or for unearned premiums, does not include any claim in an amount of one hundred dollars (\$100) or less, nor that portion of any claim that is in excess of any applicable limits provided in the insurance policy issued by the insolvent insurer.

(7) “Covered claims” does not include that portion of any claim, other than a claim for workers’ compensation benefits, that is in excess of five hundred thousand dollars (\$500,000).

(8) “Covered claims” does not include any amount awarded as punitive or exemplary damages, nor any amount awarded by the ~~Workers’ Compensation~~ *Employment and Benefits* Appeals Board pursuant to Section 5814 or 5814.5 because payment of compensation was unreasonably delayed or refused by the insolvent insurer.

(9) “Covered claims” does not include (A) any claim to the extent it is covered by any other insurance of a class covered by this article available to the claimant or insured nor (B) any claim

1 by any person other than the original claimant under the insurance
2 policy in his or her own name, his or her assignee as the person
3 entitled thereto under a premium finance agreement as defined in
4 Section 673 and entered into prior to insolvency, his or her
5 executor, administrator, guardian or other personal representative
6 or trustee in bankruptcy and does not include any claim asserted
7 by an assignee or one claiming by right of subrogation, except as
8 otherwise provided in this chapter.

9 (10) "Covered claims" does not include any obligations arising
10 out of the issuance of an insurance policy written by the separate
11 division of the State Compensation Insurance Fund pursuant to
12 Sections 11802 and 11803.

13 (11) "Covered claims" does not include any obligations of the
14 insolvent insurer arising from any policy or contract of insurance
15 issued or renewed prior to the insolvent insurer's admission to
16 transact insurance in the State of California.

17 (12) "Covered claims" does not include surplus deposits of
18 subscribers as defined in Section 1374.1.

19 (13) "Covered claims" shall also include obligations arising
20 under an insurance policy written to indemnify a permissibly
21 self-insured employer pursuant to subdivision (b) or (c) of Section
22 3700 of the Labor Code for its liability to pay workers'
23 compensation benefits in excess of a specific or aggregate retention,
24 provided, however, that for purposes of this article, those claims
25 shall not be considered workers' compensation claims and therefore
26 are subject to the per claim limit in paragraph (7) and any payments
27 and expenses related thereto shall be allocated to category (c) for
28 claims other than workers' compensation, homeowners, and
29 automobile, as provided in Section 1063.5.

30 These provisions shall apply to obligations arising under any
31 policy as described herein issued to a permissibly self-insured
32 employer or group of self-insured employers pursuant to Section
33 3700 of the Labor Code and notwithstanding any other provision
34 of the Insurance Code, those obligations shall be governed by this
35 provision in the event that the Self-Insurers' Security Fund is
36 ordered to assume the liabilities of a permissibly self-insured
37 employer or group of self-insured employers pursuant to Section
38 3701.5 of the Labor Code. The provisions of this paragraph apply
39 only to insurance policies written to indemnify a permissibly
40 self-insured employer or group of self-insured employers under

1 subdivision (b) or (c) of Section 3700, for its liability to pay
2 workers' compensation benefits in excess of a specific or aggregate
3 retention, and this paragraph does not apply to special excess
4 workers' compensation insurance policies unless issued pursuant
5 to authority granted in subdivision (c) of Section 3702.8 of the
6 Labor Code, and as provided for in subparagraph (G) of paragraph
7 (3) of subdivision (c). In addition, this paragraph does not apply
8 to any claims servicing agreement or insurance policy providing
9 retroactive insurance of a known loss or losses as are excluded in
10 subparagraph (G) of paragraph (3) of subdivision (c).

11 Each permissibility self-insured employer or group of
12 self-insured employers, or the Self-Insurers' Security Fund, shall,
13 to the extent required by the Labor Code, be responsible for paying,
14 adjusting, and defending each claim arising under policies of
15 insurance covered under this section, unless the benefits paid on
16 a claim exceed the specific or aggregate retention, in which case.

17 (A) If the benefits paid on the claim exceed the specific or
18 aggregate retention, and the policy requires the insurer to defend
19 and adjust the claim, the California Insurance Guarantee
20 Association (CIGA) shall be solely responsible for adjusting and
21 defending the claim, and shall make all payments due under the
22 claim, subject to the limitations and exclusions of this article with
23 regards to covered claims. As to each claim subject to this
24 paragraph, notwithstanding any other provisions of the Insurance
25 Code or the Labor Code, and regardless of whether the amount
26 paid by CIGA is adequate to discharge a claim obligation, neither
27 the self-insured employer, group of employers, nor the
28 Self-Insurers' Security Fund, shall have any obligation to pay
29 benefits over and above the specific or aggregate retention, except
30 as provided in subdivision (c).

31 (B) If the benefits paid on the claim exceed the specific or
32 aggregate retention, and the policy does not require the insurer to
33 defend and adjust the claim, the permissibility self-insured
34 employer or group of self-insured employers, or the Self-Insurers'
35 Security Fund, shall not have any further payment obligations with
36 respect to the claim, but shall continue defending and adjusting
37 the claim, and shall have the right, but not the obligation, in any
38 proceeding to assert all applicable statutory limitations and
39 exclusions as contained in this article with regard to the covered
40 claim. CIGA shall have the right, but not the obligation, to

1 intervene in any proceeding where the self-insured employer, group
2 of self-insured employers, or the Self-Insurers' Security Fund is
3 defending any such claim and shall be permitted to raise the
4 appropriate statutory limitations and exclusions as contained in
5 this article with respect to covered claims. Regardless of whether
6 the self-insured employer or group of employers, or the
7 Self-Insurers' Security Fund, asserts the applicable statutory
8 limitations and exclusions, or whether CIGA intervenes in any
9 such proceeding, CIGA shall be solely responsible for paying all
10 benefits due on the claim, subject to the exclusions and limitations
11 of this article with respect to covered claims. As to each claim
12 subject to this paragraph, notwithstanding any other provision of
13 the Insurance Code or the Labor Code and regardless of whether
14 the amount paid by CIGA is adequate to discharge a claim
15 obligation, neither the self-insured employer, group of employers,
16 nor the Self-Insurers' Security Fund, shall have any obligation to
17 pay benefits over and above the specific or aggregate retention,
18 except as provided in this subdivision.

19 (d) In the event that the benefits paid on the covered claim
20 exceed the per claim limit in paragraph (7) of subdivision (c), the
21 responsibility for paying, adjusting, and defending the claim shall
22 be returned to the permissibly self-insured employer or group of
23 employers, or the Self-Insurers' Security Fund.

24 These provisions shall apply to all pending and future
25 insolvencies. For purposes of this paragraph, a pending insolvency
26 is one involving a company that is currently receiving benefits
27 from the guaranty association.

28 (e) "Admitted to transact insurance in this state" means an
29 insurer possessing a valid certificate of authority issued by the
30 department.

31 (f) "Affiliate" means a person who directly or indirectly, through
32 one or more intermediaries, controls, is controlled by, or is under
33 common control with an insolvent insurer on December 31 of the
34 year next preceding the date the insurer becomes an insolvent
35 insurer.

36 (g) "Control" means the possession, direct or indirect, of the
37 power to direct or cause the direction of the management and
38 policies of a person, whether through the ownership of voting
39 securities, by contract other than a commercial contract for goods
40 or nonmanagement services, or otherwise, unless the power is the

1 result of an official position with or corporate office held by the
2 person. Control is presumed to exist if any person, directly or
3 indirectly, owns, controls, holds with the power to vote, or holds
4 proxies representing, 10 percent or more of the voting securities
5 of any other person. This presumption may be rebutted by showing
6 that control does not in fact exist.

7 (h) “Claimant” means any insured making a first party claim or
8 any person instituting a liability claim; provided that no person
9 who is an affiliate of the insolvent insurer may be a claimant.

10 (i) “Ocean marine insurance” includes marine insurance as
11 defined in Section 103, except for inland marine insurance, as well
12 as any other form of insurance, regardless of the name, label, or
13 marketing designation of the insurance policy, that insures against
14 maritime perils or risks and other related perils or risks, which are
15 usually insured against by traditional marine insurance such as
16 hull and machinery, marine builders’ risks, and marine protection
17 and indemnity. Those perils and risks insured against include,
18 without limitation, loss, damage, or expense or legal liability of
19 the insured arising out of or incident to ownership, operation,
20 chartering, maintenance, use, repair, or construction of any vessel,
21 craft or instrumentality in use in ocean or inland waterways,
22 including liability of the insured for personal injury, illness, or
23 death for loss or damage to the property of the insured or another
24 person.

25 (j) “Unearned premium” means that portion of a premium as
26 calculated by the liquidator that had not been earned because of
27 the cancellation of the insolvent insurer’s policy and is that
28 premium remaining for the unexpired term of the insolvent
29 insurer’s policy. “Unearned premium” does not include any amount
30 sought as return of a premium under any policy providing
31 retroactive insurance of a known loss or return of a premium under
32 any retrospectively rated policy or a policy subject to a contingent
33 surcharge or any policy in which the final determination of the
34 premium cost is computed after expiration of the policy and is
35 calculated on the basis of actual loss experience during the policy
36 period.

37 *SEC. 39. Section 11659 of the Insurance Code is amended to*
38 *read:*

39 11659. ~~Such~~ This approved form of policy, limited pursuant
40 to Section 11657, shall not be otherwise limited except by

1 ~~indorsement~~ *endorsement* thereon in accordance with a form
2 prescribed by the commissioner or in accordance with rules adopted
3 by the commissioner. ~~Such indorsement~~ *The endorsement* form
4 shall not be subject to Section 11658. Before prescribing ~~such~~
5 ~~indorsement~~ *the endorsement* form or adopting ~~such a~~ rule, the
6 commissioner shall consult concerning it with the ~~Workers'~~
7 ~~Compensation~~ *Employment and Benefits* Appeals Board.

8 *SEC. 40. Section 11698.1 of the Insurance Code is amended*
9 *to read:*

10 11698.1. From time to time and in any event at or prior to the
11 time of the filing of his or her petition for discharge as receiver,
12 the commissioner shall do the following:

13 (a) File with the ~~Workers' Compensation~~ *Employment and*
14 *Benefits* Appeals Board an accounting of all trust funds received
15 and used from the proceeds of the deposit required pursuant to
16 Section 11691.

17 (b) File with the court an accounting of all funds received and
18 used as expenses from the general funds of the insurer.

19 *SEC. 41. Section 11698.2 of the Insurance Code is amended*
20 *to read:*

21 11698.2. If the commissioner enters into a reinsurance and
22 assumption agreement as provided in subdivision (a) of Section
23 11698.01, that agreement shall provide for all of the following:

24 (a) The reinsurance and assumption of all those obligations by
25 the reinsuring and assuming insurers.

26 (b) If there is more than one reinsurer the proportion of all those
27 obligations assumed by each reinsurer and a method for the actual
28 processing and payment of those obligations by the reinsurers or
29 their representatives.

30 (c) The reimbursement of the reinsuring and assuming insurers
31 from the deposit of the insurer in the delinquency proceeding. The
32 provision shall conform with Section 11698.21 and shall not be
33 effective unless approved by the ~~Workers' Compensation~~
34 *Employment and Benefits* Appeals Board.

35 (d) The amounts, if any, to be paid the reinsurers from the
36 general funds of the insurer. If the agreement provides that amounts
37 from the general funds of the insurer are to be paid to the reinsurers,
38 those payments shall be approved by the court where the
39 delinquency proceedings are pending.

(e) Any other matters as are necessary and proper to achieve the purposes of the reinsurance and assumption agreement.

SEC. 42. Section 53 of the Labor Code is amended to read:

53. Whenever in Section 1001 or in Part 1 (commencing with Section 11000) of Division 3 of Title 2 of the Government Code “head of the department” or similar designation occurs, the same shall, for the purposes of this code, mean the director, except that in respect to matters which by the express provisions of this code are committed to or retained under the jurisdiction of the Division of Workers’ Compensation, the State Compensation Insurance Fund, the Occupational Safety and Health Standards Board, ~~the Occupational Safety and Health Appeals Board~~, or the Industrial Welfare Commission the designation shall mean the Division of Workers’ Compensation, the Administrative Director of the Division of Workers’ Compensation, ~~the Workers’ Compensation Appeals Board~~, the State Compensation Insurance Fund, the Occupational Safety and Health Standards Board, ~~the Occupational Safety and Health Appeals Board~~, or the Industrial Welfare Commission, as the case may be.

SEC. 43. Section 96 of the Labor Code is amended to read:

96. The Labor Commissioner and his or her deputies and representatives authorized by him or her in writing shall, upon the filing of a claim therefor by an employee, or an employee representative authorized in writing by an employee, with the Labor Commissioner, take assignments of:

(a) Wage claims and incidental expense accounts and advances.

(b) Mechanics’ and other liens of employees.

(c) Claims based on “stop orders” for wages and on bonds for labor.

(d) Claims for damages for misrepresentations of conditions of employment.

(e) Claims for unreturned bond money of employees.

(f) Claims for penalties for nonpayment of wages.

(g) Claims for the return of workers’ tools in the illegal possession of another person.

(h) Claims for vacation pay, severance pay, or other compensation supplemental to a wage agreement.

(i) Awards for workers’ compensation benefits in which the ~~Workers’ Compensation~~ *Employment and Benefits* Appeals Board has found that the employer has failed to secure payment of

1 compensation and where the award remains unpaid more than 10
2 days after having become final.

3 (j) Claims for loss of wages as the result of discharge from
4 employment for the garnishment of wages.

5 (k) Claims for loss of wages as the result of demotion,
6 suspension, or discharge from employment for lawful conduct
7 occurring during nonworking hours away from the employer's
8 premises.

9 *SEC. 44. Section 110 of the Labor Code is amended to read:*

10 110. As used in this chapter:

11 (a) "Appeals board" means the ~~Workers' Compensation~~
12 ~~Employment and Benefits Appeals Board. The title of a member~~
13 ~~of the board is "commissioner."~~

14 (b) "Administrative director" means the Administrative Director
15 of the Division of Workers' Compensation.

16 (c) "Division" means the Division of Workers' Compensation.

17 (d) "Medical director" means the physician appointed by the
18 administrative director pursuant to Section 122.

19 (e) "Qualified medical evaluator" means physicians appointed
20 by the administrative director pursuant to Section 139.2.

21 (f) "Court administrator" means the administrator of the
22 workers' compensation adjudicatory process at the trial level.

23 *SEC. 45. Section 111 of the Labor Code is amended to read:*

24 111. (a) ~~The Workers' Compensation Appeals Board,~~
25 ~~consisting of seven members, shall exercise all judicial powers~~
26 ~~vested in it under this code. In all other respects, the~~ The Division
27 of Workers' Compensation is under the control of the
28 administrative director and, except as to those duties, powers,
29 jurisdiction, responsibilities, and purposes as are specifically vested
30 in the appeals board, the administrative director shall exercise the
31 powers of the head of a department within the meaning of Article
32 1 (commencing with Section 11150) of Chapter 2 of Part 1 of
33 Division 3 of Title 2 of the Government Code with respect to the
34 Division of Workers' Compensation which shall include
35 supervision of, and responsibility for, personnel, and the
36 coordination of the work of the division, except personnel of the
37 appeals board.

38 (b) The administrative director shall prepare and submit, on
39 March 1 of each year, a report to the Governor and the Legislature
40 covering the activities of the division during the prior year. The

1 report shall include recommendations for improvement and the
2 need, if any, for legislation to enhance the delivery of compensation
3 to injured workers. The report shall include data on penalties
4 imposed on employers or insurers due to delays in compensation
5 or notices, or both, by category of penalty imposed.

6 *SEC. 46. Section 112 of the Labor Code is repealed.*

7 ~~112. The members of the appeals board shall be appointed by~~
8 ~~the Governor with the advice and consent of the Senate. The term~~
9 ~~of office of the members appointed prior to January 1, 1990, shall~~
10 ~~be four years, and the term of office of members appointed on or~~
11 ~~after January 1, 1990, shall be six years and they shall hold office~~
12 ~~until the appointment and qualification of their successors.~~

13 ~~Five of the members of the appeals board shall be experienced~~
14 ~~attorneys at law admitted to practice in the State of California. The~~
15 ~~other two members need not be attorneys at law. All members~~
16 ~~shall be selected with due consideration of their judicial~~
17 ~~temperament and abilities. Each member shall receive the salary~~
18 ~~provided for by Chapter 6 (commencing with Section 11550) of~~
19 ~~Part 1 of Division 3 of Title 2 of the Government Code.~~

20 *SEC. 47. Section 113 of the Labor Code is repealed.*

21 ~~113. The Governor shall designate the chairman of the appeals~~
22 ~~board from the membership of the appeals board. The person so~~
23 ~~designated shall hold the office of chairman at the pleasure of the~~
24 ~~Governor.~~

25 ~~The chairman may designate in writing one of the other members~~
26 ~~of the appeals board to act as chairman during such time as he may~~
27 ~~be absent from the state on official business, on vacation, or absent~~
28 ~~due to illness.~~

29 *SEC. 48. Section 115 of the Labor Code is repealed.*

30 ~~115. Actions of the appeals board shall be taken by decision~~
31 ~~of a majority of the appeals board except as otherwise expressly~~
32 ~~provided.~~

33 ~~The chairman shall assign pending cases in which reconsideration~~
34 ~~is sought to any three members thereof for hearing, consideration~~
35 ~~and decision. Assignments by the chairman of members to such~~
36 ~~cases shall be rotated on a case-by-case basis with the composition~~
37 ~~of the members so assigned being varied and changed to assure~~
38 ~~that there shall never be a fixed and continued composition of~~
39 ~~members. Any such case assigned to any three members in which~~
40 ~~the finding, order, decision or award is made and filed by any two~~

1 or more of such members shall be the action of the appeals board
 2 unless reconsideration is had in accordance with the provisions of
 3 Article 1 (commencing with Section 5900), Chapter 7, Part 4,
 4 Division 4 of this code. Any case assigned to three members shall
 5 be heard and decided only by them, unless the matter has been
 6 reassigned by the chairman on a majority vote of the appeals board
 7 to the appeals board as a whole in order to achieve uniformity of
 8 decision, or in cases presenting novel issues.

9 *SEC. 49. Section 116 of the Labor Code is repealed.*

10 116. ~~The seal of the appeals board bearing the inscription~~
 11 ~~“Workers’ Compensation Appeals Board, Seal” shall be affixed~~
 12 ~~to all writs and authentications of copies of records and to such~~
 13 ~~other instruments as the appeals board directs.~~

14 *SEC. 50. Section 148 of the Labor Code is amended to read:*

15 148. (a) ~~There is in the Department of Industrial Relations the~~
 16 ~~Occupational Safety and Health Labor and Workforce Development~~
 17 ~~Agency, the Employment and Benefits Appeals Board, consisting~~
 18 ~~of three nine members appointed by the Governor, subject to the~~
 19 ~~approval of the Senate. One member shall be from the field of~~
 20 ~~management, one shall be from the field of labor and one member~~
 21 ~~shall be from the general public. The public member shall be~~
 22 ~~chosen from other than the fields of management and labor. Each~~
 23 ~~member of the appeals board shall devote his or her full time to~~
 24 ~~the performance of his or her duties.~~

25 (b) ~~The chairman chairperson~~ and each member of the appeals
 26 board shall receive the annual salary provided for by Chapter 6
 27 (commencing with Section 11550) of Part 1 of Division 3 of Title
 28 2 of the Government Code.

29 (c) The Governor shall designate the ~~chairman~~ chairperson of
 30 the appeals board from the membership of the appeals board. The
 31 person so designated shall hold the office of ~~chairman~~ chairperson
 32 at the pleasure of the Governor. The ~~chairman~~ chairperson shall
 33 designate a member of the appeals board to act as ~~chairman~~
 34 chairperson in his or her absence.

35 *SEC. 51. Section 148.01 is added to the Labor Code, to read:*

36 148.01. (a) *The Employment and Benefits Appeals Board*
 37 *succeeds to, and is vested with, all the duties, powers, purposes,*
 38 *responsibilities, and jurisdiction of the Occupational Safety and*
 39 *Health Appeals Board, the California Unemployment Insurance*
 40 *Appeals Board, and the Workers’ Compensation Appeals Board.*

(b) All officers and employees of the Occupational Safety and Health Appeals Board, the Unemployment Insurance Appeals Board, and the Workers' Compensation Appeals Board, who are serving in the state civil service, other than as temporary employees, shall be transferred to the Employment and Benefits Appeals Board. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by those persons as officers and employees of the Employment and Benefits Appeals Board, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

(c) The Employment and Benefits Appeals Board shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for the benefit or use of, the Occupational Safety and Health Appeals Board, the Unemployment Insurance Appeals Board, or the Workers' Compensation Appeals Board.

(d) (1) Any regulation or other action adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred by the act adding this subdivision shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is transferred.

(2) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred by the act adding this subdivision, shall abate by reason of the transfer of the program, duty, responsibility, or authorization under the act adding this subdivision.

(e) Any further reference in this chapter to the appeals board shall refer to the Employment and Benefits Appeals Board, except as indicated.

SEC. 52. Section 148.1 of the Labor Code is amended to read:

148.1. Each member of the appeals board shall serve ~~for a term of four years~~ at the pleasure of the Governor and until his or her

1 successor is appointed and qualifies. ~~The terms of the first three~~
 2 ~~members appointed to the appeals board shall expire on the second,~~
 3 ~~third, and fourth January 15th following the date of the appointment~~
 4 ~~of the first appointed member. A vacancy shall be filled by the~~
 5 ~~Governor, subject to the approval of the Senate by appointment~~
 6 ~~for the unexpired term.~~

7 *SEC. 53. Section 148.2 of the Labor Code is amended to read:*

8 148.2. The appeals board may employ necessary assistants,
 9 officers, experts, hearing officers, and such other employees as it
 10 deems necessary. All ~~such~~ personnel of the appeals board shall be
 11 under the supervision of the ~~chairman~~ *chairperson* of the appeals
 12 board or an executive officer to whom the ~~chairman~~ *chairperson*
 13 delegates ~~such~~ responsibility. All ~~such~~ personnel shall be appointed
 14 pursuant to the State Civil Service Act (Part 2 (commencing with
 15 Section 18500) of Division 5 of Title 2 of the Government Code),
 16 except for the one exempt deputy or employee allowed by
 17 subdivision (e) of Section 4 of Article ~~XXIV~~ *VII* of the California
 18 Constitution. The salaries of the hearing officers shall be fixed by
 19 the State Personnel Board at a rate comparable to that of other
 20 referees or hearing officers in state service whose duties and
 21 responsibilities are comparable, without regard to whether ~~such~~
 22 other positions have membership in the State Bar of California as
 23 a prerequisite to appointment.

24 *SEC. 54. Section 3205.5 of the Labor Code is amended to read:*

25 3205.5. “Appeals board” means the ~~Workers’ Compensation~~
 26 ~~Employment and Benefits Appeals Board of the Division of~~
 27 ~~Workers’ Compensation.~~

28 *SEC. 55. Section 6101 of the Labor Code is amended to read:*

29 6101. Unless the context otherwise requires, as used in this
 30 division:

31 (a) “State agency” means any agency, department, division,
 32 commission, board, bureau, officer, or other authority of the State
 33 of California.

34 (b) “Fund” means State Compensation Insurance Fund.

35 (c) “Appeals board” means the ~~Workers’ Compensation~~
 36 ~~Employment and Benefits Appeals Board.~~

37 *SEC. 56. The heading of Article 3 (commencing with Section*
 38 *401) of Chapter 2 of Part 1 of Division 1 of the Unemployment*
 39 *Insurance Code is repealed.*

1 Article 3. California Unemployment Insurance Appeals Board

2
3 SEC. 57. The heading of Article 3 (commencing with Section
4 401) is added to Chapter 2 of Part 1 of Division 1 of the
5 Unemployment Insurance Code, to read:

6
7 Article 3. Appeals Division

8
9 SEC. 58. Section 401 of the Unemployment Insurance Code is
10 amended to read:

11 401. There is in the department an Appeals Division consisting
12 of the ~~California Unemployment Insurance~~ *Employment and*
13 *Benefits* Appeals Board and its employees. ~~The appeals board~~
14 ~~consists of seven members. Five members shall be appointed by~~
15 ~~the Governor, subject to the approval of the Senate. One member~~
16 ~~shall be appointed by the Speaker of the Assembly, and one~~
17 ~~member shall be appointed by the Senate Rules Committee. Two~~
18 ~~of the members of the appeals board shall be attorneys at law~~
19 ~~admitted to practice in the State of California. The other members~~
20 ~~need not be attorneys. Each member of the board shall devote his~~
21 ~~full time to the performance of his duties. The chairman and each~~
22 ~~member of the board shall receive the annual salary provided for~~
23 ~~by Chapter 6 (commencing with Section 11550) of Part 1 of~~
24 ~~Division 3 of Title 2 of the Government Code. The Governor shall~~
25 ~~designate the chairman of the appeals board from the membership~~
26 ~~of the appeals board. The person so designated shall hold the office~~
27 ~~of chairman at the pleasure of the Governor. The chairman shall~~
28 ~~designate a member of the appeals board to act as chairman in his~~
29 ~~absence.~~

30 SEC. 59. Section 402 of the Unemployment Insurance Code is
31 repealed.

32 402. ~~Each member of the appeals board shall serve for a term~~
33 ~~of four years and until his successor is appointed and qualifies.~~
34 ~~The term of office of each member of the board appointed pursuant~~
35 ~~to the 1967 amendment to this section shall also be for four years;~~
36 ~~provided, however, that of the two board members first appointed~~
37 ~~pursuant to such amendments, one shall be appointed for a term~~
38 ~~which shall expire July 1, 1970, and one for a term which shall~~
39 ~~expire July 1, 1971.~~

1 ~~A vacancy shall be filled by the appointing power by~~
2 ~~appointment for the unexpired term. A vacancy filled by the~~
3 ~~Governor shall be subject to the approval of the Senate.~~

4 ~~SECTION 1. Section 401 of the Unemployment Insurance~~
5 ~~Code is amended to read:~~

6 ~~401. There is in the department an Appeals Division consisting~~
7 ~~of the California Unemployment Insurance Appeals Board and its~~
8 ~~employees. The appeals board consists of seven members. Five~~
9 ~~members shall be appointed by the Governor, subject to the~~
10 ~~approval of the Senate. One member shall be appointed by the~~
11 ~~Speaker of the Assembly, and one member shall be appointed by~~
12 ~~the Senate Committee on Rules. Two of the members of the appeals~~
13 ~~board shall be attorneys at law admitted to practice in the State of~~
14 ~~California. The other members need not be attorneys. Each member~~
15 ~~of the board shall devote his or her full time to the performance~~
16 ~~of his or her duties. The chairperson and each member of the board~~
17 ~~shall receive the annual salary provided for by Chapter 6~~
18 ~~(commencing with Section 11550) of Part 1 of Division 3 of Title~~
19 ~~2 of the Government Code. The Governor shall designate the~~
20 ~~chairperson of the appeals board from the membership of the~~
21 ~~appeals board. The person who is so designated shall hold the~~
22 ~~office of chairperson at the pleasure of the Governor. The~~
23 ~~chairperson shall designate a member of the appeals board to act~~
24 ~~as chairperson in his or her absence.~~