

ASSEMBLY BILL

No. 1658

**Introduced by Committee on Utilities and Commerce
(Wright (Chair), Pescetti (Vice Chair), Calderon,
Campbell, Cardenas, Frusetta, Mazzoni, Reyes, Vincent,
and Wesson)**

March 11, 1999

An act to amend Section 830.11 of the Penal Code, to amend Sections 308.5, 309.5, 309.6, 314.5, 421, 454, 454.2, 458, 459, 461.5, 486, 488, 491, 493, 494, 527, 530, 556, 559, 703, 728.5, 730, 732, 733, 740.8, 763, 765.5, 788, 853, 874, 882, 1701.1, 1904, 2881, 2881.1, 2889.8, 4006, 4007, 4021, 4458, 5001.5, 5002, 5003.2, 5009, 5012, 5102, 5109, 5112, 5113, 5133, 5191, 5259.5, 5326, 5328, 5329, 5331, 7531.5, 7711, and 9202 of, to add Sections 224.8, 248, 3950, and 5137 to, and to repeal Sections 3, 454.5, 457, 460, 461, 496, 526, 557, 706, 707, 731, 739.9, 746, 747, 763.1, 764, 765, 769, 769.5, 1823, 1824, 2851, 2882, 2882.5, 5195, 7532, 7532.5, 7902, and 7902.5 of, and to repeal Chapter 4 (commencing with Section 2739) of Part 2 of Division 1 of, the Public Utilities Code, and to amend Section 7232 of the Revenue and Taxation Code, and to amend Sections 34505.6, 34601, and 34622 of the Vehicle Code, relating to public utilities, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1658, as introduced, Committee on Utilities and Commerce. Public utilities.

(1) Existing law requires the Public Utilities Commission to prepare reports on a one-time basis to the Legislature on

various regulatory issues within the jurisdiction of the commission.

This bill would make legislative findings that the purposes of this bill are to eliminate obsolete provisions of the Public Utilities Code by eliminating reports that were required on a one-time basis and other obsolete provisions, to clarify existing law to reflect the internal reorganization of the Public Utilities Commission (the commission) and recent statutory enactments, to update the Public Utilities Code in light of regulatory changes mandated by state and federal laws, and to clarify the continuing authority of the commission.

(2) Existing law provides specified peace officer authority to persons employed by the Safety and Enforcement Division of the commission as investigators and investigator supervisors who are designated by the director of the division and approved by the commission.

This bill would provide this peace officer authority to persons employed as investigators or investigator supervisors of the Consumer Services Division or the Rail Safety and Carrier Division of the commission who are designated by the commission's executive director and approved by the commission.

(3) Existing provisions of the Public Utilities Code authorize the commission to regulate railroads. Federal law gives exclusive jurisdiction to the federal Surface Transportation Board to regulate rates, classifications, rules, and other specified activities over most intrastate railroad transportation.

This bill would make inapplicable any provision of the Public Utilities Act relating to railroad transportation that is in conflict with that federal law.

The bill would define 'network railroad transportation' to mean railroad transportation subject to the jurisdiction of the federal Surface Transportation Board pursuant to that federal law, and would amend various provisions of the Public Utilities Code to specify that they do not apply to 'network railroad transportation,' and would make related changes.

(4) Existing law provides for the Public Utilities Ratepayer Advocate Fund, but does not provide a source of funding for that fund.



This bill would require, in the annual Budget Act, that funds be transferred from the Public Utilities Commission Reimbursement Account to the Public Utilities Ratepayer Advocate Fund.

(5) Existing law requires the commission to annually determine a fee to be paid by railroad corporations for state funded railroad investigation and enforcement activities, as specified. Existing law limits the expenditure of the fees to specified activities relating to railroads and requires the commission to submit a detailed budget to the Legislature for those expenditures each fiscal year.

This bill would limit those expenditures to employees actually performing the specified services. The bill would include, until January 1, 2002, as a permissible expenditure, the pro rata share of the commission's overhead costs for rent, utilities, office furniture, office equipment, and office supplies in implementing the budgeted activities. The bill would require the commission to expend funds budgeted for the salaries, per diem, and travel expenses of railroad-safety personnel, as specified, unless, by statute, the commission is specifically prohibited from expending all or part of the funds.

(6) Existing law authorizes the commission to establish rates for public utilities regulated by the commission.

This bill would make specified changes in that authority and the procedures relating to setting rates and charges.

(7) Existing law permits the commission to exempt certain common carriers from California antitrust laws.

This bill would repeal that authority.

(8) Existing law requires commission approval for the transfer or encumbrance of public utility property, as specified.

This bill would exempt from commission approval the transfer of the ownership interest in a water utility with 10,000 or fewer service connections, when the transfer is from a decedent to a member of a decedent's family pursuant to probate, a will, trust, or other instrument.

(9) Existing law requires a written report of ex parte communication by a decisionmaker, as defined, and any party, irrespective of who initiated the communication, and

the filing with the commission of the original and 12 copies of the report.

This bill would delete the specified number of copies of the report to be filed, and require filing be in accordance with the procedures established by the commission for the serving of the notice.

(10) Existing provisions of law require the commission to periodically review and monitor the development and use of any operations model used by any public utility, as specified, and to verify, validate, and improve the production cost planning models and the financial planning models of public utilities to facilitate their use by the commission.

This bill would repeal these provisions, thereby making the review by the commission discretionary.

(11) Existing law requires the commission to design and implement a program whereby each telephone corporation is required to provide, as specified, telecommunication services capable of serving the needs of individuals who are deaf or hearing impaired.

This bill would authorize the commission to direct a telephone corporation to implement the program, rather than requiring the commission to direct each telephone corporation to implement the program.

(12) Existing law provides a fee of \$25 to be paid to the commission for the filing of the initial registration of private carriers of passengers, and an annual renewal fee of \$20. Existing law permits the commission to increase this amount to \$35 and \$30, respectively, which the commission has done.

This bill would increase the statutory fee amount to \$35 and \$30, respectively.

(13) Existing law requires the commission to establish a surcharge to cover the commission's cost of the propane safety inspection and enforcement program, as specified. Existing law requires these surcharges to be deposited into the Propane Safety Inspection and Enforcement Program Trust Fund, from which funds may only be expended upon appropriation.

This bill would continuously appropriate those funds, thereby making an appropriation.



(14) Existing law provides regulatory jurisdiction of household goods carriers by the commission, and defines that term.

This bill would exclude from that term a household goods carrier when the carrier is transporting used office, store, and institution furniture and fixtures and make related changes. The bill would permit, as specified, a household goods carrier to elect to transport these items under its household goods carrier permit by meeting specified conditions including paying a specified fee. The bill would provide that if the household goods carrier does not so elect or revokes a prior election, then the household goods carrier has to comply with the provisions of the Motor Carriers of Property Permit Act in the Vehicle Code.

(15) Existing law requires the commission and the State Energy Resources and Conservation and Development Commissions to participate in an annual meeting with representatives from specified public utilities and invited entities, as specified.

This bill would delete the commission from this provision.

(16) This bill would make clarifying and technical changes to specified provisions of the Public Utilities Code.

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

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

1 SECTION 1. The Legislature finds and declares all of
2 the following:

3 (a) The California Public Utilities Commission is
4 required to prepare and submit, on a one-time basis, a
5 number of reports concerning regulatory issues within
6 the jurisdiction of the commission and the commission has
7 prepared these reports as directed. In the interest of
8 eliminating obsolete provisions of the Public Utilities
9 Code, it is the intent of the Legislature that language
10 concerning these reports should be deleted from the
11 Public Utilities Code.

12 (b) Internal reorganization of the commission
13 resulting in name changes for many divisions of the

1 commission, together with recent reforms enacted by the
2 Legislature, require certain clarifications and corrections
3 of existing law.

4 (c) Regulatory changes mandated by state and federal
5 laws require conformance of various provisions of the
6 Public Utilities Code, including the repeal of provisions
7 rendered obsolete and the clarifications of continuing
8 commission authority. The repeal of a statute granting a
9 specific authority does not prohibit the commission from
10 providing the same or similar regulation pursuant to the
11 commission's constitutional and general statutory
12 authority.

13 SEC. 2. Section 830.11 of the Penal Code is amended
14 to read:

15 830.11. (a) The following persons are not peace
16 officers but may exercise the powers of arrest of a peace
17 officer as specified in Section 836 and the power to serve
18 warrants as specified in Sections 1523 and 1530 during the
19 course and within the scope of their employment, if they
20 receive a course in the exercise of those powers pursuant
21 to Section 832. The authority and powers of the persons
22 designated under this section shall extend to any place in
23 the state:

24 (1) Persons employed by the Department of Financial
25 Institutions designated by the Commissioner of Financial
26 Institutions, provided that the primary duty of these
27 persons shall be the enforcement of, and investigations
28 relating to, the provisions of law administered by the
29 Commissioner of Financial Institutions.

30 (2) Persons employed by the Department of Real
31 Estate designated by the Real Estate Commissioner,
32 provided that the primary duty of these persons shall be
33 the enforcement of the laws set forth in Part 1
34 (commencing with Section 10000) and Part 2
35 (commencing with Section 11000) of Division 4 of the
36 Business and Professions Code. The Real Estate
37 Commissioner may designate persons under this section,
38 who at the time of their designation, are assigned to the
39 Special Investigations Unit, internally known as the Crisis
40 Response Team.



(3) Persons employed by the State Lands Commission designated by the executive officer, provided that the primary duty of these persons shall be the enforcement of the law relating to the duties of the State Lands Commission.

(4) Persons employed as investigators of the Investigations Bureau of the Department of Insurance, who are designated by the Chief of the Investigations Bureau, provided that the primary duty of these persons shall be the enforcement of the Insurance Code and other laws relating to persons and businesses, licensed and unlicensed by the Department of Insurance, who are engaged in the business of insurance.

~~(5) Persons employed by the Safety and Enforcement as investigators and investigator supervisors of the Consumer Services Division or the Rail Safety and Carrier Division of the Public Utilities Commission who are designated by the Director of the Safety and Enforcement Division, commission's executive director~~ and approved by the commission, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 308.5 of the Public Utilities Code.

(b) Notwithstanding any other provision of law, persons designated pursuant to this section shall not carry firearms.

(c) Persons designated pursuant to this section shall be included as "peace officers of the state" under paragraph (2) of subdivision (c) of Section 11105 for the purpose of receiving state summary criminal history information and shall be furnished that information on the same basis as peace officers of the state designated in paragraph (2) of subdivision (c) of Section 11105.

SEC. 3. Section 3 of the Public Utilities Code is repealed.

~~3. All persons who, at the time this code takes effect, hold office under any of the acts repealed by this code, which offices are continued by this code, continue to hold them according to their former tenure.~~

1 SEC. 4. Section 224.8 is added to the Public Utilities
2 Code, to read:

3 224.8. “Network railroad transportation” means
4 railroad transportation that is subject to the jurisdiction
5 of the federal Surface Transportation Board pursuant to
6 subsection (a) or (b) of Section 10501 of Title 49 of the
7 United States Code.

8 SEC. 5. Section 248 is added to the Public Utilities
9 Code, to read:

10 248. Any provision of the Public Utilities Act that is in
11 conflict with the railroad provisions of Part A of Subtitle
12 4 of Title 49 of the United States Code shall be
13 inapplicable to railroad transportation to the extent of
14 that conflict. If any provision in the Public Utilities Act
15 applicable to railroad transportation, or the application
16 thereof to any person or circumstance, is in conflict with
17 Part A of Subtitle 4 of Title 49 of the United States Code,
18 the remainder of the act or the application of the
19 provision to other persons or circumstances shall be
20 unaffected to the extent no conflict exists.

21 SEC. 6. Section 308.5 of the Public Utilities Code is
22 amended to read:

23 308.5. Persons employed as investigators and
24 investigator supervisors of the *Consumer Services*
25 *Division or the Rail Safety and Enforcement Carrier*
26 *Division* of the commission who are designated by the
27 ~~Director of the Safety and Enforcement Division~~
28 *commission’s executive director* and approved by the
29 commission have the authority of peace officers, as
30 specified in paragraph (5) of subdivision (a) of Section
31 830.11 of the Penal Code, while engaged in exercising the
32 powers granted to or performing the duties imposed
33 upon them in investigating the laws administered by the
34 commission or commencing directly or indirectly any
35 criminal prosecution arising from any investigation
36 conducted under these laws. All persons herein referred
37 to shall be deemed to be acting within the scope of
38 employment with respect to all acts and matters set forth
39 in this section.

1 SEC. 7. Section 309.5 of the Public Utilities Code, as
2 added by Section 3 of Chapter 856 of the Statutes of 1996,
3 is amended to read:

4 309.5. (a) There is within the commission a division
5 to represent the interests of public utility customers and
6 subscribers in commission proceedings. The goal of the
7 division shall be to obtain the lowest possible rate for
8 service consistent with reliable and safe service levels.

9 (b) The director of the division shall be appointed by
10 and serve at the pleasure of the Governor, subject to
11 confirmation by the Senate. The director shall annually
12 appear before the appropriate policy committees of the
13 Assembly and the Senate to report on the activities of the
14 division.

15 (c) The commission shall, by rule or order, provide for
16 the assignment of personnel to, and the functioning of,
17 the division. The division may employ experts necessary
18 to carry out its functions. Personnel and resources shall be
19 provided to the division at a level sufficient to ensure that
20 customer and subscriber interests are fairly represented
21 in all significant proceedings.

22 (d) The commission shall develop appropriate
23 procedures to ensure that the existence of the division
24 does not create a conflict of roles for any employee or his
25 or her representative. The procedures shall include, but
26 shall not be limited to, the development of a code of
27 conduct and procedures for ensuring that advocates and
28 their representatives on a particular case or proceeding
29 are not advising decisionmakers on the same case or
30 proceeding.

31 (e) The division may compel the production or
32 disclosure of any information it deems necessary to
33 perform its duties from entities regulated by the
34 commission provided that any objections to any request
35 for information shall be decided by the assigned
36 commissioner or by the president of the commission if
37 there is no assigned commissioner.

38 (f) There is hereby created the Public Utilities
39 Commission Ratepayer Advocate Account in the General
40 Fund. ~~All moneys deposited in the account~~ *Moneys from*

1 *the Public Utilities Commission Utilities Reimbursement*
2 *Account in the General Fund shall be transferred in the*
3 *annual Budget Act to the Public Utilities Commission*
4 *Ratepayer Advocate Account. The funds in the Public*
5 *Utilities Commission Ratepayer Advocate Account shall*
6 *be utilized exclusively by the division in the performance*
7 *of its duties. The annual budget for the division shall be*
8 *separately identified in the commission's annual budget*
9 *request. The commission shall annually submit a staffing*
10 *report containing a comparison of the staffing levels for*
11 *each five-year period.*

12 (g) This section shall remain in effect only until
13 January 1, 2002, and as of that date is repealed, unless a
14 later enacted statute, that is enacted before January 1,
15 2002, deletes or extends that date.

16 SEC. 8. Section 309.6 of the Public Utilities Code is
17 amended to read:

18 309.6. (a) The commission shall adopt procedures on
19 the disqualification of administrative law judges due to
20 bias or prejudice similar to those of other state agencies
21 and superior courts.

22 (b) The commission shall develop the procedures with
23 the opportunity for public review and comment, ~~and~~
24 ~~submit a report to the Legislature on or before February~~
25 ~~28, 1994, on the adopted procedures.~~

26 SEC. 9. Section 314.5 of the Public Utilities Code is
27 amended to read:

28 314.5. The commission shall inspect and audit the
29 books and records for regulatory and tax purposes (a) at
30 least once in every three years in the case of every
31 electrical, gas, heat, telegraph, telephone, and water
32 corporation serving over 1,000 customers ~~and the rail~~
33 ~~passenger commuter operations of every railroad, and~~

34 (b) at least once in every five years in the case of every
35 electrical, gas, heat, telegraph, telephone, and water
36 corporation serving 1,000 or fewer customers. An audit
37 conducted in connection with a rate proceeding shall be
38 deemed to fulfill the requirements of this section. Reports
39 of such inspections and audits and other pertinent

1 information shall be furnished to the State Board of
2 Equalization for use in the assessment of public utilities.

3 SEC. 10. Section 421 of the Public Utilities Code is
4 amended to read:

5 421. (a) The commission shall annually determine a
6 fee to be paid by every passenger stage corporation,
7 charter-party carrier of passengers, pipeline corporation,
8 for-hire vessel operator, common carrier vessel operator,
9 railroad corporation, and commercial air operator and
10 every other common carrier and related business subject
11 to the jurisdiction of the commission, except as otherwise
12 provided in Article 3 (commencing with Section 431) of
13 this chapter and Chapter 6 (commencing with Section
14 5001) of Division 2.

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

24 (c) Notwithstanding any other provision of law, the
25 fees paid by railroad corporations shall be used for
26 state-funded railroad investigation and enforcement
27 activities of the commission, other than the rail safety
28 activities funded by the Transportation Planning and
29 Development Account pursuant to Section 99315.5. The
30 railroad fees shall be set annually at a level which
31 generates not less than the amount sufficient to fund
32 activities pursuant to ~~Section~~ Sections 765.5, 7711, and
33 7712.

34 (d) On January 1, 1992, the commission shall submit to
35 the Legislature a detailed budget implementing this
36 section for the 1992–93 fiscal year. The commission shall
37 also submit to the Legislature by January 1, 1993, and on
38 each January 1 thereafter, a detailed budget for
39 expenditure of railroad corporation fees for the ensuing
40 budget year. The budget for expenditure of railroad

1 corporation fees, for each of the 1996–97 and 1997–98 fiscal
2 years, shall not exceed the amount of three million dollars
3 (\$3,000,000). Expenditures of this budget shall be limited
4 to the following items:

5 (1) Expenditures for *employees occupying, and*
6 *actually performing service in*, railroad-safety personnel
7 *positions that are* directly involved in inspecting railroads
8 and enforcing rail safety regulations. *The commission*
9 *shall expend the funds budgeted pursuant to this*
10 *subdivision for the salaries, per diem, and travel expenses*
11 *of employees specified in this paragraph, unless by*
12 *statute, the commission is specifically prohibited from*
13 *expending all or part of those funds.*

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

18 (3) Expenditures for legal personnel ~~to~~ *who actually*
19 *pursue violations of rail safety regulations beyond the*
20 *informal complaint level.*

21 (4) Expenditures for an audit by the Bureau of State
22 Audits pursuant to subdivision (f), not to exceed
23 seventy-five thousand dollars (\$75,000).

24 (5) (A) *Expenditures for the pro rata share of the*
25 *commission's overhead costs while state personnel are*
26 *actually occupying the positions, and are performing the*
27 *duties specified in paragraphs (1) to (4), inclusive.*
28 *Overhead costs shall be limited to only the following*
29 *items:*

30 (i) *Rent.*

31 (ii) *Utilities.*

32 (iii) *Office furniture.*

33 (iv) *Office equipment.*

34 (v) *Office supplies.*

35 (B) *This paragraph shall become inoperative on*
36 *January 1, 2002, unless a later enacted statute deletes or*
37 *extends that date.*

38 (e) The Department of Finance shall notify the Joint
39 Legislative Budget Committee, pursuant to Section 28.00
40 of the annual Budget Act, prior to authorizing any change

1 in the Budget Act appropriation for railroad corporation
2 fees that is larger than one hundred thousand dollars
3 (\$100,000), or 10 percent of the amount budgeted,
4 whichever is less.

5 (f) Except as otherwise provided in this subdivision,
6 commencing with the 1993–94 fiscal year, and in each
7 subsequent fiscal year until the 1999–2000 fiscal year, the
8 commission shall conduct an audit of the expenditure of
9 the funds received pursuant to this section, except that
10 for the 1996–97 fiscal year and fiscal years thereafter the
11 audit shall be conducted by the Bureau of State Audits.
12 The results of this audit shall be reported, in writing,
13 commencing on or before February 15, 1995, with respect
14 to the audit for the 1993–94 fiscal year, and on or before
15 January 15 of each year thereafter, with respect to the
16 audit for the fiscal year ending on the previous June 30,
17 to the appropriate policy and budget committees of the
18 respective houses of the Legislature. The commission
19 shall reimburse the Bureau of State Audits for the costs of
20 the audits beginning with the 1996–97 fiscal year.

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

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

34 SEC. 11. Section 454 of the Public Utilities Code is
35 amended to read:

36 454. (a) Except as provided in ~~Sections 454.1 and~~
37 *Section* 455, no public utility shall change any rate or so
38 alter any classification, contract, practice, or rule as to
39 result in any new rate, except upon a showing before the
40 commission and a finding by the commission that the new

1 rate is justified. Whenever any electrical, gas, heat,
2 telephone, water, or sewer system corporation files an
3 application to change any rate, other than a change
4 reflecting and passing through to customers only new
5 costs to the corporation which do not result in changes in
6 revenue allocation, for the services or commodities
7 furnished by it, the corporation shall furnish to its
8 customers affected by the proposed rate change notice of
9 its application to the commission for approval of the new
10 rate. This notice requirement does not apply to any rate
11 change proposed by a corporation pursuant to an advice
12 letter submitted to the commission in accordance with
13 commission procedures for this means of submission. The
14 procedures for advice letters may include provision for
15 notice to customers or subscribers on a case-by-case basis,
16 as determined by the commission. The corporation may
17 include the notice with the regular bill for charges
18 transmitted to the customers within 45 days if the
19 corporation operates on a 30-day billing cycle, or within
20 75 days if the corporation operates on a 60-day billing
21 cycle. If more than one application to change any rate is
22 filed within a single billing cycle, the corporation may
23 combine the notices into a single notice if the applications
24 are separately identified. The notice shall state the
25 amount of the proposed rate change expressed in both
26 dollar and percentage terms for the entire rate change as
27 well as for each customer classification, a brief statement
28 of the reasons the change is required or sought, and the
29 mailing, and if available, the e-mail address of the
30 commission to which any customer inquiries may be
31 directed regarding how to participate in, or receive
32 further notices regarding the date, time, or place of, any
33 hearing on the application, and the mailing address of the
34 corporation to which any customer inquiries relative to
35 the proposed rate change may be directed.

36 (b) The commission may adopt rules it considers
37 reasonable and proper for each class of public utility
38 providing for the nature of the showing required to be
39 made in support of proposed rate changes, the form and
40 manner of the presentation of the showing, with or



1 without a hearing, and the procedure to be followed in
2 the consideration thereof. Rules applicable to common
3 carriers may provide for the publication and filing of any
4 proposed rate change together with a written showing in
5 support thereof, giving notice of the filing and showing in
6 support thereof to the public, granting an opportunity for
7 protests thereto, and to the consideration of, and action
8 on, the showing and any protests filed thereto by the
9 commission, with or without hearing. However, the
10 proposed rate change does not become effective until it
11 has been approved by the commission.

12 (c) The commission shall permit individual public
13 utility customers and subscribers affected by a proposed
14 rate change, and organizations formed to represent their
15 interests, to testify at any hearing on the proposed rate
16 change, except that the presiding officer need not allow
17 repetitive or irrelevant testimony and may conduct the
18 hearing in an efficient manner.

19 SEC. 12. Section 454.2 of the Public Utilities Code is
20 amended to read:

21 454.2. Notwithstanding Section 454, the commission
22 may, ~~upon application,~~ establish a "zone of rate freedom"
23 for any passenger stage transportation service which ~~the~~
24 ~~commission finds~~ is operating in competition with
25 ~~another substantially similar passenger stage~~
26 ~~transportation service or competitive~~ *other* passenger
27 transportation service from any ~~other~~ means of
28 transportation, if the ~~commission finds that these~~
29 ~~competitive transportation services~~ *competition*
30 *together with the authorized zone of rate freedom* will
31 result in reasonable rates and charges ~~when considered~~
32 ~~along with the authorized zone of rate freedom for the~~
33 *passenger stage transportation service*. An adjustment in
34 rates or charges within a zone of rate freedom established
35 by the commission is hereby deemed just and reasonable.
36 The commission may, upon protest or on its own motion,
37 suspend any adjustment in rates or charges under this
38 section and institute proceedings ~~pursuant to Section 491~~
39 *under its rules of practice and procedure*.

1 SEC. 13. Section 454.5 of the Public Utilities Code is
2 repealed.

3 ~~454.5. Whenever an electrical corporation requests a~~
4 ~~rate adjustment reflecting and passing through to~~
5 ~~customers a specific fuel cost increase, the commission~~
6 ~~may grant substantial but not complete rate relief.~~
7 ~~Substantial relief is defined as an amount not to exceed 80~~
8 ~~percent of the rate adjustment request. Within 60 days of~~
9 ~~such request, a hearing shall be held and the balance of~~
10 ~~the rate relief request shall be granted if found by the~~
11 ~~commission to be justified.~~

12 SEC. 14. Section 457 of the Public Utilities Code is
13 repealed.

14 ~~457. Nothing in this part shall prevent a corporation~~
15 ~~or person engaged in the production, generation,~~
16 ~~transmission, or furnishing of heat, light, water, or power,~~
17 ~~or telegraph or telephone service, from establishing a~~
18 ~~sliding scale of charges when a schedule showing such~~
19 ~~scale of charges has been filed with the commission and~~
20 ~~the schedule and each rate set out therein has been~~
21 ~~approved by it. Nothing in this part shall prevent any such~~
22 ~~corporation or person from entering into an agreement~~
23 ~~for a fixed period for the automatic adjustment of charges~~
24 ~~for heat, light, water, or power, or telegraph or telephone~~
25 ~~service, in relation to the dividends to be paid to~~
26 ~~stockholders of such corporation, or the profit to be~~
27 ~~realized by such person when a schedule showing the~~
28 ~~scale of charges under such arrangement has been filed~~
29 ~~with the commission and the schedule and each rate set~~
30 ~~out therein has been approved by it.~~

31 ~~Nothing in this section shall prevent the commission~~
32 ~~from revoking its approval at any time and fixing other~~
33 ~~rates and charges for the product or commodity or~~
34 ~~service, as authorized by this part.~~

35 SEC. 15. Section 458 of the Public Utilities Code is
36 amended to read:

37 458. (a) No common carrier, or any officer or agent
38 thereof, or any person acting for or employed by it, shall,
39 by means of known false billing, classification, weight,
40 weighing, or report of weight, or by any other device or

1 means assist, suffer, or permit any corporation or person
2 to obtain transportation for any person or property
3 between points within this ~~State~~ *state* at less than the rates
4 and fares then established and in force as shown by the
5 schedules filed and in effect at the time.

6 No person, corporation, or any officer, agent, or
7 employee of a corporation shall, by means of false billing,
8 false or incorrect classification, false weight or weighing,
9 false representation as to contents or substance of a
10 package, or false report or statement of weight, or by any
11 other device or means, whether with or without the
12 consent or connivance of a common carrier or any of its
13 officers, agents, or employees, seek to obtain or obtain
14 such transportation for such property at less than the
15 rates then established and in force therefor.

16 *(b) Subdivision (a) is not applicable to network*
17 *railroad transportation.*

18 SEC. 16. Section 459 of the Public Utilities Code is
19 amended to read:

20 459. (a) No person or corporation, or any officer,
21 agent, or employee of a corporation, shall knowingly,
22 directly or indirectly, by any false statement or
23 representation as to cost or value, or the nature or extent
24 of an injury, or by the use of any false billing, bill of lading,
25 receipt, voucher, roll, account, claim, certificate,
26 affidavit, or deposition, or upon any false, fictitious, or
27 fraudulent statement or entry, obtain or attempt to
28 obtain any allowance, rebate, or payment for damage, in
29 connection with or growing out of the transportation of
30 persons or property, or an agreement to transport such
31 persons or property, whether with or without the consent
32 or connivance of a common carrier or any of its officers,
33 agents, or employees. No common carrier, or any of its
34 officers, agents, or employees, shall knowingly pay or
35 offer to pay any such allowance, rebate, or claim for
36 damage.

37 *(b) Subdivision (a) is not applicable to network*
38 *railroad transportation.*

39 SEC. 17. Section 460 of the Public Utilities Code is
40 repealed.

~~1 460. No common carrier subject to the provisions of
2 this part shall charge or receive any greater
3 compensation in the aggregate for the transportation of
4 persons or of a like kind of property for a shorter than for
5 a longer distance over the same line or route in the same
6 direction, within this State, the shorter being included
7 within the longer distance or charge any greater
8 compensation as a through rate than the aggregate of the
9 intermediate rates. This provision does not authorize any
10 such common carrier to charge or receive as great a
11 compensation for a shorter as for a longer distance or
12 haul.~~

~~13 Upon application to the commission a common carrier
14 may, in special cases, after investigation, be authorized by
15 the commission to charge less for a longer than for a
16 shorter distance for the transportation of persons or
17 property, and the commission may from time to time
18 prescribe the extent to which such carrier may be
19 relieved from the operation and requirements of this
20 section.~~

~~21 SEC. 18. Section 461 of the Public Utilities Code is
22 repealed.~~

~~23 461. No telephone or telegraph corporation subject to
24 the provisions of this part shall charge or receive any
25 greater compensation in the aggregate for the
26 transmission of any long distance message or
27 conversation for a shorter than for a longer distance over
28 the same line or route in the same direction, within this
29 State, the shorter being included within the longer
30 distance, or charge any greater compensation for a
31 through service than the aggregate of the intermediate
32 rates or tolls subject to the provisions of this act. This
33 provisions does not authorize any such telephone or
34 telegraph corporation to charge and receive as great a
35 compensation for a shorter as for a longer distance.~~

~~36 Upon application to the commission, a telephone or
37 telegraph corporation may, in special cases, after
38 investigation, be authorized by the commission to charge
39 less for a longer than for a shorter distance service for the
40 transmission of messages or conversations, and the~~

~~commission may from time to time prescribe the extent to which such telephone or telegraph corporation may be relieved from the operation and requirements of this section.~~

SEC. 19. Section 461.5 of the Public Utilities Code is amended to read:

461.5. (a) (1) No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this state. It shall be unlawful for any railroad or other transportation company to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates.

~~Upon~~

(2) ~~Upon~~ application to the commission ~~such~~ company may, ~~in special cases, after investigation,~~ be authorized by the commission to charge less for longer than for shorter distances for the transportation of persons or property and the commission may from time to time prescribe the extent to which such company may be relieved from the prohibition to charge less for the longer than for the shorter haul. The commission may authorize the issuance of excursion and commutation tickets at special rates.

~~Nothing~~

(3) ~~Nothing~~ contained in this section shall be construed to prevent the commission from ordering and compelling any railroad or other transportation company to make reparation to any shipper on account of the rates charged to such shipper being excessive or discriminatory, provided no discrimination will result from such reparation.

(b) *Subdivision (a) is not applicable to network railroad transportation.*

1 SEC. 20. Section 486 of the Public Utilities Code is
2 amended to read:

3 486. (a) Every common carrier shall file with the
4 commission and shall print and keep open to the public
5 inspection schedules showing the rates, fares, charges,
6 and classifications for the transportation between termini
7 within this ~~State~~ *state* of persons and property from each
8 point upon its route to all other points thereon; and from
9 each point upon its route to all points upon every other
10 route leased, operated, or controlled by it; and from each
11 point on its route or upon any route leased, operated, or
12 controlled by it to all points upon the route of any other
13 common carrier, whenever a through route and a joint
14 rate has been established or ordered between any two
15 such points. If no joint rate over a through route has been
16 established, the schedules of the several carriers in such
17 through route shall show the separately established rates,
18 fares, charges, and classifications applicable to the
19 through transportation.

20 (b) *Subdivision (a) is not applicable to network*
21 *railroad transportation.*

22 SEC. 21. Section 488 of the Public Utilities Code is
23 amended to read:

24 488. (a) Subject to such rules as the commission may
25 prescribe, the schedules of carriers shall be produced and
26 made available for inspection upon the demand of any
27 person. The form of every such schedule shall be
28 prescribed by the commission and shall conform, in the
29 case of *any* common carrier subject to ~~the Interstate~~
30 ~~Commerce Act and the acts amendatory thereof and~~
31 ~~supplementary thereto,~~ *federal regulation* as nearly as
32 possible to the form of schedules prescribed by the
33 ~~Interstate Commerce Commission~~ *federal Surface*
34 *Transportation Board.*

35 (b) *Subdivision (a) is not applicable to network*
36 *railroad transportation.*

37 SEC. 22. Section 491 of the Public Utilities Code is
38 amended to read:

39 491. Unless the commission otherwise orders, no
40 change shall be made by any public utility in any rate or

1 classification, or in any rule or contract relating to or
 2 affecting any rate, classification, or service, or in any
 3 privilege or facility, except after 30 days' notice to the
 4 commission and to the public. ~~Such notice~~ Notice shall be
 5 given by filing with the commission and keeping open for
 6 public inspection new schedules stating plainly the
 7 changes to be made in the schedule or schedules then in
 8 force, and the time when the changes will go into effect.
 9 The commission, for good cause shown, may allow
 10 changes without requiring the 30 days' notice, by an order
 11 specifying the changes ~~so that~~ *that may* be made *on less*
 12 *than 30 days' notice*, the time when they shall take effect,
 13 and the manner in which they shall be filed and
 14 published. When any change is proposed in any rate or
 15 classification, or in any form of contract or agreement or
 16 in any rule or contract relating to or affecting any rate,
 17 classification, or service, or in any privilege or facility,
 18 attention shall be directed to such change on the schedule
 19 filed with the commission, by some character to be
 20 designated by the commission, immediately preceding or
 21 following the item.

22 SEC. 23. Section 493 of the Public Utilities Code is
 23 amended to read:

24 493. (a) No common carrier subject to this part shall
 25 engage or participate in the transportation of persons or
 26 property, between points within this state, until its
 27 schedules of rates, fares, charges, and classifications have
 28 been filed and published in accordance with this part.

29 (b) If any common carrier of property, in
 30 contravention of subdivision (a), transports any property
 31 for which it does not have schedules of rates, fares,
 32 charges, and classifications on file, the commission may
 33 establish a just and reasonable charge for the
 34 transportation.

35 (c) *This section is not applicable to network railroad*
 36 *transportation.*

37 SEC. 24. Section 494 of the Public Utilities Code is
 38 amended to read:

39 494. (a) No common carrier shall charge, demand,
 40 collect, or receive a different compensation for the

1 transportation of persons or property, or for any service
2 in connection therewith, than the applicable rates, fares,
3 and charges specified in its schedules filed and in effect
4 at the time, nor shall any such carrier refund or remit in
5 any manner or by any device any portion of the rates,
6 fares, or charges so specified, except upon order of the
7 commission as provided in this part, nor extend to any
8 corporation or person any privilege or facility in the
9 transportation of passengers or property except such as
10 are regularly and uniformly extended to all corporations
11 and persons.

12 *(b) Subdivision (a) is not applicable to network*
13 *railroad transportation.*

14 SEC. 25. Section 496 of the Public Utilities Code is
15 repealed.

16 ~~496. (a) For purposes of this section—~~

17 ~~(1) The term “carrier” means any common carrier~~
18 ~~subject to regulation under this part.~~

19 ~~(2) The term “antitrust laws” means the provisions of~~
20 ~~Chapter 2 (commencing with Section 16700) of Part 2 of~~
21 ~~Division 7 of the Business and Professions Code, relating~~
22 ~~to combinations in restraint of trade.~~

23 ~~(b) Any carrier which is a party to an agreement~~
24 ~~between or among two or more carriers relating to rates,~~
25 ~~fares, classifications, divisions, allowances, or charges~~
26 ~~(including charges between carriers and compensation~~
27 ~~paid or received for the use of facilities and equipment),~~
28 ~~or rules and regulations pertaining thereto, or procedures~~
29 ~~for the joint consideration, initiation, or establishment~~
30 ~~thereof, may, under such rules and regulations as the~~
31 ~~commission may prescribe, apply to the commission for~~
32 ~~approval of the agreement, and the commission shall by~~
33 ~~order approve any such agreement, if approval thereof is~~
34 ~~not prohibited by subdivision (d), (e), or (f), if it finds~~
35 ~~that the agreement and the rules, regulations, and~~
36 ~~procedures provided for the operation thereof are fair~~
37 ~~and reasonable and not contrary to public policy;~~
38 ~~otherwise the application shall be denied. The approval~~
39 ~~of the commission shall be granted only upon such terms~~
40 ~~and conditions as the commission may prescribe as~~

1 necessary to enable it to grant its approval in accordance
2 with this subdivision.

3 (e) Each conference, bureau, committee, or other
4 organization established or continued pursuant to any
5 agreement approved by the commission under the
6 provisions of this section shall maintain such accounts,
7 records, files, and memoranda and shall submit to the
8 commission such reports, as may be prescribed by the
9 commission, and all such accounts, records, files, and
10 memoranda shall be subject to inspection by the
11 commission or its duly authorized representatives.

12 (d) The commission shall not approve under this
13 section any agreement between a carrier by highway and
14 a carrier by rail unless it finds that the agreement is of the
15 character described in subdivision (b) and is limited to
16 matters relating to transportation under joint rates or
17 over through routes.

18 (e) The commission shall not approve under this
19 section any agreement which it finds is an agreement
20 with respect to the pooling or division of traffic, service,
21 or earnings, unless the commission finds that the
22 agreement will be in the interest of better service to the
23 public or of economy of operation resulting in efficient
24 utilization of fuel and will not unduly restrain
25 competition.

26 (f) The commission shall not approve under this
27 section any agreement which establishes a procedure for
28 the determination of any matter through joint
29 consideration, unless it finds that under the agreement
30 there is accorded to each party the free and unrestrained
31 right to take independent action either before or after
32 any determination arrived at through such procedure.

33 (g) The commission may, upon complaint or upon its
34 own initiative without complaint, investigate and
35 determine whether any agreement previously approved
36 by it under this section, or any term or condition upon
37 which the approval was granted, is not in conformity with
38 subdivision (b), or whether any such term or condition is
39 not necessary for purposes of conformity with subdivision
40 (b). After the investigation, the commission may by order

1 ~~terminate or modify its approval of such agreement if it~~
2 ~~finds such action necessary to insure conformity with~~
3 ~~subdivision (b), and may modify the terms and conditions~~
4 ~~upon which the approval was granted to the extent it~~
5 ~~finds necessary to insure conformity with subdivision (b)~~
6 ~~or to the extent it finds such terms and conditions~~
7 ~~unnecessary to insure such conformity. The effective date~~
8 ~~of any order terminating or modifying approval, or~~
9 ~~modifying terms and conditions, may be postponed for~~
10 ~~such period as the commission determines is reasonably~~
11 ~~necessary to avoid undue hardship.~~

12 ~~(h) No order shall be entered under this section except~~
13 ~~after interested parties have been afforded reasonable~~
14 ~~opportunity for hearing.~~

15 ~~(i) The parties to any agreement approved by the~~
16 ~~commission under this section and other persons are, if~~
17 ~~the approval of the agreement is not prohibited by~~
18 ~~subdivision (d), (e), or (f), hereby exempted from the~~
19 ~~antitrust laws with respect to the agreement under the~~
20 ~~terms and conditions prescribed by the commission.~~

21 ~~(j) Any action of the commission under this section in~~
22 ~~approving an agreement, or in denying an application for~~
23 ~~such approval, or in terminating or modifying its approval~~
24 ~~of an agreement, or in prescribing the terms and~~
25 ~~conditions upon which its approval is to be granted, or in~~
26 ~~modifying such terms and conditions, shall be construed~~
27 ~~as having effect solely with reference to the applicability~~
28 ~~of subdivision (i).~~

29 SEC. 26. Section 526 of the Public Utilities Code is
30 repealed.

31 ~~526. Express corporations may issue free or reduced~~
32 ~~rate transportation for express matter to their officers,~~
33 ~~agents, employees, attorneys, physicians and surgeons,~~
34 ~~and members of their families.~~

35 SEC. 27. Section 527 of the Public Utilities Code is
36 amended to read:

37 527. Nothing in this part shall prevent the
38 interchange of free or reduced rate transportation for
39 passenger or express matter between common carriers,
40 their officers, agents, employees, attorneys, physicians

1 and surgeons, and members of their families, where such
2 common carriers are subject in whole or in part to the
3 jurisdiction of the commission or of the ~~Interstate~~
4 ~~Commerce Commission~~, *federal Surface Transportation*
5 *Board* or where such common carriers, though not in
6 whole or in part subject to the jurisdiction of this
7 commission or of the ~~Interstate Commerce Commission~~,
8 *federal Surface Transportation Board* are engaged in the
9 business of transporting passengers and freight by water
10 between the United States and foreign countries, and are
11 permitted by ~~the Interstate Commerce Act~~ *federal law* to
12 interchange such free transportation with common
13 carriers which are subject to the jurisdiction of ~~the~~
14 ~~Interstate Commerce Commission or to the jurisdiction~~
15 of the Public Utilities Commission *or the federal Surface*
16 *Transportation Board*.

17 SEC. 28. Section 530 of the Public Utilities Code is
18 amended to read:

19 530. (a) Every common carrier subject to the
20 provisions of this part may transport, free or at reduced
21 rates, *as follows*:

22 ~~(a)~~

23 (1) Persons for the United States, state, county, or
24 municipal governments, or persons or property for
25 charitable or patriotic purposes, or to provide relief in
26 cases of general epidemic, pestilence, or calamity.

27 ~~(b) Property to or from fairs or expositions for exhibit~~
28 ~~thereat.~~

29 ~~(c)~~

30 (2) Contractors and their employees, material or
31 supplies for use or engaged in carrying out their contracts
32 with such carriers, for construction, operation, or
33 maintenance work or work incidental thereto on the line
34 of the issuing carrier, to the extent only that such free or
35 reduced rate transportation is provided for in the
36 specifications upon which the contract is based and in the
37 contract itself.

38 ~~Common~~

1 (b) Common carriers may also enter into contracts
2 with telegraph and telephone corporations for an
3 exchange of service.

4 ~~The commission may permit common carriers to~~
5 ~~transport property at reduced rates for the United States,~~
6 ~~state, county, or municipal governments, to such extent~~
7 ~~and subject to such conditions as it may consider just and~~
8 ~~reasonable. Nothing herein shall prevent any common~~
9 ~~carrier subject to the provisions of this part from~~
10 ~~transporting property for the United States, state, county,~~
11 ~~or municipal governments, at reduced rates no lower~~
12 ~~than rates which lawfully may be assessed and charged by~~
13 ~~any other such common carrier or by highway permit~~
14 ~~carriers as defined in the Highway Carriers' Act.~~

15 SEC. 29. Section 556 of the Public Utilities Code is
16 amended to read:

17 556. Every common carrier shall afford all
18 reasonable, proper, and equal facilities for the prompt
19 and efficient interchange and transfer of passengers;
20 ~~tonnage, and cars, loaded or empty,~~ between the lines
21 owned, operated, controlled, or leased by it and the lines
22 of every other common carrier, and shall make such
23 interchange and transfer promptly without
24 discrimination between ~~shippers,~~ passengers, or carriers
25 ~~either~~ as to compensation charged, service rendered, or
26 facilities afforded.

27 SEC. 30. Section 557 of the Public Utilities Code is
28 repealed.

29 ~~557. Every railroad corporation shall receive from~~
30 ~~every other railroad corporation, at any point of~~
31 ~~connection, freight cars of proper standard and in proper~~
32 ~~condition, and haul them to destination, if the destination~~
33 ~~is upon a line owned, operated, or controlled by it, or to~~
34 ~~the point of transfer according to the route billed, if the~~
35 ~~destination is upon the line of some other railroad~~
36 ~~corporation.~~

37 SEC. 31. Section 559 of the Public Utilities Code is
38 amended to read:

39 559. (a) Nothing in Sections 556 to 558, inclusive,
40 shall limit or modify the duty of a common carrier to

1 establish joint rates, fares, and charges for the
2 transportation of passengers and property over the lines
3 owned, operated, controlled, or leased by it and the lines
4 of other common carriers, or the power of the commission
5 to require the establishment of such joint rates, fares, and
6 charges.

7 *(b) Subdivision (a) is not applicable to network*
8 *railroad transportation.*

9 SEC. 32. Section 703 of the Public Utilities Code is
10 amended to read:

11 703. The commission may investigate all existing or
12 proposed interstate rates, fares, tolls, charges, and
13 classifications, and all rules and practices in relation
14 thereto, for or in relation to the transportation of persons
15 or property or the transmission of messages for
16 conversations, where any act in relation thereto takes
17 place within this ~~State~~ *state* and when they are, in the
18 opinion of the commission, ~~excessive or discriminatory or~~
19 ~~in violation of the Interstate Commerce Act, or any other~~
20 ~~act of Congress~~ *federal law*, or in conflict with the rulings,
21 orders, or regulations of the ~~Interstate Commerce~~
22 ~~Commission~~ *a federal agency*, the commission may apply
23 for relief by petition or otherwise to the ~~Interstate~~
24 ~~Commerce Commission~~ *federal agency that has*
25 *jurisdiction over the alleged violation* or to any court of
26 competent jurisdiction.

27 SEC. 33. Section 706 of the Public Utilities Code is
28 repealed.

29 ~~706. Every railroad corporation may connect at the~~
30 ~~state line with railroads of other states. Every railroad~~
31 ~~corporation may intersect, connect with, or cross any~~
32 ~~other railroad and shall receive and transport each the~~
33 ~~other's passengers, tonnage, and cars, without delay or~~
34 ~~discrimination.~~

35 SEC. 34. Section 707 of the Public Utilities Code is
36 repealed.

37 ~~707. (a) In any proceeding before the commission~~
38 ~~relating to the rates charged by a railroad corporation for~~
39 ~~interurban railway passenger services or to the extent of~~
40 ~~such services, the commission shall take into~~

1 ~~consideration the availability of any public subsidies or~~
2 ~~other forms of support for such services.~~

3 ~~(b) The Department of Transportation shall furnish to~~
4 ~~the commission such information as the commission may~~
5 ~~request concerning the availability of public subsidies or~~
6 ~~other forms of support for interurban railway passenger~~
7 ~~services.~~

8 ~~(c) In any proceeding before the commission~~
9 ~~concerning the interurban transportation of passengers,~~
10 ~~or any service related thereto, by a railroad corporation,~~
11 ~~the commission shall give consideration to those factors~~
12 ~~that would assure the commencement, development,~~
13 ~~and continuation of such interurban passenger service.~~

14 ~~(d) In any proceeding before the commission~~
15 ~~concerning the interurban transportation of passengers~~
16 ~~or any service related thereto by a railroad corporation,~~
17 ~~the commission shall give consideration to the~~
18 ~~establishment of intermodal facilities and order the~~
19 ~~construction of those facilities pursuant to Section 762.~~
20 ~~The Department of Transportation shall furnish to the~~
21 ~~commission such information as the commission may~~
22 ~~request.~~

23 SEC. 35. Section 728.5 of the Public Utilities Code is
24 amended to read:

25 728.5. (a) The commission may establish rates or
26 charges for the transportation of passengers and freight
27 by railroads and other transportation companies, except
28 motor carriers of property, and no railroad or other
29 transportation company under its jurisdiction, except
30 motor carriers of property, shall charge or demand or
31 collect or receive a greater or less or different
32 compensation for that transportation of passengers or
33 freight, or for any service in connection therewith,
34 between the points named in any tariff of rates
35 established by the commission than the rates, fares and
36 charges which are specified in that tariff. The commission
37 may examine books, records and papers of all railroad and
38 other transportation companies, except motor carriers of
39 property; may hear and determine complaints against
40 railroad and other transportation companies; and may

1 issue subpoenas and all necessary process and send for
2 persons and papers. The commission and each of the
3 commissioners may administer oaths, take testimony and
4 punish for contempt in the same manner and to the same
5 extent as courts of record. The commission may prescribe
6 a uniform system of accounts to be kept by all railroad and
7 other transportation companies, except motor carriers of
8 property.

9 *(b) Subdivision (a) is not applicable to network*
10 *railroad transportation.*

11 SEC. 36. Section 730 of the Public Utilities Code is
12 amended to read:

13 730. (a) The commission shall, upon a hearing,
14 determine the kind and character of facilities and the
15 extent of the operation thereof, necessary reasonably and
16 adequately to meet public requirements for service
17 furnished by common carriers between any two or more
18 points, and shall fix and determine the just, reasonable,
19 and sufficient rates for such service. Whenever two or
20 more common carriers are furnishing service in
21 competition with each other, the commission may, after
22 hearing, when necessary for the preservation of adequate
23 service and when public interest demands, prescribe
24 uniform rates, classifications, rules, and practices to be
25 charged, collected, and observed by all such common
26 carriers.

27 *(b) Subdivision (a) is not applicable to network*
28 *railroad transportation.*

29 SEC. 37. Section 731 of the Public Utilities Code is
30 repealed.

31 ~~731. Whenever the commission, after a hearing, finds~~
32 ~~that any rate or toll for the transportation of property is~~
33 ~~lower than a reasonable or sufficient rate and that the rate~~
34 ~~is not justified by actual competitive transportation rates~~
35 ~~of competing carriers, or the cost of other means of~~
36 ~~transportation, the commission shall prescribe such rates~~
37 ~~as will provide an equality of transportation rates for the~~
38 ~~transportation of property between all such competing~~
39 ~~agencies of transportation, except motor carriers of~~
40 ~~property. When in the judgment of the commission a~~

~~1 differential is necessary to preserve equality of
2 competitive transportation conditions, a reasonable
3 differential between rates of common carriers by rail and
4 water for the transportation of property may be
5 maintained by such carriers, and the commission may by
6 order require the establishment of such rates.~~

SEC. 38. Section 732 of the Public Utilities Code is amended to read:

732. (a) Whenever the commission, after a hearing finds that the rates, fares, or charges in force over two or more common carriers, between any two points in this ~~State~~ state, are unjust, unreasonable, or excessive, or that no satisfactory through route or joint rate, fare, or charge exists between such points, and that the public convenience and necessity demand the establishment of such a through route and joint rate, fare, or charge, the commission may order such common carriers to establish such through route and may establish and fix a joint rate, fare, or charge which will be fair, just, reasonable, and sufficient, to be charged and collected in the future, and the terms and conditions under which such through route shall be operated. The commission may order that freight moving between such points shall be carried by the common carriers participating in such through route and joint rate, without being transferred from the originating cars.

(b) Subdivision (a) is not applicable to network railroad transportation.

SEC. 39. Section 733 of the Public Utilities Code is amended to read:

733. ~~In case~~ (a) If the common carriers do not agree upon the division between them of the joint rates, fares, or charges established by the commission over ~~such~~ through routes, the commission shall, after hearing, by supplemental order, establish ~~such~~ that division. Where any railroad, or passenger stage corporation ~~which~~ that is made a party to a through route has itself over its own line an equally satisfactory through route between the termini of the through route established, ~~such~~ that railroad, or passenger stage corporation may require as its

1 division of the joint rate, fare, or charge its local rate, fare,
 2 or charge over the portion of its line comprised in ~~such~~
 3 ~~the~~ through route, and the commission may, in its
 4 discretion, allow to ~~such that~~ railroad or passenger stage
 5 corporation, more than its local rate, fare, or charge
 6 ~~whenever if the commission determines that~~ it will be
 7 equitable so to do. The commission may establish and fix
 8 through routes and joint rates, fares, or charges over
 9 common carriers and stage or auto stage lines which may
 10 not be otherwise subject to the provisions of this part, and
 11 may fix the division of ~~such those~~ joint rates, fares, or
 12 charges.

13 *(b) Subdivision (a) is not applicable to network*
 14 *railroad transportation.*

15 SEC. 40. Section 739.9 of the Public Utilities Code is
 16 repealed.

17 ~~739.9. The commission shall extend special programs,~~
 18 ~~for up to a three-year period, requested by telephone~~
 19 ~~corporations, and found by the commission to be~~
 20 ~~reasonable, to encourage telecommuting in the area of~~
 21 ~~the state where transportation systems have been~~
 22 ~~damaged and disrupted by the Northridge earthquake of~~
 23 ~~1994. The commission shall also initiate an investigation~~
 24 ~~into the establishment of special telecommunications~~
 25 ~~programs to encourage telecommuting in the entire~~
 26 ~~state, and shall report to the Legislature its findings and~~
 27 ~~recommendations by December 1, 1995.~~

28 SEC. 41. Section 740.8 of the Public Utilities Code is
 29 amended to read:

30 740.8. As used in ~~Sections~~ *Section* 740.3 and ~~745.5,~~
 31 “interests” of ratepayers, short- or long-term, mean direct
 32 benefits that are specific to ratepayers in the form of safer,
 33 more reliable, or less costly gas or electrical service.

34 SEC. 42. Section 746 of the Public Utilities Code is
 35 repealed.

36 ~~746. (a) On or before June 30, 1991, the commission,~~
 37 ~~in consultation with the State Energy Resources~~
 38 ~~Conservation and Development Commission, shall, to the~~
 39 ~~extent feasible, adopt and implement a pilot program of~~
 40 ~~incentives to encourage utilities to maintain and expand~~

~~1 their energy efficiency programs and load management
2 programs that promote energy efficiency.~~

~~3 (b) The commission's incentives program shall
4 require utilities to achieve reasonable minimum
5 performance requirements as a condition for receiving
6 incentive benefits, and shall hold utilities accountable for
7 not achieving reasonable minimum performance
8 requirements through loss of incentive benefits and the
9 imposition of penalties.~~

~~10 (c) The commission shall, to the extent feasible,
11 require that incentives are based on the participation
12 levels and energy savings from utility energy efficiency
13 programs and load management programs that promote
14 energy efficiency.~~

~~15 (d) The commission shall, as soon as practicable,
16 report to the Legislature on the results of its pilot
17 program of incentives. The report shall indicate whether
18 incentives are preferable to a regulatory scheme which
19 mandates utility energy efficiency programs and load
20 management programs that promote energy efficiency.~~

~~21 SEC. 43. Section 747 of the Public Utilities Code is
22 repealed.~~

~~23 747. (a) In addition to the incentives program
24 required by Section 746, the commission shall require one
25 or more electric utilities to implement pilot projects to
26 accomplish the following:~~

~~27 (1) On or before June 30, 1991, begin to test separately
28 from any generation resource bidding system the ability
29 of demand side bidding to deliver benefits to utility
30 customers.~~

~~31 (2) At the earliest practicable time, test the feasibility
32 of an integrated bidding system that includes both
33 generation resources and demand side programs.~~

~~34 (b) The commission shall establish a pilot program for
35 gas utilities which tests a program of competitive bidding
36 auctions for demand side services which deliver benefits
37 to utility customers. However, a pilot program shall not
38 apply to customer classes for which the gas utility is at risk
39 for loss of sales or revenues due to the lack of a sales
40 adjustment mechanism.~~

~~(c) At the earliest practicable time, the commission, in consultation with the State Energy Resources Conservation and Development Commission, shall report the results of the pilot projects required by subdivisions (a) and (b) to the Legislature. The report shall assess the feasibility and implications of implementing the tested bidding systems and shall include recommendations on whether or not the state should adopt either, or both, of the following:~~

~~(1) An integrated bidding system that allows demand side services to compete with generation resources to fulfill future electric utility resource needs, or a program of separate bidding auctions for demand side services which deliver benefits to electric utility customers.~~

~~(2) A program of separate bidding auctions for demand side services which deliver benefits to natural gas utility customers.~~

SEC. 44. Section 763 of the Public Utilities Code is amended to read:

763. (a) Whenever the commission, after a hearing, finds that any railroad corporation or street railroad corporation does not run a sufficient number of trains or cars, or possess or operate sufficient motive power, reasonably to accommodate the traffic, passenger or freight, transported by or offered for transportation to it, or does not run its trains or cars with sufficient frequency or at a reasonable or proper time having regard to safety, or does not stop its trains or cars at proper places, or does not run any train or car upon a reasonable time schedule for the run, the commission may make an order directing such corporation to increase the number of its trains or cars or its motive power or to change the time for starting its trains or cars or to change the time schedule for the run of any train or car, or to change the stopping place or places thereof. The commission may make any other order that it determines to be reasonably necessary to accommodate and transport the traffic, passenger or freight, transported or offered for transportation.

(b) Subdivision (a) is not applicable to network railroad transportation.

1 SEC. 45. Section 763.1 of the Public Utilities Code is
2 repealed.

3 ~~763.1. Any transportation planning agency, any~~
4 ~~county transportation commission, or any city or county~~
5 ~~may petition the commission for the institution of new~~
6 ~~and additional rail passenger services.~~

7 SEC. 46. Section 764 of the Public Utilities Code is
8 repealed.

9 ~~764. Whenever the commission, after a hearing, finds~~
10 ~~that the public convenience and necessity would be~~
11 ~~served by having connections made between the tracks~~
12 ~~of any two or more railroad or street railroad~~
13 ~~corporations, so that cars may readily be transferred from~~
14 ~~one to the other at any of the points specified in this~~
15 ~~section, the commission may order any two or more such~~
16 ~~corporations owning, controlling, operating, or managing~~
17 ~~tracks of the same gauge to make physical connections at~~
18 ~~any and all crossings, and at all points where a railroad or~~
19 ~~street railroad begins or terminates or runs near to any~~
20 ~~other railroad or street railroad. After the necessary~~
21 ~~franchise or permit has been secured from the city or city~~
22 ~~and county, the commission may likewise order such~~
23 ~~physical connection, within the city, or city and county,~~
24 ~~between two or more railroads which enter the limits~~
25 ~~thereof. The commission shall by order direct whether~~
26 ~~the expense of such connections shall be borne jointly or~~
27 ~~otherwise.~~

28 SEC. 47. Section 765 of the Public Utilities Code is
29 repealed.

30 ~~765. Whenever the commission, after a hearing, finds~~
31 ~~that application has been made to a railroad corporation~~
32 ~~for a connection or spur by any corporation or person~~
33 ~~entitled thereto pursuant to Section 560, and that the~~
34 ~~railroad corporation has refused to provide such~~
35 ~~connection or spur, the commission shall make an order~~
36 ~~requiring the providing of such connection or spur and~~
37 ~~the maintenance and use thereof upon such reasonable~~
38 ~~terms as the commission may prescribe. Whenever any~~
39 ~~such connection or spur has been so provided, any~~
40 ~~corporation or person may connect with the private track~~

1 ~~or railroad thereby connected with the railroad of the~~
2 ~~railroad corporation and may use the private track or~~
3 ~~railroad or the spur upon payment to the party incurring~~
4 ~~the primary expense of such private track or railroad, or~~
5 ~~the connection or spur, of a reasonable proportion of the~~
6 ~~cost thereof to be determined by the commission after~~
7 ~~notice to the interested parties and a hearing thereon, if~~
8 ~~such connection and use can be made without~~
9 ~~unreasonable interference with the rights of the party~~
10 ~~incurring such primary expense.~~

11 ~~The commission may require one railroad corporation~~
12 ~~to switch to private spurs and industrial tracks upon its~~
13 ~~own railroad the cars of a connecting railroad corporation~~
14 ~~and may prescribe the terms and compensation for such~~
15 ~~service.~~

16 SEC. 48. Section 765.5 of the Public Utilities Code is
17 amended to read:

18 765.5. (a) The purpose of this section is to provide
19 that the commission takes all appropriate action
20 necessary to ensure the safe operation of railroads in this
21 state.

22 (b) ~~Not later than July 1, 1992, and annually thereafter,~~
23 ~~the commission, consistent with Section 434 of Chapter 13~~
24 ~~of Title 45 of the United States Code, shall identify track~~
25 ~~sections which it determines pose local safety hazards,~~
26 ~~and report on those sites to the Legislature. The~~
27 ~~commission shall include in its report at least all those sites~~
28 ~~which have inordinately high derailment rates, as~~
29 ~~determined by the commission.~~

30 (c) ~~Not later than December 31, 1992, the commission~~
31 ~~shall propose regulations it determines would establish a~~
32 ~~program to eliminate or reduce the local safety hazards~~
33 ~~identified in the report prepared pursuant to subdivision~~
34 ~~(b). The regulations shall include requirements relating~~
35 ~~to special equipment; operating, inspection, and~~
36 ~~reporting standards; and recommended capital~~
37 ~~improvements at each site.~~

38 (d) ~~The commission shall dedicate sufficient resources~~
39 ~~necessary to adequately carry out the State Participation~~
40 ~~Program for the regulation of rail transportation of~~

1 hazardous materials as authorized by the Hazardous
2 Material Transportation Uniform Safety Act of 1990 (P.L.
3 101-615).

4 ~~(e)–~~

5 (c) On or before July 1, 1992, the commission shall hire
6 a minimum of six additional rail inspectors who are or
7 shall become federally certified, consisting of three
8 additional motive power and equipment inspectors, two
9 signal inspectors, and one operating practices inspector,
10 for the purpose of enforcing compliance by railroads
11 operating in this state with state and federal safety
12 regulations.

13 ~~(f)–~~

14 (d) On or before July 1, 1992, the commission shall
15 establish, by regulation, a minimum inspection standard
16 to ensure, at the time of inspection, that railroad
17 locomotives, equipment and facilities located in Class I
18 railroad yards in California will be inspected not less
19 frequently than every 180 days, and inspection of all
20 branch and main line track not less frequently than every
21 12 months.

22 SEC. 49. Section 769 of the Public Utilities Code is
23 repealed.

24 ~~769. The commission may provide by proper rules the~~
25 ~~time within which all railroad corporations shall furnish,~~
26 ~~after demand therefor, all cars, equipment, and facilities~~
27 ~~necessary for the handling of freight in carload and less~~
28 ~~than carload lots, the time within which consignors or~~
29 ~~persons ordering cars shall load the cars, and the time~~
30 ~~within which consignees or persons to whom freight is~~
31 ~~consigned shall unload and discharge the cars and receive~~
32 ~~freight from the freight rooms, and may provide penalties~~
33 ~~to be paid for failure on the part of the railroad~~
34 ~~corporations, consignors, and consignees to conform to~~
35 ~~such rules. Charges for demurrage shall be uniform so~~
36 ~~that the same penalty shall be paid by both shipper or~~
37 ~~consignee and railroad corporation for an equal number~~
38 ~~of cars for each day for which demurrage is charged.~~

39 ~~The commission may provide the time within which~~
40 ~~express packages shall be received, gathered,~~

1 ~~transported, and delivered at destination, and the limits~~
2 ~~within which express packages shall be gathered and~~
3 ~~distributed and telegraph and telephone messages~~
4 ~~delivered without extra charge.~~

5 SEC. 50. Section 769.5 of the Public Utilities Code is
6 repealed.

7 ~~769.5. No railroad corporation shall dispose of any~~
8 ~~passenger car for scrap or otherwise without the approval~~
9 ~~of the commission. The commission shall approve such~~
10 ~~disposition only when it finds that such equipment is not~~
11 ~~required by the railroad corporation in the furnishing of~~
12 ~~passenger transportation service and that the disposition~~
13 ~~thereof will not render the railroad corporation unable to~~
14 ~~provide the level of service required by the commission~~
15 ~~to be furnished with such equipment.~~

16 SEC. 51. Section 788 of the Public Utilities Code is
17 amended to read:

18 788. (a) *This section applies only to a telephone*
19 *corporation that is a provider of local exchange service.*

20 (b) On or before March 1, 1992, and annually
21 thereafter, every telephone corporation ~~operating within~~
22 ~~a service area that is a provider of local exchange service~~
23 shall issue to each of its residential subscribers ~~in the~~
24 ~~service area~~, in a manner and form approved by the
25 commission, a notice containing the following
26 information:

27 ~~(a)~~

28 (1) An explanation of the responsibilities of the
29 subscriber and *the* telephone corporation in relation to
30 the customer's inside telephone wiring, as that term is
31 defined by and pursuant to Section 1941.4 of the Civil
32 Code, including an explanation of lessor and tenant
33 obligations.

34 ~~(b)~~

35 (2) An explanation of the telephone corporation's
36 procedures and charges for determining and notifying
37 the subscriber of whether a malfunction in its telephone
38 wire is located in the telephone ~~corporation's telephone~~
39 network, or is located in the subscriber's inside telephone
40 wiring, including customer-provided equipment.

1 ~~(e)~~—

2 (3) If the telephone corporation offers any services to
3 maintain or repair a subscriber's inside telephone wiring,
4 a full description of the types of services offered,
5 including the rates, charges, and conditions for these
6 services, and whether those services are offered by
7 nonutility providers.

8 SEC. 52. Section 853 of the Public Utilities Code is
9 amended to read:

10 853. (a) This article does not apply to any person or
11 corporation which transacts no business subject to
12 regulation under this part, except performing services or
13 delivering commodities for or to public utilities or
14 municipal corporations or other public agencies
15 primarily for resale or use in serving the public or any
16 portion thereof, but shall apply to any public utility, and
17 any subsidiary or affiliate of, or corporation holding a
18 controlling interest in, a public utility, if the commission
19 finds, in a proceeding to which the public utility is or may
20 become a party, that the application of this article is
21 required by the public interest.

22 (b) The commission may from time to time by order
23 or rule, and subject to those terms and conditions as may
24 be prescribed therein, exempt any public utility or class
25 of public utility from this article if it finds that the
26 application thereof with respect to the public utility or
27 class of public utility is not necessary in the public
28 interest. The commission may establish rules or impose
29 requirements deemed necessary to protect the interest of
30 the customers or subscribers of the public utility or class
31 of public utility exempted under this subdivision. These
32 rules or requirements may include, but are not limited to,
33 notification of a proposed sale or transfer of assets or stock
34 and provision for refunds or credits to customers or
35 subscribers.

36 (c) *The provisions of Sections 851 and 854 that prohibit*
37 *any assignment, acquisition, or change of control without*
38 *advance authorization from the commission, do not apply*
39 *to the transfer of the ownership interest in a water utility,*
40 *with 10,000 or fewer service connections, from a decedent*

1 *to a member of the decedent's family in the manner*
2 *provided in Section 240 of the Probate Code or by a will,*
3 *trust, or other instrument.*

4 SEC. 53. Section 874 of the Public Utilities Code is
5 amended to read:

6 874. The lifeline telephone service rates and charges
7 shall be as follows:

8 (a) In a residential subscriber's service area where
9 measured service is not available, the lifeline telephone
10 service rates shall not be more than 50 percent of the rates
11 for basic flat rate service, exclusive of federally mandated
12 end user access charges, available to the residential
13 subscriber.

14 (b) In a residential subscriber's service area where
15 measured service is available, the subscriber may elect
16 either of the following:

17 (1) A lifeline telephone service measured rate of not
18 more than 50 percent of the basic rate for measured
19 service, exclusive of federally mandated end user access
20 charges, available to the residential subscriber.

21 (2) A lifeline flat rate of not more than 50 percent of
22 the rates for basic flat rate service, exclusive of federally
23 mandated end user access charges, available to the
24 residential subscriber.

25 (c) The lifeline telephone service installation or
26 connection charge, or both, shall not be more than 50
27 percent of the charge for basic residential service
28 installation or connection, or both. The commission may
29 limit the number of installation and connection charges,
30 or both, that may be incurred at the reduced rate in any
31 given period.

32 (d) There shall be no charge to the residential
33 customer who has filed a valid eligibility statement for
34 changing out of lifeline service.

35 (e) The commission shall assess whether there is a
36 problem with customers who fraudulently obtain lifeline
37 telephone service. If the commission determines that
38 there is a problem, it shall recommend and promulgate
39 appropriate solutions. ~~The results of this assessment and~~
40 ~~the solutions determined by the commission shall be~~

~~1 reported to the Legislature on or before December 31,~~
~~2 1993.~~ This assessment and the solutions determined by the
3 commission shall not, in and of themselves, change the
4 procedures developed pursuant to Section 876.

5 SEC. 54. Section 882 of the Public Utilities Code is
6 amended to read:

7 882. (a) The Public Utilities Commission shall, as
8 soon as practicable, open a proceeding or proceedings to,
9 or as part of existing proceedings shall, consider ways to
10 ensure that advanced telecommunications services are
11 made available as ubiquitously and economically as
12 possible, in a timely fashion, to California's citizens,
13 institutions, and businesses. The proceeding or
14 proceedings should be completed within one year of
15 commencement.

16 (b) The proceeding or proceedings shall develop
17 rules, procedures, orders, or strategies, or all of these, that
18 seek to achieve the following goals:

19 (1) To provide all citizens and businesses with access
20 to the widest possible array of advanced communications
21 services.

22 (2) To provide the state's educational and health care
23 institutions with access to advanced communications
24 services.

25 (3) To ensure cost-effective deployment of technology
26 so as to protect ratepayers' interests and the affordability
27 of telecommunications services.

28 (c) In the proceeding or proceedings, the commission
29 should also consider, but need not limit its consideration
30 to, all of the following:

31 (1) Whether the definition of universal service should
32 be broadened.

33 (2) How to encourage the timely and economic
34 development of an advanced public communications
35 infrastructure, which may include a variety of
36 competitive providers.

~~37 (d) The commission shall issue a report or order, or~~
~~38 reports or orders, providing for specific action in regard~~
~~39 to the issues set forth in this section. It is the commission's~~

1 ~~goal to issue its report or order, or reports or orders, on or~~
2 ~~before January 1, 1995.~~

3 SEC. 55. Section 1701.1 of the Public Utilities Code is
4 amended to read:

5 1701.1. (a) The commission, consistent with due
6 process, public policy, and statutory requirements, shall
7 determine whether a proceeding requires a hearing. The
8 commission shall determine whether the matter requires
9 a quasi-legislative, an adjudication, or a ratesetting
10 hearing. The commission's decision as to the nature of the
11 proceeding shall be subject to a request for rehearing
12 within 10 days of the date of that decision. If that decision
13 is not appealed to the commission within that time period
14 it shall not be subsequently subject to judicial review.
15 Only those parties who have requested a rehearing
16 within that time period shall subsequently have standing
17 for judicial review and that review shall only be available
18 at the conclusion of the proceeding. The commission shall
19 render its decision regarding the rehearing within 30
20 days. The commission shall establish regulations
21 regarding ex parte communication on case
22 categorization issues.

23 (b) The commission upon initiating a hearing shall
24 assign one or more commissioners to oversee the case and
25 an administrative law judge where appropriate. The
26 assigned commissioner shall schedule a prehearing
27 conference. The assigned commissioner shall prepare
28 and issue by order or ruling a scoping memo that
29 describes the issues to be considered and the applicable
30 timetable for resolution.

31 (c) (1) Quasi-legislative cases, for purposes of this
32 article, are cases that establish policy, including, but not
33 limited to, rulemakings and investigations which may
34 establish rules affecting an entire industry.

35 (2) Adjudication cases, for purposes of this article, are
36 enforcement cases and complaints except those
37 challenging the reasonableness of any rates or charges as
38 specified in Section 1702.

39 (3) Ratesetting cases, for purposes of this article, are
40 cases in which rates are established for a specific

1 company, including, but not limited to, general rate cases,
2 performance-based ratemaking, and other ratesetting
3 mechanisms.

4 (4) “Ex parte communication,” for purposes of this
5 article, means any oral or written communication
6 between a decisionmaker and a person with an interest
7 in a matter before the commission concerning
8 substantive, but not procedural issues, that does not occur
9 in a public hearing, workshop, or other public
10 proceeding, or on the official record of the proceeding on
11 the matter. “Person with an interest,” for purposes of this
12 article, means any of the following:

13 (A) Any applicant, an agent or an employee of the
14 applicant, or a person receiving consideration for
15 representing the applicant, or a participant in the
16 proceeding on any matter before the commission.

17 (B) Any person with a financial interest, as described
18 in Article 1 (commencing with Section 87100) of Chapter
19 7 of Title 9 of the Government Code, in a matter before
20 the commission, or an agent or employee of the person
21 with a financial interest, or a person receiving
22 consideration for representing the person with a financial
23 interest.

24 (C) A representative acting on behalf of any civic,
25 environmental, neighborhood, business, labor, trade, or
26 similar organization who intends to influence the
27 decision of a commission member on a matter before the
28 commission.

29 The commission shall by regulation adopt and publish
30 a definition of decisionmakers and persons for purposes
31 of this section, along with any requirements for written
32 reporting of ex parte communications and appropriate
33 sanctions for noncompliance with any rule proscribing ex
34 parte communications. The regulation shall provide that
35 reportable communications shall be reported by the
36 party, whether the communication was initiated by the
37 party or the decisionmaker. Communications shall be
38 reported within three working days of the
39 communication by filing ~~the original and 12 copies of a~~
40 “Notice of Ex Parte Communication” with the

1 commission in accordance with the procedures
2 established by the commission for the service of that
3 notice. The notice shall include the following
4 information:

5 (i) The date, time, and location of the communication,
6 and whether it was oral, written, or a combination.

7 (ii) The identity of the recipient and the person
8 initiating the communication, as well as the identity of
9 any persons present during the communication.

10 (iii) A description of the party's, but not the
11 decisionmaker's, communication and its content, to
12 which shall be attached a copy of any written material or
13 text used during the communication.

14 SEC. 56. Section 1823 of the Public Utilities Code is
15 repealed.

16 ~~1823. The commission shall periodically review and~~
17 ~~monitor the development and use of any operations~~
18 ~~model used by any public utility. The commission or any~~
19 ~~party may use the output of these operations models as~~
20 ~~evidence in a proceeding or hearing, without introducing~~
21 ~~into evidence the full methodology used to generate this~~
22 ~~output, if the commission has monitored that operations~~
23 ~~model continuously for at least 12 months before the~~
24 ~~hearing or proceeding and has reviewed and verified the~~
25 ~~operations model for accuracy no more than three~~
26 ~~months before the hearing or proceeding. However, no~~
27 ~~party shall be prohibited from reasonably~~
28 ~~cross-examining any witness who introduces this~~
29 ~~evidence.~~

30 SEC. 57. Section 1824 of the Public Utilities Code is
31 repealed.

32 ~~1824. The commission shall conduct studies to verify,~~
33 ~~validate, and improve the production cost planning~~
34 ~~models and the financial planning models of public~~
35 ~~utilities to facilitate their use by the commission. The~~
36 ~~commission shall complete the studies of the respective~~
37 ~~models used and report the results thereof to the~~
38 ~~Legislature on or before January 1, 1987.~~

39 SEC. 58. Section 1904 of the Public Utilities Code is
40 amended to read:

1 1904. The commission shall also charge and collect the
2 following fees:

3 (a) Except as otherwise provided in ~~Sections 1010 and~~
4 ~~Section 1036~~ for filing each application for a certificate of
5 public convenience and necessity, or for the mortgage,
6 lease, transfer, or assignment thereof, seventy-five dollars
7 (\$75).

8 (b) For a certificate authorizing an issue of bonds,
9 notes, or other evidences of indebtedness, two dollars
10 (\$2) for each one thousand dollars (\$1,000) of the face
11 value of the authorized issue or fraction thereof up to one
12 million dollars (\$1,000,000), one dollar (\$1) for each one
13 thousand dollars (\$1,000) over one million dollars
14 (\$1,000,000) and up to ten million dollars (\$10,000,000),
15 and fifty cents (\$0.50) for each one thousand dollars
16 (\$1,000) over ten million dollars (\$10,000,000), with a
17 minimum fee in any case of fifty dollars (\$50). No fee
18 need be paid on such portion of any such issue as may be
19 used to guarantee, take over, refund, discharge, or retire
20 any stock, bond, note or other evidence of indebtedness
21 on which a fee has theretofore been paid to the
22 commission. If the commission modified the amount of
23 the issue requested in any case and the applicant
24 thereupon elects not to avail itself of the commission's
25 authorization, no fee shall be paid, and if such fee is paid
26 prior to the issuance of such certificate by the
27 commission, such fee shall be returned.

28 SEC. 59. Chapter 4 (commencing with Section 2739)
29 of Part 2 of Division 1 of the Public Utilities Code is
30 repealed.

31 SEC. 60. Section 2851 of the Public Utilities Code is
32 repealed.

33 ~~2851. (a) The commission shall investigate the~~
34 ~~feasibility of alternative methods of providing~~
35 ~~low-interest, long-term financing of solar energy systems~~
36 ~~for utility customers, including, but not limited to, direct~~
37 ~~financing by investor-owned utilities and conventional~~
38 ~~financing through banks, savings and loan associations, or~~
39 ~~other sources.~~

1 ~~(b) In conducting its investigation, the commission~~
2 ~~shall consider the economic and financial impact of each~~
3 ~~alternative on the investor-owned utilities, the relative~~
4 ~~costs and benefits of each alternative to all utility~~
5 ~~customers, and the extent to which each alternative~~
6 ~~would facilitate the implementation of cost-effective~~
7 ~~solar energy systems.~~

8 ~~(c) The commission shall report its findings and~~
9 ~~recommendations to the Legislature on or before January~~
10 ~~1, 1980.~~

11 SEC. 61. Section 2881 of the Public Utilities Code is
12 amended to read:

13 2881. (a) The commission shall design and
14 implement a program ~~whereby each telephone~~
15 ~~corporation shall~~ to provide a telecommunications device
16 capable of serving the needs of individuals who are deaf
17 or hearing impaired, together with a single party line, at
18 no charge additional to the basic exchange rate, to any
19 subscriber who is certified as an individual who is deaf or
20 hearing impaired by a licensed physician and surgeon,
21 audiologist, or a qualified state or federal agency, as
22 determined by the commission, and to any subscriber
23 that is an organization representing individuals who are
24 deaf or hearing impaired, as determined and specified by
25 the commission pursuant to subdivision (e). A licensed
26 hearing aid dispenser may certify the need of an
27 individual to participate in the program if that individual
28 has been previously fitted with an amplified device by the
29 dispenser and the dispenser has the individual's hearing
30 records on file prior to certification.

31 (b) The commission shall also design and implement
32 a program ~~whereby each telephone corporation shall~~ to
33 provide a dual-party relay system, using third-party
34 intervention to connect individuals who are deaf or
35 hearing impaired and offices of organizations
36 representing individuals who are deaf or hearing
37 impaired, as determined and specified by the commission
38 pursuant to subdivision (e), with persons of normal
39 hearing by way of intercommunications devices for
40 individuals who are deaf or hearing impaired and the

1 telephone system, making available reasonable access of
2 all phases of public telephone service to telephone
3 subscribers who are deaf or hearing impaired. In order to
4 make a dual-party relay system that will meet the
5 requirements of individuals who are deaf or hearing
6 impaired available at a reasonable cost, the commission
7 shall initiate an investigation, conduct public hearings to
8 determine the most cost-effective method of providing
9 dual-party relay service to the deaf or hearing impaired
10 when using a telecommunications device, and solicit the
11 advice, counsel, and physical assistance of statewide
12 nonprofit consumer organizations of the deaf, during the
13 development and implementation of the system. The
14 commission shall phase in this program, on a geographical
15 basis, over a three-year period ending on January 1, 1987.
16 The commission shall apply for certification of this
17 program under rules adopted by the Federal
18 Communications Commission pursuant to Section 401 of
19 the Americans with Disabilities Act of 1990 (Public Law
20 101-336).

21 (c) The commission shall also design and implement a
22 program whereby specialized or supplemental telephone
23 communications equipment may be provided to
24 subscribers who are certified to be disabled at no charge
25 additional to the basic exchange rate. The certification,
26 including a statement of medical need for specialized
27 telecommunications equipment, shall be provided by a
28 licensed physician and surgeon acting within the scope of
29 practice of his or her license, or by a qualified state or
30 federal agency as determined by the commission. The
31 commission shall, in this connection, study the feasibility
32 of, and implement, if determined to be feasible, personal
33 income criteria, in addition to the certification of
34 disability, for determining a subscriber's eligibility under
35 this subdivision.

36 (d) The commission shall establish a rate recovery
37 mechanism through a surcharge not to exceed one-half of
38 1 percent uniformly applied to a subscriber's intrastate
39 telephone service, other than one-way radio paging
40 service and universal telephone service, both within a

1 service area and between service areas, to allow
2 ~~telephone corporations~~ *providers of the equipment and*
3 *service specified in subdivisions (a), (b), and (c),* to
4 recover costs as they are incurred under this section. The
5 surcharge shall be in effect until January 1, 2001. The
6 commission shall require that the programs implemented
7 under this section be identified on subscribers' bills, and
8 shall establish a fund and require separate accounting for
9 each of the programs implemented under this section.

10 (e) The commission shall determine and specify those
11 statewide organizations representing the deaf or hearing
12 impaired which shall receive a telecommunications
13 device pursuant to subdivision (a) or a dual-party relay
14 system pursuant to subdivision (b), or both, and in which
15 offices the equipment shall be installed in the case of an
16 organization having more than one office. ~~The~~

17 (f) ~~The~~ commission ~~shall~~ *may* direct ~~the~~ *any* telephone
18 ~~corporations~~ *corporation* subject to its jurisdiction to
19 comply with its determinations and specifications ~~in this~~
20 ~~regard~~ *pursuant to this section.*

21 ~~(f)~~

22 (g) The commission shall annually review the
23 surcharge level and the balances in the funds established
24 pursuant to subdivision (d). Until January 1, 2001, the
25 commission shall be authorized to make, within the limits
26 set by subdivision (d), any necessary adjustments to the
27 surcharge to ensure that the programs supported thereby
28 are adequately funded and that the fund balances are not
29 excessive. A fund balance which is projected to exceed six
30 months' worth of projected expenses at the end of the
31 fiscal year is excessive.

32 ~~(g)~~

33 (h) The commission shall prepare and submit to the
34 Legislature, on or before December 31, 1988, and
35 annually thereafter, a report on the fiscal status of the
36 programs established and funded pursuant to this section
37 and Sections 2881.1 and 2881.2. The report shall include
38 a statement of the surcharge level established pursuant to
39 subdivision (d) and revenues produced by the surcharge,
40 an accounting of program expenses, and an evaluation of

1 options for controlling those expenses and increasing
2 program efficiency, including, but not limited to, all of the
3 following proposals:

4 (1) The establishment of a means test for persons to
5 qualify for program equipment or free or reduced
6 charges for the use of telecommunication services.

7 (2) If and to the extent not prohibited under Section
8 401 of the Americans with Disabilities Act of 1990 (Public
9 Law 101-336), the imposition of limits or other restrictions
10 on maximum usage levels for the relay service, which
11 shall include the development of a program to provide
12 basic communications requirements to all relay users at
13 discounted rates, including discounted toll call rates, and,
14 for usage in excess of those basic requirements, at rates
15 which recover the full costs of service.

16 (3) More efficient means for obtaining and
17 distributing equipment to qualified subscribers.

18 (4) The establishment of quality standards for
19 increasing the efficiency of the relay system.

20 ~~(h)~~—

21 (i) In order to continue to meet the access needs of
22 individuals with functional limitations of hearing, vision,
23 movement, manipulation, speech, and interpretation of
24 information, the commission shall perform ongoing
25 assessment of, and if appropriate, expand the scope of the
26 program to allow for additional access capability
27 consistent with evolving telecommunications
28 technology.

29 SEC. 62. Section 2881.1 of the Public Utilities Code is
30 amended to read:

31 2881.1. (a) In addition to the requirements of Section
32 2881, the commission shall design and implement a
33 program ~~whereby each telephone corporation shall to~~
34 provide a telecommunications device capable of
35 servicing the needs of the deaf or severely
36 hearing-impaired, together with a single party line, at no
37 charge additional to the basic exchange rate, to any
38 subscriber which is an agency of state government and
39 which the commission determines serves a significant
40 portion of the deaf or severely hearing-impaired

1 population, and to an office located in the State Capitol
2 and selected by the Joint Rules Committee, for purposes
3 of access by the deaf or severely hearing-impaired to
4 Members of the Legislature.

5 (b) The commission shall permit telephone
6 corporations providers of equipment and service
7 specified in subdivision (a) to recover costs as they are
8 incurred under this section pursuant to subdivision (e)
9 (d) of Section 2881.

10 (c) The commission may direct any telephone
11 corporation subject to its jurisdiction to comply with its
12 determinations pursuant to this section.

13 SEC. 63. Section 2882 of the Public Utilities Code is
14 repealed.

15 ~~2882. (a) The commission shall conduct an~~
16 ~~investigation and hearings on the establishment of~~
17 ~~telephone rates with respect to whether there should be~~
18 ~~no additional charge to subscribers for tone-dialing~~
19 ~~service. The commission shall, in this connection,~~
20 ~~consider whether to redefine basic telephone service so~~
21 ~~that rates for tone-dialing service shall be included in the~~
22 ~~charge for basic telephone service, together with factors~~
23 ~~such as, but not limited to, the following:~~

24 ~~(1) The extent to which tone-dialing capability~~
25 ~~already exists in service areas.~~

26 ~~(2) The cost to the corporation for the purchase or~~
27 ~~modification of equipment to provide tone-dialing~~
28 ~~service to all subscribers.~~

29 ~~(3) Alternate methods to adjust user rates to recover~~
30 ~~costs which would be incurred to provide tone-dialing~~
31 ~~service to all subscribers.~~

32 ~~(b) In establishing telephone rates, the commission~~
33 ~~shall take into consideration any economies and savings~~
34 ~~to the corporation realized through the complete~~
35 ~~conversion to tone-dialing capability.~~

36 SEC. 64. Section 2882.5 of the Public Utilities Code is
37 repealed.

38 ~~2882.5. (a) It is the intent of the Legislature to create~~
39 ~~a billing standard for telephone corporations that~~
40 ~~accurately reflects actual usage by the consumer.~~

~~(b) The commission shall investigate the advantages and disadvantages of requiring telephone corporations to bill in increments shorter than one minute. The investigation shall include an opportunity for public comment. The commission shall report to the Legislature on its findings and recommendations not later than December 31, 1995.~~

SEC. 65. Section 2889.8 of the Public Utilities Code is amended to read:

2889.8. The commission *periodically* shall assess the reliability of the public telecommunications network and, if necessary, develop recommendations for improvement. The assessment shall include, but not be limited to, all of the following:

(a) An analysis of those factors that pose a risk to network reliability, including the adequacy of independent sources of reserve power.

(b) Consideration as to whether development of reliability standards is appropriate.

(c) Consideration as to whether procedures should be developed to notify customers about accessing other telecommunications companies in the event of a service disruption.

~~(d) The commission shall report its analysis, findings, and recommendations to the Legislature by December 31, 1993.~~

SEC. 66. Section 3950 is added to the Public Utilities Code, to read:

3950. It is a violation of law for any person or corporation to operate, or cause to be operated, on the highways of this state, any motor vehicle in the transportation of property or passengers for compensation in interstate commerce without having first complied with the requirements of this chapter. That violation may be prosecuted and punished as provided in Section 16560 of the Vehicle Code.

SEC. 67. Section 4006 of the Public Utilities Code is amended to read:

4006. ~~(a) A fee of twenty-five~~ *thirty-five* dollars ~~(\$25)~~ *(\$35)* shall be paid to the commission for the filing of the

1 initial registration of private carriers of passengers, and
2 an annual renewal fee of ~~twenty~~ *thirty* dollars ~~(\$20)~~ *(\$30)*
3 shall also be paid by private carriers of passengers. The
4 fees required to be paid by carriers of passengers
5 pursuant to this section shall be deposited in the Public
6 Utilities Commission Transportation Reimbursement
7 Account in the General Fund.

8 ~~(b) Notwithstanding subdivision (a), the commission~~
9 ~~may increase the amount of the initial registration fee to~~
10 ~~not more than thirty-five dollars (\$35) in the case of~~
11 ~~private carriers of passengers, and the amount of the~~
12 ~~annual renewal fee to not more than thirty dollars (\$30)~~
13 ~~in the case of private carriers of passengers if the~~
14 ~~commission finds and determines that to do so is~~
15 ~~necessary to defray the costs of implementing Section~~
16 ~~4022. If the commission increases the fee pursuant to this~~
17 ~~subdivision, it shall prepare and transmit to the Joint~~
18 ~~Legislative Budget Committee, the Assembly~~
19 ~~Committee on Utilities and Commerce, and the Senate~~
20 ~~Committee on Energy and Public Utilities a report of the~~
21 ~~amount of the increase instituted together with an~~
22 ~~audited statement of the receipts and disbursements~~
23 ~~related to the administration of private carrier of~~
24 ~~passengers registrations.~~

25 SEC. 68. Section 4007 of the Public Utilities Code is
26 amended to read:

27 4007. (a) When the department issues a carrier
28 identification number pursuant to Section 34507.5 of the
29 Vehicle Code to a private carrier of passengers, it shall
30 inform the carrier of the provisions of this chapter and the
31 requirement that the carrier register with the Public
32 Utilities Commission.

33 (b) The department shall periodically, but not less
34 frequently than quarterly, transmit to the commission a
35 list of the persons, firms, and corporations *identified as*
36 *private carriers of passengers* to whom it has issued a
37 carrier identification number. Upon receipt of the list, the
38 commission shall notify the private carriers of passengers
39 of the registration requirements and of the penalties for
40 failure to register.

1 SEC. 69. Section 4021 of the Public Utilities Code is
2 amended to read:

3 4021. (a) Any person or corporation who violates any
4 provision of this chapter is guilty of ~~an infraction~~ a
5 *misdemeanor*, and is punishable by a fine of not more
6 than two thousand five hundred dollars (\$2,500), or by
7 imprisonment in the county jail for not more than three
8 months, or both.

9 ~~(b) This section shall become operative on June 30,~~
10 ~~1991. A violation of this section is an infraction subject to~~
11 ~~the procedures described in Sections 19.6 and 19.7 of the~~
12 ~~Penal Code when the conditions specified in either~~
13 ~~paragraph (1) or (2) of subdivision (d) of Section 17 of~~
14 ~~the Penal Code are met.~~

15 SEC. 70. Section 4458 of the Public Utilities Code is
16 amended to read:

17 4458. (a) The commission shall establish a surcharge
18 to be paid by operators with distribution systems subject
19 to this chapter on propane purchased for distribution to
20 their customers. The surcharge shall be designed to
21 partially recover the commission's costs of the propane
22 safety inspection and enforcement program required by
23 this chapter, and to partially recover the commission's
24 costs of collecting and administering the surcharge. The
25 commission shall collect the surcharge from the operators
26 and deposit it into the Propane Safety Inspection and
27 Enforcement Program Trust Fund, which ~~shall be used,~~
28 ~~upon appropriation, notwithstanding Section 13340 of the~~
29 ~~Government Code, is continuously appropriated, without~~
30 ~~regard to fiscal years, to be used for the purposes of this~~
31 chapter. The surcharge shall be assessed on a per space or
32 lot basis, shall not exceed twenty-five cents (\$0.25) per
33 month, and shall be collected by the commission on an
34 annual basis.

35 (b) Notwithstanding any other provision of law or
36 local ordinance, rule, regulation, or initiative measure,
37 the operator shall be entitled to recover the surcharge
38 collected pursuant to subdivision (a) from its customers.
39 However, the charge to any customer, to allow for the

1 operator's recovery, shall not exceed the actual
2 surcharge.

3 SEC. 71. Section 5001.5 of the Public Utilities Code is
4 amended to read:

5 5001.5. In addition to those purposes specified in
6 Sections 5001 and 5005, the commission may utilize the
7 funds it collects pursuant to this chapter for the following
8 purposes:

9 (a) The collection, aggregation, and analysis of data
10 and information on the economics of the ~~highway~~
11 *household goods* carrier industry.

12 ~~(b) The enforcement of highway carrier certificate,~~
13 ~~permit, entry and licensure requirements, including~~
14 ~~safety, financial responsibility and insurance~~
15 ~~requirements.~~

16 ~~(c) The creation and enforcement of rates and charges~~
17 ~~systems for highway carrier services prescribed by statute~~
18 ~~or commission rule.~~

19 ~~(d) The implementation of statutory policies or other~~
20 ~~legislative directives contained in law relating to the~~
21 ~~highway household goods carrier industry.~~

22 SEC. 72. Section 5002 of the Public Utilities Code is
23 amended to read:

24 5002. "Gross operating revenue" as used in this
25 chapter includes all revenue derived from the
26 transportation of property having origin and destination
27 within this state, ~~except revenue derived from the~~
28 ~~transportation of such property in interstate or foreign~~
29 ~~commerce or from the transportation of vehicles by~~
30 ~~ferries where the revenue is derived from transportation~~
31 ~~performed under a permit issued by the commission.~~

32 SEC. 73. Section 5003.2 of the Public Utilities Code is
33 amended to read:

34 5003.2. (a) Notwithstanding Section 5003.1, the
35 commission shall require every highway carrier
36 otherwise subject to Section 5003.1 for whom the
37 commission does not establish minimum or maximum
38 rates, or require rates to be on file with the commission,
39 to pay a fee equal to $\frac{1}{10}$ of 1 percent of the amount of
40 gross operating revenue.

(b) When a household goods carrier pursuant to Section 5137 elects to transport under its household goods carrier permit used office, store, and institution furniture and fixtures, notwithstanding Section 5003.1, the fee on the gross operating revenue derived from transporting those items shall be one-tenth of 1 percent.

(c) The commission may raise the fee imposed by Section 5003.1 upon those persons and corporations subject to that section for whom the commission establishes minimum or maximum rates or requires rates to be on file, up to a maximum of one-half of 1 percent of gross operating revenue, if the commission decides this increase is necessary to maintain adequate financing for the Transportation Rate Fund.

SEC. 74. Section 5009 of the Public Utilities Code is amended to read:

5009. The employees, representatives, and inspectors of the commission may, under its order or direction, inspect and examine any books, accounts, records, memoranda, documents, papers, and correspondence kept or required to be kept by any transportation agency referred to in this chapter. The provisions of this section shall, to the extent deemed necessary by the commission, apply to persons having direct or indirect control over, or affiliated with any transportation agency.

SEC. 75. Section 5012 of the Public Utilities Code is amended to read:

~~5012. Commencing with the 1993-94 fiscal year, and each subsequent fiscal year, except as provided in subdivision (f) of Section 421, the~~ The Public Utilities Commission shall conduct an audit of the expenditures of the funds received pursuant to this chapter *each fiscal year*. The results of this audit shall be reported in writing, ~~commencing on or before February 15, 1995, with respect to the audit for the 1993-94 fiscal year, and on or before February 15th of each year thereafter, with respect to the audit for the fiscal year ending on the previous June 30th, to the appropriate policy and budget committees of the~~ respective houses of the Legislature.

1 SEC. 76. Section 5102 of the Public Utilities Code is
2 amended to read:

3 5102. The use of the public highways for the
4 transportation of used household goods and personal
5 ~~effects, office, store, and institution furniture and fixtures~~
6 for compensation is a business affected with a public
7 interest. It is the purpose of this chapter to preserve for
8 the public the full benefit and use of public highways
9 consistent with the needs of commerce without
10 unnecessary congestion or wear and tear upon such
11 highways; to secure to the people just, reasonable and
12 nondiscriminatory rates for transportation by carriers
13 operating upon the highways; and to secure full and
14 unrestricted flow of traffic by motor carriers over the
15 highways which will adequately meet reasonable public
16 demands by providing for the regulation of rates of all
17 carriers so that adequate and dependable service by all
18 necessary carriers shall be maintained and the full use of
19 the highways preserved to the public.

20 SEC. 77. Section 5109 of the Public Utilities Code is
21 amended to read:

22 5109. "Household goods carrier" includes every
23 corporation or person, their lessees, trustee, receivers or
24 trustees appointed by any court whatsoever, engaged in
25 the transportation for compensation or hire as a business
26 by means of a motor vehicle or motor vehicles being used
27 in the transportation of used household goods and
28 ~~personal effects, office, store, and institution furniture~~
29 ~~and fixtures~~ over any public highway in this state.

30 SEC. 78. Section 5112 of the Public Utilities Code is
31 amended to read:

32 5112. The regulation of the transportation of used
33 household goods and personal effects, ~~office, store, and~~
34 ~~institution furniture and fixtures~~ in a motor vehicle or
35 motor vehicles over any public highway in this state shall
36 be exclusively as provided in this chapter. Any provision
37 of the Public Utilities Act ~~or the Highway Carriers Act~~ in
38 conflict with the provisions of this chapter is ~~superseded~~
39 ~~and repealed~~ *does not apply to a household goods carrier.*

1 SEC. 79. Section 5113 of the Public Utilities Code is
2 amended to read:

3 5113. The transportation of used household goods;
4 ~~and personal effects, office, store, and institution~~
5 ~~furniture and fixtures~~ in any truck or trailer for
6 compensation over any public highway in this ~~State~~ *state*
7 is a highly specialized type of truck transportation. This
8 chapter is enacted for the limited purpose of providing
9 necessary regulation for this specialized type of truck
10 transportation only, and is not to be construed for any
11 purpose as a precedent for the extension of such
12 regulation to any other type of truck transportation not
13 presently so restricted.

14 SEC. 80. Section 5133 of the Public Utilities Code is
15 amended to read:

16 5133. No household goods carrier shall engage, or
17 attempt to engage, in the business of the transportation
18 of used household goods and personal effects, ~~office, store,~~
19 ~~and institution furniture and fixtures for compensation,~~
20 by motor vehicle over any public highway in this state,
21 unless there is in force a permit issued by the commission
22 authorizing those operations.

23 SEC. 81. Section 5137 is added to the Public Utilities
24 Code, to read:

25 5137. (a) A household goods carrier, under its
26 permit, may also transport used office, store, and
27 institution furniture and fixtures. The commission shall
28 not regulate the service, routes, or prices charged for the
29 transportation of used office, store, and institution
30 furniture and fixtures by a household goods carrier. The
31 commission shall do nothing under this section that is in
32 conflict with federal law as contained in Section 14501 of
33 Title 49 of the United States Code.

34 (b) If a household goods carrier elects to transport
35 used office, store, and institution furniture and fixtures
36 under its household goods carrier permit all of the
37 following apply:

38 (1) A permit is not needed from the Department of
39 Motor Vehicles under the Motor Carriers of Property

1 Permit Act in the Vehicle Code to conduct that
2 transportation.

3 (2) The transportation is subject to the commission's
4 safety and insurance requirements, except that the cargo
5 insurance requirements of subdivision (c) of Section 5161
6 shall not apply.

7 (3) The household goods carrier shall pay the fee
8 specified in subdivision (b) of Section 5003.2.

9 (c) To exercise the election pursuant to this section, a
10 household goods carrier shall notify the commission of the
11 election or the revocation of that election by filing a
12 notice with the commission in the manner and on the
13 form prescribed by the commission. If a household goods
14 carrier does not elect to be subject to the provisions of this
15 section or revokes a prior election to do so, the household
16 goods carrier shall comply with the provisions of the
17 Motor Carriers of Property Permit Act when transporting
18 used office, store, and institution furniture and fixtures.

19 SEC. 82. Section 5191 of the Public Utilities Code is
20 amended to read:

21 5191. (a) The commission shall establish or approve
22 just, reasonable, and nondiscriminatory maximum or
23 minimum or maximum and minimum rates to be charged
24 by household goods carriers for the transportation of
25 ~~property subject to this chapter~~ *used household goods*
26 *and personal effects* and for accessorial service
27 performed in connection therewith.

28 ~~In~~

29 (b) *In* establishing or approving rates, the commission
30 shall account for the cost of all transportation service
31 performed or to be performed, for any accessorial service
32 performed or to be performed in connection therewith,
33 the value of the commodity transported, and the value of
34 the equipment, facilities, and personnel reasonably
35 necessary to perform the service.

36 ~~The~~

37 (c) *The* commission shall establish or approve no
38 minimum rate for household goods carriers unless it finds
39 that the rate is at a sufficient level to allow safe operation
40 upon the highways of the state and accounts for the cost

1 of trained drivers and other reasonable expense of
2 operation of household goods carriers.

3 ~~In~~

4 (d) *In* establishing or approving any maximum rates
5 for household goods carriers, the commission shall , on or
6 immediately after January 1, 1996, adjust the current level
7 of maximum rates by application and use of the index
8 number methodology relied upon by the commission in
9 1992 to assist in the establishment of the current level of
10 maximum rates and make that adjustment for the time
11 period from the date that index was last relied upon to the
12 latest date that index data is available. Thereafter,
13 maximum rates shall be adjusted at least once annually by
14 use of the same index methodology, or another index
15 methodology found by the commission to be appropriate
16 for the adjustment of household goods carrier maximum
17 rates, less a reasonable percentage of any index increase
18 to encourage higher productivity and promote efficiency
19 and economy of operation by household goods carriers.
20 The commission may also adjust maximum rates when
21 deemed reasonable to allow for extraordinary changes in
22 household goods carrier costs.

23 SEC. 83. Section 5195 of the Public Utilities Code is
24 repealed.

25 ~~5195. If any household goods carrier desires to~~
26 ~~perform any transportation or accessorial service at a~~
27 ~~lesser rate than the minimum established rates, the~~
28 ~~commission shall, upon finding that the proposed rate is~~
29 ~~reasonable and in conformity with Section 5191,~~
30 ~~authorize the lesser rate for not more than one year.~~

31 SEC. 84. Section 5259.5 of the Public Utilities Code is
32 amended to read:

33 5259.5. (a) Whenever the commission determines
34 that any household goods carrier or any officer, director,
35 or agent of any household goods carrier has abandoned,
36 or is abandoning stored household goods or property of
37 any shippers under contract with the carrier or carriers,
38 it may commence a proceeding in superior court for the
39 purpose of having the court appoint either a receiver or
40 commission staff to identify the stored items of property,

1 to take possession of the property, and to arrange the
2 return of the property to its owners in accordance with
3 the orders of the court and with regard for the protection
4 of all property rights involved.

5 (b) The proceeding shall be brought in the superior
6 court in and for the county, or city and county, in which
7 the cause or some part thereof arose, or in which the
8 person or corporation complained of has its principal
9 place of business, or in which the person complained of
10 resides. The commission shall commence the proceeding
11 in the name of the people of the State of California, by
12 petition to the superior court, alleging the facts and
13 circumstances involved and praying for appropriate
14 relief by way of mandamus, or injunction, or the
15 appointment of a receiver, and authorizing the
16 commission to arrange for the hiring of a receiver who
17 shall be required to comply with the requirements of
18 Sections 566, 567, and 568 of the Code of Civil Procedure.

19 (c) The court may also appoint a receiver to manage
20 the business of the household goods carrier or carriers and
21 return property to its owner or owners upon a showing by
22 the commission satisfactory to the court that the
23 abandonment or threatened abandonment by the carrier
24 jeopardizes property or funds of others in the custody or
25 under the control of the carrier. The court may make any
26 other order that it finds appropriate to protect and
27 preserve those funds or property. *Service of the order of*
28 *the court on a household goods carrier may be*
29 *accomplished by person delivery to the person to be*
30 *served, or by posting a copy of the order at the dwelling*
31 *house, usual place of abode, usual place of business, or*
32 *usual residence of the person to be served and thereafter*
33 *mailing a copy of the order, by first-class mail, postage*
34 *prepaid, to the location where the order was posted.*

35 (d) In the event a receiver is appointed by the court
36 and the commission is responsible for contracting for a
37 receiver to carry out the duties authorized by this section,
38 the commission may contract on an emergency basis with
39 a qualified person or corporation to serve as receiver
40 under the conditions and guidelines set by the court. The

1 contract for the receiver services may be executed by the
2 commission on an expedited basis and without
3 compliance with the requirements of Sections 11042 and
4 14615 of the Government Code and Sections 10295 and
5 10318 of the Public Contract Code. The receiver shall be
6 paid from the fees collected pursuant to Section 5003.2.

7 SEC. 85. Section 5326 of the Public Utilities Code is
8 amended to read:

9 5326. An adequate transportation system is essential
10 to the welfare of the state, and an important part of that
11 system is service rendered by ~~highway~~ *household goods*
12 carriers.

13 SEC. 86. Section 5328 of the Public Utilities Code is
14 amended to read:

15 5328. (a) On and after the effective date of this
16 article, there is imposed upon every household goods
17 carriers, and every person or corporation, owning or
18 operating motor vehicles in the transportation of
19 property for hire upon the public highways, under the
20 jurisdiction of the commission, a license fee equal to
21 one-tenth of 1 percent of gross operating revenue, which
22 shall be payable to the commission in the manner and at
23 the times provided for the payment of the fee provided
24 in Section 5003.1. For purposes of this section, "gross
25 operating revenue" shall be the gross operating revenue
26 defined in Section 5002.

27 (b) The license fee imposed by this section is in lieu of
28 all city or city and county excise or license taxes of any
29 kind, character, or description whatever, upon the
30 intercity transportation business of any ~~express~~
31 ~~corporation, freight forwarder, motor transportation~~
32 ~~broker or~~ *household goods carrier*, and every person or
33 corporation, owning or operating motor vehicles in the
34 transportation of property for hire upon the public
35 highways, under the jurisdiction of the commission.

36 (c) This section does not prohibit the imposition by
37 any city, or city and county, of any excise or license tax
38 authorized under Division 2 (commencing with Section
39 6001) of the Revenue and Taxation Code.

SEC. 87. Section 5329 of the Public Utilities Code is amended to read:

5329. On and after the effective date of this article, any person or corporation, subject to the license fee imposed by Section ~~4304~~ 5328, required to pay any excise or license tax of any kind, character, or description whatever imposed by any city, or city and county, other than an excise or license tax authorized under Division 2 (commencing with Section 6001) of the Revenue and Taxation Code, for the privilege of doing any transportation business therein on or after the effective date of this article, ~~may credit the amount of the tax against the~~ *and on which it pays the license fee* imposed by Section ~~4304~~ 5328, *may credit the amount of the tax against the fee imposed by Section 5328.*

SEC. 88. Section 5331 of the Public Utilities Code is amended to read:

5331. (a) If any person or corporation is in default in the payment of the license fee prescribed by this chapter for a period of 30 days or more, the commission may suspend or revoke any ~~certificate of public convenience and necessity~~, permit, or license of the person or corporation, shall estimate from all available information the gross operating revenue of that person or corporation, shall compute the license fee required by Section ~~4304~~ 5328, and shall impose a penalty of 25 percent of the fee for failure, neglect, or refusal to report. In no event shall the amount of the penalty be less than one dollar (\$1). Upon payment of the estimated license fee and the penalty, the ~~certificate~~, permit, or license of the agency suspended in accordance with the provisions of this section shall be reinstated.

(b) The commission may grant a reasonable extension of the 30-day period to any person or corporation, upon written application of the person or corporation and showing of the necessity for the extension.

(c) Upon the revocation of any operating authority issued to any person or corporation subject to this chapter, all fees provided for by this chapter shall become due and payable immediately.

1 SEC. 89. Section 7531.5 of the Public Utilities Code is
2 amended to read:

3 7531.5. Upon receipt by it of an application, filed with
4 either the ~~Interstate Commerce Commission~~ *federal*
5 *Surface Transportation Board* or the Public Utilities
6 Commission, to abandon a line of railroad, the Public
7 Utilities Commission shall forward a copy of the
8 application to the *State Department of Transportation*
9 ~~Board~~ within 10 days.

10 SEC. 90. Section 7532 of the Public Utilities Code is
11 repealed.

12 ~~7532. The commission may authorize the~~
13 ~~discontinuance of operation in whole or in part of any line~~
14 ~~of railroad for such period of time and upon such~~
15 ~~conditions as the commission determines, without~~
16 ~~forfeiture of the right to operate the railroad.~~

17 SEC. 91. Section 7532.5 of the Public Utilities Code is
18 repealed.

19 ~~7532.5. (a) Every railroad corporation that intends to~~
20 ~~abandon, or discontinue service on, any spur, industrial,~~
21 ~~team, switching, or side track providing intermodal~~
22 ~~service to any community or shipper shall file an~~
23 ~~application with the commission and furnish notice of its~~
24 ~~intent to the affected community and shippers at least 90~~
25 ~~days prior to the filing of the application.~~

26 ~~(b) If the abandonment of, or discontinuance of~~
27 ~~service on, any spur, industrial, team, switching, or side~~
28 ~~track has been protested in writing by any affected~~
29 ~~shipper or community, and the protest makes a prima~~
30 ~~facie showing that the abandonment or discontinuance of~~
31 ~~service will have a substantial adverse impact on the~~
32 ~~affected community or on any affected shipper, the~~
33 ~~commission shall hold a public hearing in the affected~~
34 ~~area prior to authorizing the abandonment of, or~~
35 ~~discontinuance of service on, any spur, industrial, team,~~
36 ~~switching, or side track used by a railroad corporation to~~
37 ~~provide intermodal service.~~

38 ~~(c) Prior to authorizing the abandonment of, or~~
39 ~~discontinuance of service on, any spur, industrial, team,~~
40 ~~switching, or side track used by a railroad corporation to~~

1 ~~provide intermodal service, the commission shall find all~~
2 ~~of the following:~~

3 ~~(1) The degree to which the facility in question is~~
4 ~~profitable.~~

5 ~~(2) Whether that abandonment or discontinuance will~~
6 ~~have an adverse impact on the environment.~~

7 ~~(3) Whether that abandonment or discontinuance will~~
8 ~~have an adverse impact on the affected community or~~
9 ~~shippers. In making this determination, the commission~~
10 ~~may take into account the availability of alternative~~
11 ~~transportation services.~~

12 SEC. 92. Section 7711 of the Public Utilities Code is
13 amended to read:

14 7711. On or before July 1, 1992, and on or before July
15 1 annually thereafter, the commission shall report to the
16 Legislature on sites on railroad lines in the state it finds
17 to be hazardous. The report shall include, but not be
18 limited to, information on all of the following:

19 (a) A list, prepared pursuant to Section 59019 of the
20 Health and Safety Code, of all commodities transported
21 on railroad lines in the state that could pose a hazard to
22 the public or the environment in the event of a train
23 derailment or other accident.

24 (b) A description of the quantities of commodities
25 identified in subdivision (a) that are transported on
26 railroad lines in the state. The commission shall also
27 describe the locations and routes at, and on, which the
28 commodities specified in subdivision (a) are transported.
29 Railroad corporations shall provide to the commission all
30 information necessary to comply with this subdivision.

31 (c) A list of all railroad derailment accident sites in the
32 state on which accidents have occurred within at least the
33 previous five years. The list shall describe the nature and
34 probable causes of the accidents, if known.

35 ~~(d) A list of all railroad sites in the state, and shall~~
36 ~~indicate whether the accidents occurred at or near sites~~
37 ~~that the commission determines, pursuant to subdivision~~
38 ~~(d), has determined pose a local safety hazard.~~

39 (d) A list of all railroad sites in the state that the
40 commission, pursuant to Section 20106 of Title 49 of the

1 *United States Code, determines pose a local safety*
2 *hazard. The commission may submit in the annual report*
3 *the list of railroad sites submitted in the immediate prior*
4 *year annual report, and may amend or revise that list*
5 *from the immediate prior year as necessary.* Factors that
6 the commission shall consider in determining a local
7 safety hazard may include, but need not be limited to, all
8 of the following:

9 (1) The severity of grade and curve of track.

10 (2) The value of special skills of train operators in
11 negotiating the particular segment of railroad line.

12 (3) The value of special railroad equipment in
13 negotiating the particular segment of railroad line.

14 (4) The types of commodities transported on or near
15 the particular segment of railroad line.

16 (5) The hazard posed by the release of the commodity
17 into the environment.

18 (6) The value of special railroad equipment in the
19 process of safely loading, transporting, storing, or
20 unloading potentially hazardous commodities.

21 (7) The proximity of railroad activity to human
22 activity or sensitive environmental areas.

23 (e) In determining which railroad sites pose a local
24 safety hazard pursuant to subdivision (d), the commission
25 shall consider the history of accidents at or near the sites.
26 The commission shall not limit its determination to sites
27 at which accidents have already occurred, but shall
28 identify potentially hazardous sites based on the criteria
29 enumerated in subdivision (d) and all other criteria that
30 the commission determines influence railroad safety. *The*
31 *commission shall also consider whether any local safety*
32 *hazards at railroad sites have been eliminated or*
33 *sufficiently remediated to warrant removal of the site*
34 *from the list required under subdivision (d).*

35 SEC. 93. Section 7902 of the Public Utilities Code is
36 repealed.

37 ~~7902. Any telegraph or telephone corporation may at~~
38 ~~any time, with the consent of the persons holding~~
39 ~~two-thirds of the issued stock of the corporation, sell,~~
40 ~~lease, assign, transfer, or convey any rights, privileges,~~

1 ~~franchises, or property of the corporation, except its~~
2 ~~corporate franchise.~~

3 SEC. 94. Section 7902.5 of the Public Utilities Code is
4 repealed.

5 ~~7902.5. (a) Every telephone corporation shall submit~~
6 ~~to the commission, on or before May 1, 1984, a report~~
7 ~~indicating those lines of business in which it is currently~~
8 ~~engaged and in which it intends to engage. The telephone~~
9 ~~corporation shall include, in the report, all of the~~
10 ~~following:~~

11 ~~(1) An explanation in general terms of how the~~
12 ~~provision of telephone service is affected or will be~~
13 ~~affected by the telephone corporation's current and~~
14 ~~anticipated business activities.~~

15 ~~(2) Proposals for suitable accounting and~~
16 ~~organizational structures, and regulatory treatment, for~~
17 ~~each of the current and anticipated business activities in~~
18 ~~which the telephone corporation is, or will be, engaged.~~

19 ~~(b) It is the intent of the Legislature that any~~
20 ~~information provided by telephone corporations~~
21 ~~pursuant to this section does not bind the telephone~~
22 ~~corporation, as an implied contract, with telephone~~
23 ~~service consumers or with the commission.~~

24 ~~(c) The commission shall review all reports submitted~~
25 ~~pursuant to this section and shall submit to the~~
26 ~~Legislature, on or before August 1, 1984, an analysis of the~~
27 ~~reports, including recommendations for future legislative~~
28 ~~action.~~

29 SEC. 95. Section 9202 of the Public Utilities Code is
30 amended to read:

31 9202. (a) Commencing on or before March 1, 1985,
32 the ~~commission~~ and the State Energy Resources
33 Conservation and Development Commission shall
34 participate in a meeting on an annual basis which shall
35 include representatives from all of the following:

36 (1) San Diego Gas and Electric Company.

37 (2) Pacific Gas and Electric Company.

38 (3) Southern California Gas Company.

39 (4) Southern California Edison Company.

(b) Invitations for attendance at the meeting may also be issued to the following:

(1) Each municipal corporation, municipal utility district, public utility district, and irrigation district which furnishes electricity.

(2) The Electric Power Research Institute.

(3) The Gas Research Institute.

(4) Representatives of consumer or ratepayer organizations as determined by the commission.

(c) The chairmanship of each meeting shall be on a rotating basis, alternating among, and selected by, the participants from the San Diego Gas and Electric Company, the Pacific Gas and Electric Company, the Southern California Gas Company, and the Southern California Edison Company.

(d) The participants in the meeting shall participate without compensation.

SEC. 96. Section 7232 of the Revenue and Taxation Code is amended to read:

7232. (a) Every motor carrier of property shall annually pay a permit fee to the Department of Motor Vehicles. The fees contained in this section are due and shall be paid by each carrier at the time of application for an initial motor carrier permit, and upon annual renewal, with the Department of Motor Vehicles, pursuant to the Motor Carriers of Property Permit Act, as set forth in Division 14.85 (commencing with Section 34600) of the Vehicle Code. The Department of Motor Vehicles may, upon initial application for a motor carrier permit, assign an expiration date not less than six months, nor more than 18 months, from date of application, and may charge one-twelfth of the annual fee for each month covered by the initial permit. The fee paid by each motor carrier of property shall be based on the number of commercial motor vehicles operated in California by the motor carrier of property.

(b) As used in this chapter, "motor carrier of property" means any person who operates any commercial motor vehicle as defined in subdivision (d). "Motor carrier of property" does not include a household

1 ~~goods-carriers~~ carrier, as defined in Section 5109 of the
2 Public Utilities Code, *a household goods carrier*
3 *transporting used office, store, and institution furniture*
4 *and fixtures under its household goods carrier permits*
5 *pursuant to Section 5137 of the Public Utilities Code,*
6 persons providing only transportation of passengers, or a
7 passenger stage corporation transporting baggage and
8 express upon a passenger vehicle incidental to the
9 transportation of passengers.

10 (c) As used in this chapter, “for-hire motor carrier of
11 property” means a motor carrier of property, as defined
12 in subdivision (b), who transports property for
13 compensation.

14 (d) As used in this chapter, “commercial motor
15 vehicle” means any self-propelled vehicle listed in
16 subdivisions (a), (b), (f), (g), and (k) of Section 34500 of
17 the Vehicle Code, any motor truck of two or more axles
18 that is more than 10,000 pounds gross vehicle weight
19 rating, and any other motor vehicle used to transport
20 property for compensation. “Commercial motor vehicle”
21 does not include vehicles operated by household goods
22 carriers, as defined in Section 5109 of the Public Utilities
23 Code, *vehicles operated by household goods carriers to*
24 *transport used office, store, and institution furniture and*
25 *fixtures under their household goods carrier permit*
26 *pursuant to Section 5137 of the Public Utilities Code,*
27 pickup trucks as defined in Section 471, and two-axle daily
28 rental trucks with gross vehicle weight ratings less than
29 26,001 pounds when operated in noncommercial use.

30 (e) The “number of commercial motor vehicles
31 operated by the motor carrier of property” as used in this
32 section means all of the commercial motor vehicles
33 owned, registered to, or leased by the carrier. For
34 interstate and foreign motor carriers of property the fees
35 set forth in subdivision (a) shall be apportioned based on
36 the percentage of fleet miles traveled in California in
37 intrastate commerce. In the absence of records to
38 establish intrastate fleet miles, the fees set forth in
39 subdivision (a) shall be apportioned on total fleet miles
40 traveled in California.

1 (f) For purposes of this chapter, “private carrier”
2 means a motor carrier of property, as defined in
3 subdivision (b), who does not transport any goods or
4 property for compensation.

5 (g) (1) Fees contained in this chapter shall not apply
6 to a motor carrier of property while engaged solely in
7 interstate or foreign transportation of property by motor
8 vehicle. No motor carrier of property shall engage in any
9 interstate or foreign transportation of property for
10 compensation by motor vehicle on any public highway in
11 this state without first having registered the operation
12 with the Department of Motor Vehicles or with the
13 carrier’s base registration state, if other than California,
14 as determined in accordance with final regulations issued
15 by the Interstate Commerce Commission pursuant to the
16 Intermodal Surface Efficiency Act of 1991 (49 U.S.C. Sec.
17 11506). To register with the Department of Motor
18 Vehicles, carriers specified in this subdivision shall
19 comply with the following:

20 (A) When the operation requires authority from the
21 Interstate Commerce Commission under the Interstate
22 Commerce Act, or authority from another federal
23 regulatory agency, a copy of that authority shall be filed
24 with the initial application for registration. A copy of any
25 additions or amendments to the authority shall be filed
26 with the Department of Motor Vehicles.

27 (B) If the operation does not require authority from
28 the Interstate Commerce Commission under the
29 Interstate Commerce Act, or authority from another
30 federal regulatory agency, an affidavit of that exempt
31 status shall be filed with the application for registration.

32 (2) The Department of Motor Vehicles shall grant
33 registration upon the filing of the application pursuant to
34 applicable law and the payment of any applicable fees,
35 subject to the carrier’s compliance with this chapter.

36 (3) This subdivision does not apply to household goods
37 carriers, as defined in Section 5109 of the Public Utilities
38 Code, and motor carriers engaged in the transportation
39 of passengers for compensation.

1 SEC. 97. Section 34505.6 of the Vehicle Code is
2 amended to read:

3 34505.6. (a) Upon determining that a motor carrier
4 of property who is operating any vehicle described in
5 subdivision (a), (b), (e), (f), (g), or (k) of Section 34500,
6 or any motortruck of two or more axles that is more than
7 10,000 pounds gross vehicle weight rating, on a public
8 highway, has done either of the following: (1) failed to
9 maintain any vehicle of a type described above in a safe
10 operating condition or to comply with the Vehicle Code
11 or with regulations contained in Title 13 of the California
12 Code of Regulations relative to motor carrier safety, and,
13 in the department's opinion, that failure presents an
14 imminent danger to public safety or constitutes a
15 consistent failure so as to justify a suspension or
16 revocation of the motor carrier's motor carrier permit or
17 (2) failed to enroll all drivers in the pull notice system as
18 required by Section 1808.1, the department shall
19 recommend that the Department of Motor Vehicles
20 suspend or revoke the carrier's motor carrier permit. For
21 interstate operators, the department shall recommend to
22 the federal Highway Administration Office of Motor
23 Carriers that appropriate administrative action be taken
24 against the carrier. For purposes of this subdivision, two
25 consecutive unsatisfactory compliance ratings for an
26 inspected terminal assigned because the motor carrier
27 failed to comply with the periodic report requirements of
28 Section 1808.1 or the cancellation of the carrier's
29 enrollment by the Department of Motor Vehicles for
30 nonpayment of required fees is a consistent failure. The
31 department shall retain a record, by operator, of every
32 recommendation made pursuant to this section.

33 (b) Upon determining that a household goods carrier,
34 *or a household goods carrier transporting used office,*
35 *store, and institution furniture and fixtures under its*
36 *household goods carrier permit pursuant to Section 5137*
37 *of the Public Utilities Code,* operating any vehicle
38 described in subdivision (a), (b), (e), (f), (g), or (k) of
39 Section 34500 on a public highway has done either of the
40 following: (1) failed to maintain any vehicle used in

1 transportation for compensation in a safe operating
2 condition or to comply with the Vehicle Code or with
3 regulations contained in Title 13 of the California Code of
4 Regulations relative to motor carrier safety, and, in the
5 department's opinion, that failure presents an imminent
6 danger to public safety or constitutes a consistent failure
7 so as to justify a suspension, revocation, or denial of the
8 motor carrier's operating authority or (2) failed to enroll
9 all drivers in the pull notice system as required by Section
10 1808.1, the department shall recommend that the Public
11 Utilities Commission deny, suspend, or revoke the
12 carrier's operating authority. For interstate operators,
13 the department shall recommend to the Federal
14 Highway Administration Office of Motor Carriers that
15 appropriate administrative action be taken against the
16 carrier. For purposes of this subdivision, two consecutive
17 unsatisfactory compliance ratings for an inspected
18 terminal assigned because the motor carrier failed to
19 comply with the periodic report requirements of Section
20 1808.1 or the cancellation of the carrier's enrollment by
21 the Department of Motor Vehicles for the nonpayment
22 of required fees is a consistent failure. The department
23 shall retain a record, by operator, of every
24 recommendation made pursuant to this section.

25 (c) Before transmitting a recommendation pursuant
26 to subdivision (a), the department shall notify the carrier
27 in writing of all of the following:

28 (1) That the department has determined that the
29 carrier's safety record is unsatisfactory, furnishing a copy
30 of any documentation or summary of any other evidence
31 supporting the determination.

32 (2) That the determination may result in a suspension,
33 revocation, or denial of the carrier's motor carrier permit
34 by the Department of Motor Vehicles, suspension,
35 revocation, of the motor carrier's operating authority by
36 the California Public Utilities Commission, or
37 administrative action by the federal Highway
38 Administration Office of Motor Carriers.

39 (3) That the carrier may request a review of the
40 determination by the department within five days of its

1 receipt of the notice required under this subdivision. If a
2 review pursuant to this paragraph is requested by the
3 carrier, the department shall conduct and evaluate that
4 review prior to transmitting any notification pursuant to
5 subdivision (a) or (b).

6 (d) Upon receipt of a written recommendation from
7 the department that a motor carrier permit or operating
8 authority be suspended, revoked, or denied, the
9 Department of Motor Vehicles or Public Utilities
10 Commission, as appropriate, shall, pending a hearing in
11 the matter pursuant to Section 34623 or appropriate
12 Public Utilities Commission authority, suspend the motor
13 carrier permit or operating authority. The written
14 recommendation shall specifically indicate compliance
15 with subdivision (c).

16 SEC. 98. Section 34601 of the Vehicle Code is
17 amended to read:

18 34601. (a) As used in this division, “motor carrier of
19 property” means any person who operates any
20 commercial motor vehicle as defined in subdivision (c).
21 “Motor carrier of property” does not include *a household*
22 *goods carriers carrier*, as defined in Section 5109 of the
23 *Public Utilities Code, a household goods carrier*
24 *transporting used office, store, and institution furniture*
25 *and fixtures under its household goods carrier permit*
26 *pursuant to Section 5137 of the Public Utilities Code,*
27 persons providing only transportation of passengers, or a
28 passenger stage corporation transporting baggage and
29 express upon a passenger vehicle incidental to the
30 transportation of passengers.

31 (b) As used in this division, “for-hire motor carrier or
32 property” means a motor carrier of property as defined
33 in subdivision (a) who transports property for
34 compensation.

35 (c) (1) As used in this division, except as provided in
36 paragraph (2), a commercial motor vehicle is defined as
37 any self-propelled vehicle listed in subdivisions (a), (b),
38 (f), (g), and (k) of Section 34500, any motor truck of two
39 or more axles that is more than 10,000 pounds gross

1 vehicle weight rating, and any other motor vehicle used
2 to transport property for compensation.

3 (2) “Commercial motor vehicle” does not include
4 vehicles operated by household goods carriers, as defined
5 in Section 5109 of the Public Utilities Code, *vehicles*
6 *operated by a household goods carrier to transport used*
7 *office, store, and institution furniture and fixtures under*
8 *its household goods carrier permit pursuant to Section*
9 *5137 of the Public Utilities Code*, or pickup trucks as
10 defined in Section 471 and two-axle daily rental trucks
11 with gross vehicle weight ratings less than 26,001 pounds
12 when operated in noncommercial use.

13 (d) For purposes of this chapter, “private carrier”
14 means a motor carrier of property, as defined in
15 subdivision (a), who does not transport any goods or
16 property for compensation.

17 SEC. 99. Section 34622 of the Vehicle Code is
18 amended to read:

19 34622. This chapter does not apply to any of the
20 following:

21 (a) Vehicles that are exempt from vehicle registration
22 fees.

23 (b) ~~The transportation of~~ *A household goods carrier*
24 *transporting used* office, store, and institution furniture
25 and fixtures ~~by a~~ *under its* household goods carrier, ~~as~~
26 ~~defined in~~ *permit pursuant to* Section ~~5109~~ *5137* of the
27 Public Utilities Code.