

AMENDED IN SENATE JULY 7, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

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, 394, 394.1, 394.2, 394.25, 394.3, 394.4, 394.5, 394.8, 396, 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, 5102, 5109, 5112, 5113, 5133, 5135, 5191, 5259.5, 5326, 5328, 5329, 5331, 5371.2, 7531.5, 7711, and 9202~~ of, to add Sections ~~224.8, 248, 3950, and 5137~~ to, and ~~218.3, 224.8, 248, 426, 3950, 5137, and 5363~~ to, 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 amend and repeal Section 311 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 amended, 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)~~ *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 relating to electrical restructuring requires each entity offering electrical service to residential and small commercial customers, except as specified, to register with the commission and to comply with certain other provisions relating to consumer protection.

This bill would instead require each electric service provider, as defined, to register with the commission and to comply with those consumer protection provisions. The bill would additionally require each electric service provider to furnish to the commission fingerprints for specified persons associated with the electric service provider, to be checked as prescribed.

(6) 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)~~

(7) 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)–~~

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

This bill would repeal that authority.

~~(8)–~~

(9) 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)–~~

(10) 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)–~~

(11) 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)–~~

(12) 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)–~~

(13) 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)–~~

(14) 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)–~~

(15) Existing law provides regulatory jurisdiction of household goods carriers, *as defined*, by the commission, ~~and defines that term~~. *Existing law establishes the requirement, and application procedures, for a household goods carrier permit.*

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. *The bill would require the commission to require a household goods carrier permit applicant to submit fingerprints for specified persons, as a prerequisite to the issuance of a permit, to be checked as specified.*

~~(15)–~~

(16) Under the Passenger Charter-Party Carriers’ Act, the furnishing of specified passenger transportation services by a charter-party carrier of passengers, as defined, is subject to the jurisdiction and control of the commission and is required to be furnished pursuant to a certificate of public convenience and necessity or a permit issued by the commission.

This bill would make inapplicable any provision of the Passenger Charter-Party Carriers’ Act or of the Public Utilities Act, relating to charter bus transportation, as defined, that conflicts with the federal Transportation Equity Act for the 21st Century, and would make related changes to existing law.

(17) 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)–~~

(18) 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



1 concerning these reports should be deleted from the
2 Public Utilities Code.

3 (b) Internal reorganization of the commission
4 resulting in name changes for many divisions of the
5 commission, together with recent reforms enacted by the
6 Legislature, require certain clarifications and corrections
7 of existing law.

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

17 SEC. 2. Section 830.11 of the Penal Code is amended
18 to read:

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

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

34 (2) Persons employed by the Department of Real
35 Estate designated by the Real Estate Commissioner,
36 provided that the primary duty of these persons shall be
37 the enforcement of the laws set forth in Part 1
38 (commencing with Section 10000) and Part 2
39 (commencing with Section 11000) of Division 4 of the
40 Business and Professions Code. The Real Estate

1 Commissioner may designate persons under this section,
2 who at the time of their designation, are assigned to the
3 Special Investigations Unit, internally known as the Crisis
4 Response Team.

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

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

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

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

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

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

38 SEC. 4. *Section 218.3 is added to the Public Utilities*
39 *Code, to read:*

1 218.3. “Electric service provider” means an entity
2 that offers electrical service to residential and small
3 commercial customers, but does not include an electrical
4 corporation, as defined in Section 218, or a public agency
5 that offers electrical service to residential and small
6 commercial customers within its jurisdiction, or within
7 the service territory of a local publicly owned electric
8 utility. “Electric service provider” includes the
9 unregulated affiliates and subsidiaries of an electrical
10 corporation, as defined in Section 218.

11 SEC. 4.5. Section 224.8 is added to the Public Utilities
12 Code, to read:

13 224.8. “Network railroad transportation” means
14 railroad transportation that is subject to the jurisdiction
15 of the federal Surface Transportation Board pursuant to
16 subsection (a) or (b) of Section 10501 of Title 49 of the
17 United States Code.

18 SEC. 5. Section 248 is added to the Public Utilities
19 Code, to read:

20 248. Any provision of the Public Utilities Act that is in
21 conflict with the railroad provisions of Part A of Subtitle
22 4 of Title 49 of the United States Code shall be
23 inapplicable to railroad transportation to the extent of
24 that conflict. If any provision in the Public Utilities Act
25 applicable to railroad transportation, or the application
26 thereof to any person or circumstance, is in conflict with
27 Part A of Subtitle 4 of Title 49 of the United States Code,
28 the remainder of the act or the application of the
29 provision to other persons or circumstances shall be
30 unaffected to the extent no conflict exists.

31 SEC. 6. Section 308.5 of the Public Utilities Code is
32 amended to read:

33 308.5. Persons employed as investigators and
34 investigator supervisors of the Consumer Services
35 Division or the Rail Safety and Carrier Division of the
36 commission who are designated by the commission’s
37 executive director and approved by the commission have
38 the authority of peace officers, as specified in paragraph
39 (5) of subdivision (a) of Section 830.11 of the Penal Code,
40 while engaged in exercising the powers granted to or

1 performing the duties imposed upon them in
2 investigating the laws administered by the commission or
3 commencing directly or indirectly any criminal
4 prosecution arising from any investigation conducted
5 under these laws. All persons herein referred to shall be
6 deemed to be acting within the scope of employment
7 with respect to all acts and matters set forth in this section.

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

11 309.5. (a) There is within the commission a division
12 to represent the interests of public utility customers and
13 subscribers in commission proceedings. The goal of the
14 division shall be to obtain the lowest possible rate for
15 service consistent with reliable and safe service levels.

16 (b) The director of the division shall be appointed by
17 and serve at the pleasure of the Governor, subject to
18 confirmation by the Senate. The director shall annually
19 appear before the appropriate policy committees of the
20 Assembly and the Senate to report on the activities of the
21 division.

22 (c) The commission shall, by rule or order, provide for
23 the assignment of personnel to, and the functioning of,
24 the division. The division may employ experts necessary
25 to carry out its functions. Personnel and resources shall be
26 provided to the division at a level sufficient to ensure that
27 customer and subscriber interests are fairly represented
28 in all significant proceedings.

29 (d) The commission shall develop appropriate
30 procedures to ensure that the existence of the division
31 does not create a conflict of roles for any employee or his
32 or her representative. The procedures shall include, but
33 shall not be limited to, the development of a code of
34 conduct and procedures for ensuring that advocates and
35 their representatives on a particular case or proceeding
36 are not advising decisionmakers on the same case or
37 proceeding.

38 (e) The division may compel the production or
39 disclosure of any information it deems necessary to
40 perform its duties from entities regulated by the



1 commission provided that any objections to any request
2 for information shall be decided by the assigned
3 commissioner or by the president of the commission if
4 there is no assigned commissioner.

5 (f) There is hereby created the Public Utilities
6 Commission Ratepayer Advocate Account in the General
7 Fund. Moneys from the Public Utilities Commission
8 Utilities Reimbursement Account in the General Fund
9 shall be transferred in the annual Budget Act to the
10 Public Utilities Commission Ratepayer Advocate
11 Account. The funds in the Public Utilities Commission
12 Ratepayer Advocate Account shall be utilized exclusively
13 by the division in the performance of its duties. The
14 annual budget for the division shall be separately
15 identified in the commission's annual budget request.
16 The commission shall annually submit a staffing report
17 containing a comparison of the staffing levels for each
18 five-year period.

19 (g) This section shall remain in effect only until
20 January 1, 2002, and as of that date is repealed, unless a
21 later enacted statute, that is enacted before January 1,
22 2002, deletes or extends that date.

23 SEC. 8. Section 309.6 of the Public Utilities Code is
24 amended to read:

25 309.6. (a) The commission shall adopt procedures on
26 the disqualification of administrative law judges due to
27 bias or prejudice similar to those of other state agencies
28 and superior courts.

29 (b) The commission shall develop the procedures with
30 the opportunity for public review and comment.

31 *SEC. 8.3. Section 311 of the Public Utilities Code, as*
32 *amended by Section 2 of Chapter 886 of the Statutes of*
33 *1998, is amended to read:*

34 311. (a) The commission, each commissioner, the
35 executive director, and the assistant executive directors
36 may administer oaths, certify to all official acts, and issue
37 subpoenas for the attendance of witnesses and the
38 production of papers, waybills, books, accounts,
39 documents, and testimony in any inquiry, investigation,
40 hearing, or proceeding in any part of the state.

1 (b) The administrative law judges may administer
2 oaths, examine witnesses, issue subpoenas, and receive
3 evidence, under rules that the commission adopts.

4 (c) The evidence in any hearing shall be taken by the
5 commissioner or the administrative law judge designated
6 for that purpose. The commissioner or the administrative
7 law judge may receive and exclude evidence offered in
8 the hearing in accordance with the rules of practice and
9 procedure of the commission.

10 (d) Consistent with the procedures contained in
11 Sections 1701.1, 1701.2, 1701.3, and 1701.4, the assigned
12 commissioner or the administrative law judge shall
13 prepare and file an opinion setting forth
14 recommendations, findings, and conclusions. The opinion
15 of the assigned commissioner or the administrative law
16 judge is the proposed decision and a part of the public
17 record in the proceeding. The proposed decision of the
18 assigned commissioner or the administrative law judge
19 shall be filed with the commission and served upon all
20 parties to the action or proceeding without undue delay,
21 not later than 90 days after the matter has been submitted
22 for decision. The commission shall issue its decision not
23 sooner than 30 days following filing and service of the
24 proposed decision by the assigned commissioner or the
25 administrative law judge, except that the 30-day period
26 may be reduced or waived by the commission in an
27 unforeseen emergency situation or upon the stipulation
28 of all parties to the proceeding or as otherwise provided
29 by law. The commission may, in issuing its decision, adopt,
30 modify, or set aside the proposed decision or any part of
31 the decision. Where the modification is of a decision in an
32 adjudicatory hearing it shall be based upon the evidence
33 in the record. Every finding, opinion, and order made in
34 the proposed decision and approved or confirmed by the
35 commission shall, upon that approval or confirmation, be
36 the finding, opinion, and order of the commission.

37 (e) Any item appearing on the commission's public
38 agenda as an alternate item to a proposed decision or to
39 a decision subject to subdivision (g) shall be served upon
40 all parties to the proceeding without undue delay and

1 shall be subject to public review and comment before it
 2 may be voted upon. For purposes of this subdivision
 3 “alternate” means either a substantive revision to a
 4 proposed decision that materially changes the resolution
 5 of a contested issue or any substantive addition to the
 6 findings of fact, conclusions of law, or ordering
 7 paragraphs. The commission shall adopt rules that
 8 provide for the time and manner of review and comment
 9 and the rescheduling of the item on a subsequent public
 10 agenda, except that the item may not be rescheduled for
 11 consideration sooner than 10 days following service of the
 12 alternative item upon all parties. The commission’s rules
 13 may provide that the time and manner of review and
 14 comment on an alternate item may be reduced or waived
 15 by the commission in an unforeseen emergency situation.

16 (f) The commission may specify that the
 17 administrative law judge assigned to a proceeding
 18 involving an electrical, gas, telephone, railroad, or water
 19 corporation, or a highway carrier, initiated by customer
 20 or subscriber complaint need not prepare, file, and serve
 21 an opinion, unless the commission finds that to do so is
 22 required in the public interest in a particular case.

23 (g) (1) Prior to voting on any commission decision
 24 not subject to subdivision (d), the decision shall be served
 25 on parties and subject to at least 30 days public review and
 26 comment. Any alternate to any commission decision shall
 27 be subject to the same requirements as provided for
 28 alternate decisions under subdivision (e). For purposes of
 29 this subdivision, “decision” also includes resolutions,
 30 including resolutions on advice letter filings.

31 (2) The 30-day period may be reduced or waived in an
 32 unforeseen emergency situation, upon the stipulation of
 33 all parties in the proceeding, for an uncontested matter
 34 in which the decision grants the relief requested, or for an
 35 order seeking temporary injunctive relief.

36 (3) This subdivision does not apply to advice letter
 37 filings or to uncontested matters, that pertain solely to
 38 water corporations, or to orders instituting investigations
 39 or rulemakings, categorization resolutions under Sections
 40 1701.1 to 1701.4, inclusive, or orders authorized by law to

1 be considered in executive session. Consistent with
2 regulatory efficiency and the need for adequate prior
3 notice and comment on commission decisions, the
4 commission may adopt rules, after notice and comment,
5 establishing additional categories of decisions subject to
6 waiver or reduction of the time period in this section.

7 (h) Notwithstanding any other provision of law,
8 amendments, revisions, or modifications by the
9 commission of its Rules of Practice and Procedure after
10 January 1, 1999, shall be submitted to the Office of
11 Administrative Law for prior review in accordance with
12 Sections 11349, 11349.3, 11349.4, 11349.5, 11349.6, and
13 11350.3 of, and subdivisions (a) and (b) of Section 11349.1
14 of, the Government Code. If the commission adopts an
15 emergency revision to its Rules of Practice and Procedure
16 based upon a finding that the revision is necessary for the
17 preservation of the public peace, health and safety, or
18 general welfare, this emergency revision shall only be
19 reviewed by the Office of Administrative Law in
20 accordance with subdivisions (b) to (d), inclusive, of
21 Section 11349.6 of the Government Code. The
22 emergency revision shall become effective upon filing
23 with the Secretary of State and shall remain in effect for
24 no more than 120 days. A petition for writ of review
25 pursuant to Section 1756 of a commission decision
26 amending, revising, or modifying its Rules of Practice and
27 Procedure shall not be filed until the regulation has been
28 approved by the Office of Administrative Law, the
29 Governor, or a court pursuant to Section 11350.3 of the
30 Government Code. If the period for filing the petition for
31 writ of review would otherwise have already commenced
32 under Section 1733 or 1756 at the time of that approval,
33 then the period for filing the petition for writ of review
34 shall continue until 30 days after the date of that approval.
35 Nothing in this subdivision shall require the commission
36 to comply with Article 5 (commencing with Section
37 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of
38 the Government Code. This subdivision is only intended
39 to provide for the Office of Administrative Law review of
40 procedural commission decisions relating to Commission

Rules of Practice and Procedure, and not General Orders, resolutions, or other substantive regulations.

~~(i) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.~~

SEC. 8.5. Section 311 of the Public Utilities Code, as added by Section 2.5 of Chapter 886 of the Statutes of 1998, is repealed.

~~311. (a) The commission, each commissioner, the executive director, and the assistant executive directors may administer oaths, certify to all official acts, and issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents, and testimony in any inquiry, investigation, hearing, or proceeding in any part of the state.~~

~~(b) The administrative law judges may administer oaths, examine witnesses, issue subpoenas, and receive evidence, under rules that the commission adopts.~~

~~(c) The evidence in any hearing shall be taken by the commissioner or the administrative law judge designated for that purpose. The commissioner or the administrative law judge may receive and exclude evidence offered in the hearing in accordance with the rules of practice and procedure of the commission.~~

~~(d) Consistent with the procedures contained in Sections 1701.1, 1701.2, 1701.3, and 1701.4, the assigned commissioner or the administrative law judge shall prepare and file an opinion setting forth recommendations, findings, and conclusions. The opinion of the assigned commissioner or the administrative law judge is the proposed decision and a part of the public record in the proceeding. The proposed decision of the assigned commissioner or the administrative law judge shall be filed with the commission and served upon all parties to the action or proceeding without undue delay, not later than 90 days after the matter has been submitted for decision. The commission shall issue its decision not sooner than 30 days following filing and service of the proposed decision by the assigned commissioner or the~~

1 administrative law judge, except that the 30-day period
2 may be reduced or waived by the commission in an
3 unforeseen emergency situation or upon the stipulation
4 of all parties to the proceeding or as otherwise provided
5 by law. The commission may, in issuing its decision, adopt,
6 modify, or set aside the proposed decision or any part of
7 the decision. Where the modification is of a decision in an
8 adjudicatory hearing it shall be based upon the evidence
9 in the record. Every finding, opinion, and order made in
10 the proposed decision and approved or confirmed by the
11 commission shall, upon that approval or confirmation, be
12 the finding, opinion, and order of the commission.

13 (e) Any item appearing on the commission's public
14 agenda as an alternate item to a proposed decision or to
15 a decision subject to subdivision (g) shall be served upon
16 all parties to the proceeding without undue delay and
17 shall be subject to public review and comment before it
18 may be voted upon. For purposes of this subdivision
19 "alternate" means either a substantive revision to a
20 proposed decision that materially changes the resolution
21 of a contested issue or any substantive addition to findings
22 of fact, conclusions of law, or ordering paragraphs. The
23 commission shall adopt rules that provide for the time and
24 manner of review and comment and the rescheduling of
25 the item on a subsequent public agenda, except that the
26 item may not be rescheduled for consideration sooner
27 than 10 days following service of the alternative item
28 upon all parties. The commission's rules may provide that
29 the time and manner of review and comment on an
30 alternate item may be reduced or waived by the
31 commission in an unforeseen emergency situation.

32 (f) The commission may specify that the
33 administrative law judge assigned to a proceeding
34 involving an electrical, gas, telephone, railroad, or water
35 corporation, or a highway carrier, initiated by customer
36 or subscriber complaint need not prepare, file, and serve
37 an opinion, unless the commission finds that to do so is
38 required in the public interest in a particular case.

39 (g) (1) Prior to voting on any commission decision
40 not subject to subdivision (d), the decision shall be served

1 on parties and subject to at least 30 days public review and
2 comment. Any alternate to any commission decision shall
3 be subject to the same requirements as provided for
4 alternate decisions under subdivision (c). For purposes of
5 this subdivision, “decision” also includes resolutions,
6 including resolutions on advice letter filings.

7 (2) The 30-day period may be reduced or waived in an
8 unforeseen emergency situation, upon the stipulation of
9 all parties in the proceeding, for an uncontested matter
10 in which the decision grants the relief requested, or for an
11 order seeking temporary injunctive relief.

12 (3) This subdivision does not apply to orders
13 instituting investigations or rulemakings, categorization
14 resolutions under Sections 1701.1 to 1701.4, inclusive, or
15 orders authorized by law to be considered in executive
16 session. Consistent with regulatory efficiency and the
17 need for adequate prior notice and comment on
18 commission decisions, the commission may adopt rules,
19 after notice and comment, establishing additional
20 categories of decisions subject to waiver or reduction of
21 the time period in this section.

22 (h) Notwithstanding any other provision of law,
23 amendments, revisions, or modifications by the
24 commission of its Rules of Practice and Procedure after
25 January 1, 1999, shall be submitted to the Office of
26 Administrative Law for prior review in accordance with
27 Sections 11349, 11349.3, 11349.4, 11349.5, 11349.6, and
28 11350.3 of, and subdivisions (a) and (b) of Section 11349.1
29 of, the Government Code. If the commission adopts an
30 emergency revision to its Rules of Practice and Procedure
31 based upon a finding that the revision is necessary for the
32 preservation of the public peace, health and safety, or
33 general welfare, this emergency revision shall only be
34 reviewed by the Office of Administrative Law in
35 accordance with subdivisions (b) to (d), inclusive, of
36 Section 11349.6 of the Government Code. The
37 emergency revision shall become effective upon filing
38 with the Secretary of State and shall remain in effect for
39 no more than 120 days. A petition for writ of review
40 pursuant to Section 1756 of a commission decision

~~1 amending, revising, or modifying its Rules of Practice and
2 Procedure shall not be filed until the regulation has been
3 approved by the Office of Administrative Law, the
4 Governor, or a court pursuant to Section 11350.3 of the
5 Government Code. If the period for filing the petition for
6 writ of review would otherwise have already commenced
7 under Section 1733 or 1756 at the time of that approval,
8 then the period for filing the petition for writ of review
9 shall continue until 30 days after the date of that approval.
10 Nothing in this subdivision shall require the commission
11 to comply with Article 5 (commencing with Section
12 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of
13 the Government Code. This subdivision is only intended
14 to provide for the Office of Administrative Law review of
15 procedural commission decisions relating to commission
16 Rules of Practice and Procedure, and not General Orders,
17 resolutions, or other substantive regulations.~~

~~18 (i) This section shall become operative on January 1,
19 2001.~~

20 SEC. 9. Section 314.5 of the Public Utilities Code is
21 amended to read:

22 314.5. The commission shall inspect and audit the
23 books and records for regulatory and tax purposes (a) at
24 least once in every three years in the case of every
25 electrical, gas, heat, telegraph, telephone, and water
26 corporation serving over 1,000 customers, and (b) at
27 least once in every five years in the case of every
28 electrical, gas, heat, telegraph, telephone, and water
29 corporation serving 1,000 or fewer customers. An audit
30 conducted in connection with a rate proceeding shall be
31 deemed to fulfill the requirements of this section. Reports
32 of such inspections and audits and other pertinent
33 information shall be furnished to the State Board of
34 Equalization for use in the assessment of public utilities.

35 SEC. 10. *Section 394 of the Public Utilities Code is*
36 *amended to read:*

37 394. (a) ~~Each entity offering electrical service to~~
38 ~~residential and small commercial customers shall register~~
39 ~~with the commission, unless it is an electrical corporation~~
40 ~~as defined in Section 218, or a public agency offering~~

~~electrical service to residential and small commercial customers within its own political jurisdiction, or within the service territory of a local publicly owned electric utility.~~

~~For purposes of this section the term “entity” shall include the unregulated affiliates and subsidiaries of an electrical corporation, as defined in Section 218. As used in this section, “electric service provider” means an entity that offers electrical service to residential and small commercial customers, but does not include an electrical corporation, as defined in Section 218, or a public agency that offers electrical service to residential and small commercial customers within its jurisdiction, or within the service territory of a local publicly owned electric utility. “Electric service provider” includes the unregulated affiliates and subsidiaries of an electrical corporation, as defined in Section 218.~~

~~(b) Each electric service provider shall register with the commission. As a precondition to registration, the entity electric service provider shall provide, under oath, declaration, or affidavit, all of the following information to the commission:~~

~~(1) Legal name and any other names under which the entity electric service provider is doing business in California.~~

~~(2) Current telephone number.~~

~~(3) Current address.~~

~~(4) Agent for service of process.~~

~~(5) State and date of incorporation, if any.~~

~~(6) Number for a customer contact representative, or other personnel for receiving customer inquiries.~~

~~(7) Brief description of the nature of the service being provided.~~

~~(8) Disclosure of any civil, criminal, or regulatory sanctions or penalties imposed within the 10 years immediately prior to registration, against the company or any owner, partner, officer, or director of the company pursuant to any state or federal consumer protection law or regulation, and of any felony convictions of any kind against the company or any owner, partner, officer, or~~

1 director of the company. In addition, each electric
2 service provider shall furnish the commission with
3 fingerprints for each owner, partner, officer, and director
4 of the electric service provider. The commission shall
5 submit completed fingerprint cards to the Department of
6 Justice. Those fingerprints shall be available for use by the
7 Department of Justice and the Department of Justice
8 may transmit the fingerprints to the Federal Bureau of
9 Investigation for a national criminal history record check.
10 The commission may use information obtained from a
11 national criminal history record check conducted
12 pursuant to this section to determine an electric service
13 provider's eligibility for registration.

14 (9) Proof of financial viability. The commission shall
15 develop uniform standards for determining financial
16 viability and shall publish those standards for public
17 comment no later than March 31, 1998. In determining
18 the financial viability of the ~~entity~~ electric service
19 provider, the commission shall take into account the
20 number of customers the potential registrant expects to
21 serve, the number of kilowatt hours of electricity it
22 expects to provide, and any other appropriate criteria ~~in~~
23 ~~order~~ to ensure that residential and small commercial
24 customers have adequate recourse in the event of fraud
25 or nonperformance.

26 (10) Proof of technical and operational ability. The
27 commission shall develop uniform standards for
28 determining technical and operational capacity and shall
29 publish those standards for public comment no later than
30 March 31, 1998.

31 (b) Any registration filing approved by the
32 commission prior to the effective date of this section
33 which does not comply in all respects with the
34 requirements of subdivision (a) of Section 394 shall
35 nevertheless continue in force and effect so long as within
36 90 days of the effective date of this section the ~~registered~~
37 ~~entity~~ electric service provider undertakes to
38 supplement its registration filing to the satisfaction of the
39 commission. Any registration ~~which~~ *that* is not
40 supplemented by the required information within the

1 time set forth in this subdivision shall be suspended by the
2 commission and shall not be reinstated until the
3 commission has found the registration to be in full
4 compliance with subdivision (a) of Section 394.

5 (c) Any public agency offering aggregation services as
6 provided for in Section 366 solely to retail electric
7 customers within its jurisdiction ~~which~~ *that* has
8 registered with the commission prior to the enactment of
9 this section ~~shall have the right to~~ *may* voluntarily
10 withdraw its registration to the extent that it is exempted
11 from registration under ~~the provisions of~~ this chapter.

12 (d) Before reentering the market, ~~entities~~ *electric*
13 *service providers* whose registration has been revoked
14 shall file a formal application with the commission ~~which~~
15 *that* satisfies the requirements set forth in Section 394.1
16 and demonstrates the ~~entity's~~ *entity's* fitness and ability *of the*
17 *electric service provider* to comply with all applicable
18 rules of the commission.

19 (e) Registration with the commission is an exercise of
20 the licensing function of the commission, and does not
21 constitute regulation of the rates or terms and conditions
22 of service offered by ~~registered entities~~ *electric service*
23 *providers*. Nothing in this part authorizes the commission
24 to regulate the rates or terms and conditions of service
25 offered by ~~registered entities~~ *electric service providers*.

26 *SEC. 10.1. Section 394.1 of the Public Utilities Code is*
27 *amended to read:*

28 394.1. (a) The registration shall be deemed approved
29 and a registration number issued no later than 45 days
30 after the required information has been submitted, unless
31 the commission's executive director finds, upon review of
32 the information submitted by the ~~entity~~ *electric service*
33 *provider* or available to the commission, that there is
34 evidence to support a finding that the ~~entity~~ *electric*
35 *service provider* has committed an act constituting
36 grounds for denial of registration as specifically set forth
37 in the operative provisions of this chapter, including, but
38 not limited to, subdivision (c).

39 (b) Upon a finding by the commission's executive
40 director that there is evidence to support a finding that

1 the ~~entity~~ *electric service provider* has committed an act
2 constituting grounds for denial of registration as set forth
3 in this section, the commission shall notify the entity in
4 writing, cause the documents submitted by the ~~entity~~
5 *electric service provider* to be filed as a formal application
6 for registration, and notice an expedited hearing on the
7 ~~entity's~~ *registration of the electric service provider* to be
8 held within 30 days of the notification to the ~~entity~~
9 *electric service provider* of the executive director's
10 finding of evidence to support denial of registration. The
11 commission shall, within 45 days after holding the
12 hearing, issue a decision on the registration request which
13 shall be based on the findings of fact and conclusions of
14 law based on the evidence presented at the hearing. The
15 decision shall include the findings of fact and the
16 conclusions of law relied upon.

17 (c) (1) The commission may deny an application for
18 registration in accordance with ~~the provisions of~~
19 subdivision (b) on the grounds that the ~~entity~~ *electric*
20 *service provider* or any officer or director of the ~~entity~~
21 *electric service provider* has one or more of the following:

22 ~~(1)–~~

23 (A) Been convicted of a crime as described in
24 paragraph (8) of subdivision (a) of Section 394.

25 ~~(2)–~~

26 (B) Failure to make a sufficient showing with respect
27 to paragraphs (1) to (10), inclusive, of subdivision (a) of
28 Section 394.

29 ~~(3)–~~

30 (C) Knowingly made a false statement of fact in the
31 application for registration.

32 ~~The~~

33 (2) The commission may deny registration pursuant to
34 this subdivision only if the crime or act is substantially
35 related to the qualifications, functions, or duties required
36 to provide retail electric service to end use customers of
37 electricity or the false statement is material to the
38 registration application. For purposes of this subdivision,
39 conviction of a crime shall be established in the same

manner as that set forth in paragraph (1) of subdivision (a) of Section 480 of the Business and Professions Code.

(d) The commission shall require ~~entities~~ *electric service providers* registered under this section to update their registration information set forth in paragraphs (1) to (10), inclusive, of subdivision (a) of Section 394 within 60 days of any material change in the information provided. Material changes to any other information required pursuant to this article shall be updated annually.

SEC. 10.2. Section 394.2 of the Public Utilities Code is amended to read:

394.2. (a) The commission shall accept, compile, and attempt to informally resolve consumer complaints regarding registered ~~entities~~ *electric service providers*. Where the commission reasonably suspects a pattern of customer abuses, the commission may, on its own motion, initiate investigations into the activities of ~~entities~~ *electric service providers* offering electrical service. Consumer complaints regarding service by a public agency offering electric service within the political boundary of the public agency or service territory of a local publicly owned electric utility shall continue to be resolved by the public agency. Within the service territory of a local publicly owned utility, consumer complaints arising from the violation of direct access rules adopted by the governing body of the local publicly owned utility shall be resolved through the local publicly owned utility's consumer complaint procedures.

(b) Notwithstanding other provisions, residential and small commercial customers shall have the option to proceed with a complaint against ~~a registered entity~~ *an electric service provider* either through an action filed in the judicial court system or through a complaint filed with the commission. A customer who elects either the judicial or commission remedies may not raise the same claim in both forums. The commission shall have the authority to accept, compile, and resolve residential, and small commercial consumer complaints, including the authority to award reparations. The commission's

1 authority in these complaint proceedings is limited to
2 adjudication of complaints regarding residential and
3 small commercial electric service provided by a
4 ~~registered entity~~ *an electric service provider* and shall not
5 be expanded to include either an award of any other
6 damages or regulation of the rates or charges of the
7 registered entity. However, a person or ~~entity~~ *which*
8 *electric service provider* that takes a conflict to the
9 commission shall not be precluded from pursuing an
10 appeal of the decision through the courts as provided for
11 in law.

12 (c) In connection with customer complaints or
13 commission investigations into customer abuses,
14 ~~registered entities~~ *electric service providers* shall provide
15 the commission access to their accounts, books, papers,
16 and documents related to California transactions as
17 described in Sections 313 and 314, provided the
18 information is relevant to the complaint or investigation.

19 (d) No ~~registered entity~~ *electric service provider* may
20 discontinue service to a customer for a disputed amount
21 if that customer has filed a complaint that is pending with
22 the commission, and that customer has paid the disputed
23 amount into an escrow account.

24 *SEC. 10.3. Section 394.25 of the Public Utilities Code*
25 *is amended to read:*

26 394.25. (a) The commission may enforce the
27 provisions of Sections 2102, 2103, 2104, 2105, 2107, 2108,
28 and 2114 against registered ~~entities~~ *electric service*
29 *providers* as if those ~~entities~~ *electric service providers*
30 were public utilities as defined in these code sections.
31 Notwithstanding the above, nothing in this section ~~shall~~
32 ~~grant~~ *grants* the commission jurisdiction to regulate
33 ~~registered entities~~ *electric service providers* other than as
34 specifically set forth in this part. ~~Registered entities~~
35 *Electric service providers* shall continue to be subject to
36 the provisions of Sections 2111 and 2112. Upon a finding
37 by the commission's executive director that there is
38 evidence to support a finding that the ~~entity~~ *electric*
39 *service provider* has committed an act constituting
40 grounds for suspension or revocation of registration as set

1 forth in subdivision (b) of Section 394.25, the commission
2 shall notify the ~~entity~~ *electric service provider* in writing
3 and notice an expedited hearing on the suspension or
4 revocation of the ~~entity's~~ *electric service provider's*
5 registration to be held within 30 days of the notification
6 to the ~~entity~~ *electric service provider* of the executive
7 director's finding of evidence to support suspension or
8 revocation of registration. The commission shall, within
9 45 days after holding the hearing, issue a decision on the
10 suspension or revocation of registration, which shall be
11 based on findings of fact and conclusions of law based on
12 the evidence presented at the hearing. The decision shall
13 include the findings of fact and the conclusions of law
14 relied upon.

15 (b) ~~A registered entity~~ *An electric service provider*
16 may have its registration suspended or revoked,
17 immediately or prospectively, in whole or in part, for any
18 of the following acts:

19 (1) Making material misrepresentations in the course
20 of soliciting customers, entering into service agreements
21 with those customers, or administering those service
22 agreements.

23 (2) Dishonesty, fraud, or deceit with the intent to
24 substantially benefit the ~~registered entity~~ *electric service*
25 *provider* or its employees, agents, or representatives, or
26 to disadvantage retail electric customers.

27 (3) Where the commission finds that there is evidence
28 that the ~~entity~~ *electric service provider* is not financially
29 or operationally capable of providing the offered electric
30 service.

31 (c) Pursuant to its authority to revoke or suspend
32 registration, the commission may suspend a registration
33 for a specified period or revoke the registration, or in lieu
34 of suspension or revocation, impose a moratorium on
35 adding or soliciting additional customers. Any suspension
36 or revocation of a registration shall require the ~~entity~~
37 *electric service provider* to cease serving customers
38 within the boundaries of investor-owned electric
39 corporations, and the affected customers shall be served
40 by the electrical corporation until such time as they may

1 select service from another service provider. Customers
2 shall not be liable for the payment of any early
3 termination fees or other penalties to any ~~entity~~ electric
4 service provider under the service agreement ~~in the~~
5 ~~event~~ if the serving electric service provider's
6 registration is suspended or revoked.

7 *SEC. 10.4. Section 394.3 of the Public Utilities Code is*
8 *amended to read:*

9 394.3. In order to carry out essential elements of a
10 sustainable and effective consumer protection program
11 in connection with ~~registered entities~~ electric service
12 providers offering electrical service to residential and
13 small commercial customers as intended by the
14 Legislature in this article, the following shall apply:

15 (a) A registration fee of one hundred dollars (\$100)
16 shall be collected from ~~entities~~ electric service providers
17 required to register under this article, and the fee
18 proceeds shall be deposited in the Public Utilities
19 Reimbursement Account established under Section 402.

20 (b) The commission shall annually determine the costs
21 of administering the registration program and other
22 facets of consumer protection directly related to the
23 direct access transactions of ~~registered entities~~ electric
24 service providers, including the cost for the duties
25 imposed pursuant to subdivision (c) of Section 392.1. The
26 commission shall only collect those costs not already
27 being collected elsewhere. Registrants who fail to submit
28 to the commission required fees or information upon
29 which fees are calculated within 30 days of billing shall be
30 subject to a 15-percent penalty.

31 *SEC. 10.5. Section 394.4 of the Public Utilities Code is*
32 *amended to read:*

33 394.4. Rules that implement the following minimum
34 standards shall be adopted by the commission for
35 ~~registered entities~~ electric service providers offering
36 electrical services to residential and small commercial
37 customers and the governing body of a public agency
38 offering electrical services to residential and small
39 commercial customers within its jurisdiction:

1 (a) Confidentiality: Customer information shall be
2 confidential unless the customer consents in writing. This
3 shall encompass confidentiality of customer specific
4 billing, credit, or usage information. This requirement
5 shall not extend to disclosure of generic information
6 regarding the usage, load shape, or other general
7 characteristics of a group or rate classification, unless the
8 release of that information would reveal customer
9 specific information because of the size of the group, rate
10 classification, or nature of the information.

11 (b) Physical disconnects and reconnects: Only an
12 electrical corporation, or a publicly owned electric utility,
13 that provides physical delivery service to the affected
14 customer shall have the authority to physically disconnect
15 or reconnect a customer from the transmission or
16 distribution grid. Physical disconnection by electrical
17 corporations subject to the commission's jurisdiction shall
18 occur only in accordance with protocols established by
19 the commission. Physical disconnection by publicly
20 owned electric utilities shall occur only in accordance
21 with protocols established by the governing board of the
22 local publicly owned electric utility.

23 (c) Change in providers: Upon adequate notice
24 supplied by a ~~registered entity~~ *electric service provider*
25 to the electric corporation or local publicly owned
26 electric utility providing physical delivery service,
27 customers who are eligible for direct access may change
28 their energy supplier. Energy suppliers may charge for
29 such a change, provided that any fee or penalty charged
30 by the supplier associated with early termination of
31 service, shall be disclosed in that contract or applicable
32 tariff.

33 (d) Written notices: Notices describing the terms and
34 conditions of service as described in Section 394.5, service
35 agreements, notices of late payment, notices of
36 discontinuance of service, and disconnection notices
37 addressed to residential and small commercial customers
38 shall be easily understandable, and shall be provided in
39 the language in which the ~~entity~~ *electric service provider*
40 offered the services.

1 (e) Billing: All bills shall have a standard bill format, as
2 determined by the commission or the governing body,
3 and shall contain sufficient detail for the customer to
4 recalculate the bill for accuracy. Any late fees shall be
5 separately stated. Each ~~registered entity~~ *electric service*
6 *provider* shall provide on all customer bills a phone
7 number by which customers may contact the ~~entity~~
8 *electric service provider* to report and resolve billing
9 inquiries and complaints. ~~A registered entity~~ *An electric*
10 *service provider* contacted by a customer regarding a
11 billing dispute shall advise the customer at the time of the
12 initial contact that the customer may file a complaint with
13 the commission if its dispute is not satisfactorily resolved
14 by the ~~registered entity~~ *electric service provider*.

15 (f) Meter integrity: An electric customer shall have a
16 reasonable opportunity to have its meter tested to ensure
17 the reasonable accuracy of the meter. The commission or
18 governing body shall determine who is responsible for the
19 cost of that testing.

20 (g) Customer deposits: ~~Registered entities~~ *Electric*
21 *service providers* may require customer deposits before
22 commencing service, but in no event shall the deposit be
23 more than the estimated bill for the customer for a
24 three-month period.

25 (h) Additional protections: The commission or the
26 governing body may adopt additional residential and
27 small commercial consumer protection standards ~~which~~
28 *that* are in the public interest.

29 *SEC. 10.6. Section 394.5 of the Public Utilities Code is*
30 *amended to read:*

31 394.5. (a) Except for an electrical corporation as
32 defined in Section 218, or a local publicly owned electric
33 utility as defined in subdivision (d) of Section 9604
34 offering electrical service to residential and small
35 commercial customers within its service territory, each
36 ~~entity~~ *electric service provider* offering electrical service
37 to residential and small commercial customers shall, prior
38 to the commencement of service, provide the potential
39 customer with a written notice of the service describing

1 the price, terms, and conditions of the service. The
2 notices shall include all of the following:

3 (1) A clear description of the price, terms, and
4 conditions of service, including:

5 (A) The price of electricity expressed in a format
6 which makes it possible for residential and small
7 commercial customers to compare and select among
8 similar products and services on a standard basis. The
9 commission shall adopt rules to implement this
10 subdivision. The commission shall require disclosure of
11 the total price of electricity on a cents-per-kilowatthour
12 basis, including the costs of all electric services and
13 charges regulated by the commission. The commission
14 shall also require estimates of the total monthly bill for the
15 electric service at varying consumption levels, including
16 the costs of all electric services and charges regulated by
17 the commission. In determining these rules, the
18 commission may consider alternatives to the
19 cent-per-kilowatthour disclosure if other information
20 would provide the customer with sufficient information
21 to compare among alternatives on a standard basis.

22 (B) Separate disclosure of all recurring and
23 nonrecurring charges associated with the sale of
24 electricity.

25 (C) If services other than electricity are offered, an
26 itemization of the services and the charge or charges
27 associated with each.

28 (2) An explanation of the applicability and amount of
29 the competition transition charge, as determined
30 pursuant to Sections 367 to 376, inclusive.

31 (3) A description of the potential customer's right to
32 rescind the contract without fee or penalty as described
33 in Section 395.

34 (4) An explanation of the customer's financial
35 obligations, as well as the procedures regarding past due
36 payments, discontinuance of service, billing disputes, and
37 service complaints.

38 (5) The ~~entity's~~ *electric service provider's* registration
39 number, if applicable.

1 (6) The right to change service providers upon
2 written notice, including disclosure of any fees or
3 penalties assessed by the supplier for early termination of
4 a contract.

5 (7) A description of the availability of low-income
6 assistance programs for qualified customers and how
7 customers can apply for these programs.

8 (b) The commission may assist ~~registered—entities~~
9 *electric service providers* in developing the notice. The
10 commission may suggest inclusion of additional
11 information it deems necessary for the consumer
12 protection purposes of this section. On at least a
13 semiannual basis, ~~registered—entities~~ *electric service*
14 *providers* shall provide the commission with a copy of the
15 form of notice included in standard service plans made
16 available to residential and small commercial customers
17 as described in subdivision (a) of Section 392.1.

18 (c) Any ~~entity~~ *electric service provider* offering
19 electric services who declines to provide those services to
20 a consumer shall, upon request of the consumer, disclose
21 to that consumer the reason for the denial in writing
22 within 30 days. At the time service is denied, the ~~entity~~
23 *electric service provider* shall disclose to the consumer his
24 or her right to make such a request. Consumers shall have
25 at least 30 days from the date service is denied to make
26 such a request.

27 *SEC. 10.7. Section 394.8 of the Public Utilities Code is*
28 *amended to read:*

29 394.8. Notwithstanding any other provision of this
30 article, requirements placed on ~~a—registered—entity~~ *an*
31 *electric service provider* shall not apply to electrical
32 services provided by a local publicly owned electric
33 utility to customers within the jurisdiction or service
34 territory of that local publicly owned electric utility.

35 *SEC. 10.8. Section 396 of the Public Utilities Code is*
36 *amended to read:*

37 396. (a) A consumer damaged by a violation of this
38 article by ~~an—entity—offering—electrical—service—electric~~
39 *service provider* is entitled to recover all of the following:

40 (1) Actual damages.

1 (2) The consumer's reasonable attorney's fees and
2 court costs.

3 (3) Exemplary damages, in the amount the court
4 deems proper, for intentional or willful violations.

5 (4) Equitable relief as the court deems proper.

6 (b) The rights, remedies, and penalties established by
7 this article are in addition to the rights, remedies, or
8 penalties established under any other law.

9 (c) Nothing in this article shall abrogate any authority
10 of the Attorney General to enforce existing law.

11 *SEC. 10.9.* Section 421 of the Public Utilities Code is
12 amended to read:

13 421. (a) The commission shall annually determine a
14 fee to be paid by every passenger stage corporation,
15 charter-party carrier of passengers, pipeline corporation,
16 for-hire vessel operator, common carrier vessel operator,
17 railroad corporation, and commercial air operator and
18 every other common carrier and related business subject
19 to the jurisdiction of the commission, except as otherwise
20 provided in Article 3 (commencing with Section 431) of
21 this chapter and Chapter 6 (commencing with Section
22 5001) of Division 2.

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

32 (c) Notwithstanding any other provision of law, the
33 fees paid by railroad corporations shall be used for
34 state-funded railroad investigation and enforcement
35 activities of the commission, other than the rail safety
36 activities funded by the Transportation Planning and
37 Development Account pursuant to Section 99315.5. The
38 railroad fees shall be set annually at a level which
39 generates not less than the amount sufficient to fund
40 activities pursuant to Sections 765.5, 7711, and 7712.

1 (d) On January 1, 1992, the commission shall submit to
2 the Legislature a detailed budget implementing this
3 section for the 1992–93 fiscal year. The commission shall
4 also submit to the Legislature by January 1, 1993, and on
5 each January 1 thereafter, a detailed budget for
6 expenditure of railroad corporation fees for the ensuing
7 budget year. The budget for expenditure of railroad
8 corporation fees, for each of the 1996–97 and 1997–98 fiscal
9 years, shall not exceed the amount of three million dollars
10 (\$3,000,000). Expenditures of this budget shall be limited
11 to the following items:

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

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

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

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

31 (5) (A) Expenditures for the pro rata share of the
32 commission's overhead costs while state personnel are
33 actually occupying the positions, and are performing the
34 duties specified in paragraphs (1) to (4), inclusive.
35 Overhead costs shall be limited to only the following
36 items:

37 (i) Rent.

38 (ii) Utilities.

39 (iii) Office furniture.

40 (iv) Office equipment.

1 (v) Office supplies.

2 (B) This paragraph shall become inoperative on
3 January 1, 2002, unless a later enacted statute deletes or
4 extends that date.

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

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

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

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

1 SEC. 11. Section 426 is added to the Public Utilities
2 Code, to read:

3 426. The commission shall use all moneys paid into the
4 Public Utilities Commission Transportation
5 Reimbursement Account by charter-party carriers in
6 connection with charter bus transportation, as defined in
7 subdivision (b) of Section 5363, solely for the following
8 purposes:

9 (a) Safety regulation.

10 (b) The administration of financial responsibility
11 requirements.

12 (c) Commission activities to ensure compliance with
13 safety regulation and financial responsibility
14 requirements.

15 (d) Any other regulatory program permitted by
16 Section 14501(a) of Title 49 of the United States Code.

17 SEC. 11.5. Section 454 of the Public Utilities Code is
18 amended to read:

19 454. (a) Except as provided in Section 455, no public
20 utility shall change any rate or so alter any classification,
21 contract, practice, or rule as to result in any new rate,
22 except upon a showing before the commission and a
23 finding by the commission that the new rate is justified.
24 Whenever any electrical, gas, heat, telephone, water, or
25 sewer system corporation files an application to change
26 any rate, other than a change reflecting and passing
27 through to customers only new costs to the corporation
28 which do not result in changes in revenue allocation, for
29 the services or commodities furnished by it, the
30 corporation shall furnish to its customers affected by the
31 proposed rate change notice of its application to the
32 commission for approval of the new rate. This notice
33 requirement does not apply to any rate change proposed
34 by a corporation pursuant to an advice letter submitted
35 to the commission in accordance with commission
36 procedures for this means of submission. The procedures
37 for advice letters may include provision for notice to
38 customers or subscribers on a case-by-case basis, as
39 determined by the commission. The corporation may
40 include the notice with the regular bill for charges

1 transmitted to the customers within 45 days if the
2 corporation operates on a 30-day billing cycle, or within
3 75 days if the corporation operates on a 60-day billing
4 cycle. If more than one application to change any rate is
5 filed within a single billing cycle, the corporation may
6 combine the notices into a single notice if the applications
7 are separately identified. The notice shall state the
8 amount of the proposed rate change expressed in both
9 dollar and percentage terms for the entire rate change as
10 well as for each customer classification, a brief statement
11 of the reasons the change is required or sought, and the
12 mailing, and if available, the e-mail address of the
13 commission to which any customer inquiries may be
14 directed regarding how to participate in, or receive
15 further notices regarding the date, time, or place of, any
16 hearing on the application, and the mailing address of the
17 corporation to which any customer inquiries relative to
18 the proposed rate change may be directed.

19 (b) The commission may adopt rules it considers
20 reasonable and proper for each class of public utility
21 providing for the nature of the showing required to be
22 made in support of proposed rate changes, the form and
23 manner of the presentation of the showing, with or
24 without a hearing, and the procedure to be followed in
25 the consideration thereof. Rules applicable to common
26 carriers may provide for the publication and filing of any
27 proposed rate change together with a written showing in
28 support thereof, giving notice of the filing and showing in
29 support thereof to the public, granting an opportunity for
30 protests thereto, and to the consideration of, and action
31 on, the showing and any protests filed thereto by the
32 commission, with or without hearing. However, the
33 proposed rate change does not become effective until it
34 has been approved by the commission.

35 (c) The commission shall permit individual public
36 utility customers and subscribers affected by a proposed
37 rate change, and organizations formed to represent their
38 interests, to testify at any hearing on the proposed rate
39 change, except that the presiding officer need not allow

1 repetitive or irrelevant testimony and may conduct the
2 hearing in an efficient manner.

3 SEC. 12. Section 454.2 of the Public Utilities Code is
4 amended to read:

5 454.2. Notwithstanding Section 454, the commission
6 may establish a “zone of rate freedom” for any passenger
7 stage transportation service which is operating in
8 competition with other passenger transportation service
9 from any means of transportation, if the competition
10 together with the authorized zone of rate freedom will
11 result in reasonable rates and charges for the passenger
12 stage transportation service. An adjustment in rates or
13 charges within a zone of rate freedom established by the
14 commission is hereby deemed just and reasonable. The
15 commission may, upon protest or on its own motion,
16 suspend any adjustment in rates or charges under this
17 section and institute proceedings under its rules of
18 practice and procedure.

19 SEC. 13. Section 454.5 of the Public Utilities Code is
20 repealed.

21 SEC. 14. Section 457 of the Public Utilities Code is
22 repealed.

23 SEC. 15. Section 458 of the Public Utilities Code is
24 amended to read:

25 458. (a) No common carrier, or any officer or agent
26 thereof, or any person acting for or employed by it, shall,
27 by means of known false billing, classification, weight,
28 weighing, or report of weight, or by any other device or
29 means assist, suffer, or permit any corporation or person
30 to obtain transportation for any person or property
31 between points within this state at less than the rates and
32 fares then established and in force as shown by the
33 schedules filed and in effect at the time.

34 No person, corporation, or any officer, agent, or
35 employee of a corporation shall, by means of false billing,
36 false or incorrect classification, false weight or weighing,
37 false representation as to contents or substance of a
38 package, or false report or statement of weight, or by any
39 other device or means, whether with or without the
40 consent or connivance of a common carrier or any of its

1 officers, agents, or employees, seek to obtain or obtain
2 such transportation for such property at less than the
3 rates then established and in force therefor.

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

6 SEC. 16. Section 459 of the Public Utilities Code is
7 amended to read:

8 459. (a) No person or corporation, or any officer,
9 agent, or employee of a corporation, shall knowingly,
10 directly or indirectly, by any false statement or
11 representation as to cost or value, or the nature or extent
12 of an injury, or by the use of any false billing, bill of lading,
13 receipt, voucher, roll, account, claim, certificate,
14 affidavit, or deposition, or upon any false, fictitious, or
15 fraudulent statement or entry, obtain or attempt to
16 obtain any allowance, rebate, or payment for damage, in
17 connection with or growing out of the transportation of
18 persons or property, or an agreement to transport such
19 persons or property, whether with or without the consent
20 or connivance of a common carrier or any of its officers,
21 agents, or employees. No common carrier, or any of its
22 officers, agents, or employees, shall knowingly pay or
23 offer to pay any such allowance, rebate, or claim for
24 damage.

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

27 SEC. 17. Section 460 of the Public Utilities Code is
28 repealed.

29 SEC. 18. Section 461 of the Public Utilities Code is
30 repealed.

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

33 461.5. (a) (1) No discrimination in charges or
34 facilities for transportation shall be made by any railroad
35 or other transportation company between places or
36 persons, or in the facilities for the transportation of the
37 same classes of freight or passengers within this state. It
38 shall be unlawful for any railroad or other transportation
39 company to charge or receive any greater compensation
40 in the aggregate for the transportation of passengers or of

1 like kind of property for a shorter than for a longer
2 distance over the same line or route in the same direction,
3 the shorter being included within the longer distance, or
4 to charge any greater compensation as a through rate
5 than the aggregate of the intermediate rates.

6 (2) Upon application to the commission company may
7 be authorized by the commission to charge less for longer
8 than for shorter distances for the transportation of
9 persons or property and the commission may from time
10 to time prescribe the extent to which such company may
11 be relieved from the prohibition to charge less for the
12 longer than for the shorter haul. The commission may
13 authorize the issuance of excursion and commutation
14 tickets at special rates.

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

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

24 SEC. 20. Section 486 of the Public Utilities Code is
25 amended to read:

26 486. (a) Every common carrier shall file with the
27 commission and shall print and keep open to the public
28 inspection schedules showing the rates, fares, charges,
29 and classifications for the transportation between termini
30 within this state of persons and property from each point
31 upon its route to all other points thereon; and from each
32 point upon its route to all points upon every other route
33 leased, operated, or controlled by it; and from each point
34 on its route or upon any route leased, operated, or
35 controlled by it to all points upon the route of any other
36 common carrier, whenever a through route and a joint
37 rate has been established or ordered between any two
38 such points. If no joint rate over a through route has been
39 established, the schedules of the several carriers in such
40 through route shall show the separately established rates,

1 fares, charges, and classifications applicable to the
2 through transportation.

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

5 SEC. 21. Section 488 of the Public Utilities Code is
6 amended to read:

7 488. (a) Subject to such rules as the commission may
8 prescribe, the schedules of carriers shall be produced and
9 made available for inspection upon the demand of any
10 person. The form of every such schedule shall be
11 prescribed by the commission and shall conform, in the
12 case of any common carrier subject to federal regulation
13 as nearly as possible to the form of schedules prescribed
14 by the federal Surface Transportation Board.

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

17 SEC. 22. Section 491 of the Public Utilities Code is
18 amended to read:

19 491. Unless the commission otherwise orders, no
20 change shall be made by any public utility in any rate or
21 classification, or in any rule or contract relating to or
22 affecting any rate, classification, or service, or in any
23 privilege or facility, except after 30 days' notice to the
24 commission and to the public. Notice shall be given by
25 filing with the commission and keeping open for public
26 inspection new schedules stating plainly the changes to
27 be made in the schedule or schedules then in force, and
28 the time when the changes will go into effect. The
29 commission, for good cause shown, may allow changes
30 without requiring the 30 days' notice, by an order
31 specifying the changes that may be made on less than 30
32 days' notice, the time when they shall take effect, and the
33 manner in which they shall be filed and published. When
34 any change is proposed in any rate or classification, or in
35 any form of contract or agreement or in any rule or
36 contract relating to or affecting any rate, classification, or
37 service, or in any privilege or facility, attention shall be
38 directed to such change on the schedule filed with the
39 commission, by some character to be designated by the

1 commission, immediately preceding or following the
2 item.

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

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

10 (b) If any common carrier of property, in
11 contravention of subdivision (a), transports any property
12 for which it does not have schedules of rates, fares,
13 charges, and classifications on file, the commission may
14 establish a just and reasonable charge for the
15 transportation.

16 (c) This section is not applicable to network railroad
17 transportation.

18 SEC. 24. Section 494 of the Public Utilities Code is
19 amended to read:

20 494. (a) No common carrier shall charge, demand,
21 collect, or receive a different compensation for the
22 transportation of persons or property, or for any service
23 in connection therewith, than the applicable rates, fares,
24 and charges specified in its schedules filed and in effect
25 at the time, nor shall any such carrier refund or remit in
26 any manner or by any device any portion of the rates,
27 fares, or charges so specified, except upon order of the
28 commission as provided in this part, nor extend to any
29 corporation or person any privilege or facility in the
30 transportation of passengers or property except such as
31 are regularly and uniformly extended to all corporations
32 and persons.

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

35 SEC. 25. Section 496 of the Public Utilities Code is
36 repealed.

37 SEC. 26. Section 526 of the Public Utilities Code is
38 repealed.

39 SEC. 27. Section 527 of the Public Utilities Code is
40 amended to read:

1 527. Nothing in this part shall prevent the
2 interchange of free or reduced rate transportation for
3 passenger or express matter between common carriers,
4 their officers, agents, employees, attorneys, physicians
5 and surgeons, and members of their families, where such
6 common carriers are subject in whole or in part to the
7 jurisdiction of the commission or of the federal Surface
8 Transportation Board or where such common carriers,
9 though not in whole or in part subject to the jurisdiction
10 of this commission or of the federal Surface
11 Transportation Board are engaged in the business of
12 transporting passengers and freight by water between
13 the United States and foreign countries, and are
14 permitted by federal law to interchange such free
15 transportation with common carriers which are subject to
16 the jurisdiction of the Public Utilities Commission or the
17 federal Surface Transportation Board.

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

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

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

35 (b) Common carriers may also enter into contracts
36 with telegraph and telephone corporations for an
37 exchange of service.

38 SEC. 29. Section 556 of the Public Utilities Code is
39 amended to read:

1 556. Every common carrier shall afford all
2 reasonable, proper, and equal facilities for the prompt
3 and efficient interchange and transfer of passengers
4 between the lines owned, operated, controlled, or leased
5 by it and the lines of every other common carrier, and
6 shall make such interchange and transfer promptly
7 without discrimination between passengers or carriers as
8 to compensation charged, service rendered, or facilities
9 afforded.

10 SEC. 30. Section 557 of the Public Utilities Code is
11 repealed.

12 SEC. 31. Section 559 of the Public Utilities Code is
13 amended to read:

14 559. (a) Nothing in Sections 556 to 558, inclusive,
15 shall limit or modify the duty of a common carrier to
16 establish joint rates, fares, and charges for the
17 transportation of passengers and property over the lines
18 owned, operated, controlled, or leased by it and the lines
19 of other common carriers, or the power of the commission
20 to require the establishment of such joint rates, fares, and
21 charges.

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

24 SEC. 32. Section 703 of the Public Utilities Code is
25 amended to read:

26 703. The commission may investigate all existing or
27 proposed interstate rates, fares, tolls, charges, and
28 classifications, and all rules and practices in relation
29 thereto, for or in relation to the transportation of persons
30 or property or the transmission of messages for
31 conversations, where any act in relation thereto takes
32 place within this state and when they are, in the opinion
33 of the commission, in violation of federal law, or in
34 conflict with the rulings, orders, or regulations of the a
35 federal agency, the commission may apply for relief by
36 petition or otherwise to the federal agency that has
37 jurisdiction over the alleged violation or to any court of
38 competent jurisdiction.

39 SEC. 33. Section 706 of the Public Utilities Code is
40 repealed.

1 SEC. 34. Section 707 of the Public Utilities Code is
2 repealed.

3 SEC. 35. Section 728.5 of the Public Utilities Code is
4 amended to read:

5 728.5. (a) The commission may establish rates or
6 charges for the transportation of passengers and freight
7 by railroads and other transportation companies, except
8 motor carriers of property, and no railroad or other
9 transportation company under its jurisdiction, except
10 motor carriers of property, shall charge or demand or
11 collect or receive a greater or less or different
12 compensation for that transportation of passengers or
13 freight, or for any service in connection therewith,
14 between the points named in any tariff of rates
15 established by the commission than the rates, fares and
16 charges which are specified in that tariff. The commission
17 may examine books, records and papers of all railroad and
18 other transportation companies, except motor carriers of
19 property; may hear and determine complaints against
20 railroad and other transportation companies; and may
21 issue subpoenas and all necessary process and send for
22 persons and papers. The commission and each of the
23 commissioners may administer oaths, take testimony and
24 punish for contempt in the same manner and to the same
25 extent as courts of record. The commission may prescribe
26 a uniform system of accounts to be kept by all railroad and
27 other transportation companies, except motor carriers of
28 property.

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

31 SEC. 36. Section 730 of the Public Utilities Code is
32 amended to read:

33 730. (a) The commission shall, upon a hearing,
34 determine the kind and character of facilities and the
35 extent of the operation thereof, necessary reasonably and
36 adequately to meet public requirements for service
37 furnished by common carriers between any two or more
38 points, and shall fix and determine the just, reasonable,
39 and sufficient rates for such service. Whenever two or
40 more common carriers are furnishing service in

1 competition with each other, the commission may, after
2 hearing, when necessary for the preservation of adequate
3 service and when public interest demands, prescribe
4 uniform rates, classifications, rules, and practices to be
5 charged, collected, and observed by all such common
6 carriers.

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

9 SEC. 37. Section 731 of the Public Utilities Code is
10 repealed.

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

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

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

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

35 733. (a) If the common carriers do not agree upon
36 the division between them of the joint rates, fares, or
37 charges established by the commission over through
38 routes, the commission shall, after hearing, by
39 supplemental order, establish that division. Where any
40 railroad, or passenger stage corporation that is made a

1 party to a through route has itself over its own line an
2 equally satisfactory through route between the termini of
3 the through route established, that railroad, or passenger
4 stage corporation may require as its division of the joint
5 rate, fare, or charge its local rate, fare, or charge over the
6 portion of its line comprised in the through route, and the
7 commission may, in its discretion, allow to that railroad or
8 passenger stage corporation, more than its local rate, fare,
9 or charge if the commission determines that it will be
10 equitable so to do. The commission may establish and fix
11 through routes and joint rates, fares, or charges over
12 common carriers and stage or auto stage lines which may
13 not be otherwise subject to the provisions of this part, and
14 may fix the division of those joint rates, fares, or charges.

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

17 SEC. 40. Section 739.9 of the Public Utilities Code is
18 repealed.

19 SEC. 41. Section 740.8 of the Public Utilities Code is
20 amended to read:

21 740.8. As used in Section 740.3, “interests” of
22 ratepayers, short- or long-term, mean direct benefits that
23 are specific to ratepayers in the form of safer, more
24 reliable, or less costly gas or electrical service.

25 SEC. 42. Section 746 of the Public Utilities Code is
26 repealed.

27 SEC. 43. Section 747 of the Public Utilities Code is
28 repealed.

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

31 763. (a) Whenever the commission, after a hearing,
32 finds that any railroad corporation or street railroad
33 corporation does not run a sufficient number of trains or
34 cars, or possess or operate sufficient motive power,
35 reasonably to accommodate the traffic, passenger or
36 freight, transported by or offered for transportation to it,
37 or does not run its trains or cars with sufficient frequency
38 or at a reasonable or proper time having regard to safety,
39 or does not stop its trains or cars at proper places, or does
40 not run any train or car upon a reasonable time schedule

1 for the run, the commission may make an order directing
2 such corporation to increase the number of its trains or
3 cars or its motive power or to change the time for starting
4 its trains or cars or to change the time schedule for the run
5 of any train or car, or to change the stopping place or
6 places thereof. The commission may make any other
7 order that it determines to be reasonably necessary to
8 accommodate and transport the traffic, passenger or
9 freight, transported or offered for transportation.

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

12 SEC. 45. Section 763.1 of the Public Utilities Code is
13 repealed.

14 SEC. 46. Section 764 of the Public Utilities Code is
15 repealed.

16 SEC. 47. Section 765 of the Public Utilities Code is
17 repealed.

18 SEC. 48. Section 765.5 of the Public Utilities Code is
19 amended to read:

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

24 (b) The commission shall dedicate sufficient resources
25 necessary to adequately carry out the State Participation
26 Program for the regulation of rail transportation of
27 hazardous materials as authorized by the Hazardous
28 Material Transportation Uniform Safety Act of 1990 (P.L.
29 101-615).

30 (c) On or before July 1, 1992, the commission shall hire
31 a minimum of six additional rail inspectors who are or
32 shall become federally certified, consisting of three
33 additional motive power and equipment inspectors, two
34 signal inspectors, and one operating practices inspector,
35 for the purpose of enforcing compliance by railroads
36 operating in this state with state and federal safety
37 regulations.

38 (d) On or before July 1, 1992, the commission shall
39 establish, by regulation, a minimum inspection standard
40 to ensure, at the time of inspection, that railroad

1 locomotives, equipment and facilities located in Class I
2 railroad yards in California will be inspected not less
3 frequently than every 180 days, and inspection of all
4 branch and main line track not less frequently than every
5 12 months.

6 SEC. 49. Section 769 of the Public Utilities Code is
7 repealed.

8 SEC. 50. Section 769.5 of the Public Utilities Code is
9 repealed.

10 SEC. 51. Section 788 of the Public Utilities Code is
11 amended to read:

12 788. (a) This section applies only to a telephone
13 corporation that is a provider of local exchange service.

14 (b) On or before March 1, 1992, and annually
15 thereafter, every telephone corporation that is a provider
16 of local exchange service shall issue to each of its
17 residential subscribers, in a manner and form approved
18 by the commission, a notice containing the following
19 information:

20 (1) An explanation of the responsibilities of the
21 subscriber and the telephone corporation in relation to
22 the customer's inside telephone wiring, as that term is
23 defined by and pursuant to Section 1941.4 of the Civil
24 Code, including an explanation of lessor and tenant
25 obligations.

26 (2) An explanation of the telephone corporation's
27 procedures and charges for determining and notifying
28 the subscriber of whether a malfunction in its telephone
29 wire is located in the telephone network, or is located in
30 the subscriber's inside telephone wiring, including
31 customer-provided equipment.

32 (3) If the telephone corporation offers any services to
33 maintain or repair a subscriber's inside telephone wiring,
34 a full description of the types of services offered,
35 including the rates, charges, and conditions for these
36 services, and whether those services are offered by
37 nonutility providers.

38 SEC. 52. Section 853 of the Public Utilities Code is
39 amended to read:

1 853. (a) This article does not apply to any person or
2 corporation which transacts no business subject to
3 regulation under this part, except performing services or
4 delivering commodities for or to public utilities or
5 municipal corporations or other public agencies
6 primarily for resale or use in serving the public or any
7 portion thereof, but shall apply to any public utility, and
8 any subsidiary or affiliate of, or corporation holding a
9 controlling interest in, a public utility, if the commission
10 finds, in a proceeding to which the public utility is or may
11 become a party, that the application of this article is
12 required by the public interest.

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

27 (c) The provisions of Sections 851 and 854 that prohibit
28 any assignment, acquisition, or change of control without
29 advance authorization from the commission, do not apply
30 to the transfer of the ownership interest in a water utility,
31 with 10,000 or fewer service connections, from a decedent
32 to a member of the decedent's family in the manner
33 provided in Section 240 of the Probate Code or by a will,
34 trust, or other instrument.

35 SEC. 53. Section 874 of the Public Utilities Code is
36 amended to read:

37 874. The lifeline telephone service rates and charges
38 shall be as follows:

39 (a) In a residential subscriber's service area where
40 measured service is not available, the lifeline telephone

1 service rates shall not be more than 50 percent of the rates
2 for basic flat rate service, exclusive of federally mandated
3 end user access charges, available to the residential
4 subscriber.

5 (b) In a residential subscriber's service area where
6 measured service is available, the subscriber may elect
7 either of the following:

8 (1) A lifeline telephone service measured rate of not
9 more than 50 percent of the basic rate for measured
10 service, exclusive of federally mandated end user access
11 charges, available to the residential subscriber.

12 (2) A lifeline flat rate of not more than 50 percent of
13 the rates for basic flat rate service, exclusive of federally
14 mandated end user access charges, available to the
15 residential subscriber.

16 (c) The lifeline telephone service installation or
17 connection charge, or both, shall not be more than 50
18 percent of the charge for basic residential service
19 installation or connection, or both. The commission may
20 limit the number of installation and connection charges,
21 or both, that may be incurred at the reduced rate in any
22 given period.

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

26 (e) The commission shall assess whether there is a
27 problem with customers who fraudulently obtain lifeline
28 telephone service. If the commission determines that
29 there is a problem, it shall recommend and promulgate
30 appropriate solutions. This assessment and the solutions
31 determined by the commission shall not, in and of
32 themselves, change the procedures developed pursuant
33 to Section 876.

34 SEC. 54. Section 882 of the Public Utilities Code is
35 amended to read:

36 882. (a) The Public Utilities Commission shall, as
37 soon as practicable, open a proceeding or proceedings to,
38 or as part of existing proceedings shall, consider ways to
39 ensure that advanced telecommunications services are
40 made available as ubiquitously and economically as

1 possible, in a timely fashion, to California's citizens,
2 institutions, and businesses. The proceeding or
3 proceedings should be completed within one year of
4 commencement.

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

8 (1) To provide all citizens and businesses with access
9 to the widest possible array of advanced communications
10 services.

11 (2) To provide the state's educational and health care
12 institutions with access to advanced communications
13 services.

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

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

20 (1) Whether the definition of universal service should
21 be broadened.

22 (2) How to encourage the timely and economic
23 development of an advanced public communications
24 infrastructure, which may include a variety of
25 competitive providers.

26 SEC. 55. Section 1701.1 of the Public Utilities Code is
27 amended to read:

28 1701.1. (a) The commission, consistent with due
29 process, public policy, and statutory requirements, shall
30 determine whether a proceeding requires a hearing. The
31 commission shall determine whether the matter requires
32 a quasi-legislative, an adjudication, or a ratesetting
33 hearing. The commission's decision as to the nature of the
34 proceeding shall be subject to a request for rehearing
35 within 10 days of the date of that decision. If that decision
36 is not appealed to the commission within that time period
37 it shall not be subsequently subject to judicial review.
38 Only those parties who have requested a rehearing
39 within that time period shall subsequently have standing
40 for judicial review and that review shall only be available

1 at the conclusion of the proceeding. The commission shall
2 render its decision regarding the rehearing within 30
3 days. The commission shall establish regulations
4 regarding ex parte communication on case
5 categorization issues.

6 (b) The commission upon initiating a hearing shall
7 assign one or more commissioners to oversee the case and
8 an administrative law judge where appropriate. The
9 assigned commissioner shall schedule a prehearing
10 conference. The assigned commissioner shall prepare
11 and issue by order or ruling a scoping memo that
12 describes the issues to be considered and the applicable
13 timetable for resolution.

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

18 (2) Adjudication cases, for purposes of this article, are
19 enforcement cases and complaints except those
20 challenging the reasonableness of any rates or charges as
21 specified in Section 1702.

22 (3) Ratesetting cases, for purposes of this article, are
23 cases in which rates are established for a specific
24 company, including, but not limited to, general rate cases,
25 performance-based ratemaking, and other ratesetting
26 mechanisms.

27 (4) “Ex parte communication,” for purposes of this
28 article, means any oral or written communication
29 between a decisionmaker and a person with an interest
30 in a matter before the commission concerning
31 substantive, but not procedural issues, that does not occur
32 in a public hearing, workshop, or other public
33 proceeding, or on the official record of the proceeding on
34 the matter. “Person with an interest,” for purposes of this
35 article, means any of the following:

36 (A) Any applicant, an agent or an employee of the
37 applicant, or a person receiving consideration for
38 representing the applicant, or a participant in the
39 proceeding on any matter before the commission.

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

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

The commission shall by regulation adopt and publish a definition of decisionmakers and persons for purposes of this section, along with any requirements for written reporting of ex parte communications and appropriate sanctions for noncompliance with any rule proscribing ex parte communications. The regulation shall provide that reportable communications shall be reported by the party, whether the communication was initiated by the party or the decisionmaker. Communications shall be reported within three working days of the communication by filing a “Notice of Ex Parte Communication” with the commission in accordance with the procedures established by the commission for the service of that notice. The notice shall include the following information:

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

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

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

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

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

1 SEC. 58. Section 1904 of the Public Utilities Code is
2 amended to read:

3 1904. The commission shall also charge and collect the
4 following fees:

5 (a) Except as otherwise provided in Section 1036 for
6 filing each application for a certificate of public
7 convenience and necessity, or for the mortgage, lease,
8 transfer, or assignment thereof, seventy-five dollars
9 (\$75).

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

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

33 SEC. 60. Section 2851 of the Public Utilities Code is
34 repealed.

35 SEC. 61. Section 2881 of the Public Utilities Code is
36 amended to read:

37 2881. (a) The commission shall design and
38 implement a program to provide a telecommunications
39 device capable of serving the needs of individuals who are
40 deaf or hearing impaired, together with a single party

1 line, at no charge additional to the basic exchange rate, to
2 any subscriber who is certified as an individual who is deaf
3 or hearing impaired by a licensed physician and surgeon,
4 audiologist, or a qualified state or federal agency, as
5 determined by the commission, and to any subscriber
6 that is an organization representing individuals who are
7 deaf or hearing impaired, as determined and specified by
8 the commission pursuant to subdivision (e). A licensed
9 hearing aid dispenser may certify the need of an
10 individual to participate in the program if that individual
11 has been previously fitted with an amplified device by the
12 dispenser and the dispenser has the individual's hearing
13 records on file prior to certification.

14 (b) The commission shall also design and implement
15 a program to provide a dual-party relay system, using
16 third-party intervention to connect individuals who are
17 deaf or hearing impaired and offices of organizations
18 representing individuals who are deaf or hearing
19 impaired, as determined and specified by the commission
20 pursuant to subdivision (e), with persons of normal
21 hearing by way of intercommunications devices for
22 individuals who are deaf or hearing impaired and the
23 telephone system, making available reasonable access of
24 all phases of public telephone service to telephone
25 subscribers who are deaf or hearing impaired. In order to
26 make a dual-party relay system that will meet the
27 requirements of individuals who are deaf or hearing
28 impaired available at a reasonable cost, the commission
29 shall initiate an investigation, conduct public hearings to
30 determine the most cost-effective method of providing
31 dual-party relay service to the deaf or hearing impaired
32 when using a telecommunications device, and solicit the
33 advice, counsel, and physical assistance of statewide
34 nonprofit consumer organizations of the deaf, during the
35 development and implementation of the system. The
36 commission shall phase in this program, on a geographical
37 basis, over a three-year period ending on January 1, 1987.
38 The commission shall apply for certification of this
39 program under rules adopted by the Federal
40 Communications Commission pursuant to Section 401 of

1 the Americans with Disabilities Act of 1990 (Public Law
2 101-336).

3 (c) The commission shall also design and implement a
4 program whereby specialized or supplemental telephone
5 communications equipment may be provided to
6 subscribers who are certified to be disabled at no charge
7 additional to the basic exchange rate. The certification,
8 including a statement of medical need for specialized
9 telecommunications equipment, shall be provided by a
10 licensed physician and surgeon acting within the scope of
11 practice of his or her license, or by a qualified state or
12 federal agency as determined by the commission. The
13 commission shall, in this connection, study the feasibility
14 of, and implement, if determined to be feasible, personal
15 income criteria, in addition to the certification of
16 disability, for determining a subscriber's eligibility under
17 this subdivision.

18 (d) The commission shall establish a rate recovery
19 mechanism through a surcharge not to exceed one-half of
20 1 percent uniformly applied to a subscriber's intrastate
21 telephone service, other than one-way radio paging
22 service and universal telephone service, both within a
23 service area and between service areas, to allow providers
24 of the equipment and service specified in subdivisions
25 (a), (b), and (c), to recover costs as they are incurred
26 under this section. The surcharge shall be in effect until
27 January 1, 2001. The commission shall require that the
28 programs implemented under this section be identified
29 on subscribers' bills, and shall establish a fund and require
30 separate accounting for each of the programs
31 implemented under this section.

32 (e) The commission shall determine and specify those
33 statewide organizations representing the deaf or hearing
34 impaired which shall receive a telecommunications
35 device pursuant to subdivision (a) or a dual-party relay
36 system pursuant to subdivision (b), or both, and in which
37 offices the equipment shall be installed in the case of an
38 organization having more than one office.

39 (f) The commission may direct any telephone
40 corporation subject to its jurisdiction to comply with its

1 determinations and specifications pursuant to this
2 section.

3 (g) The commission shall annually review the
4 surcharge level and the balances in the funds established
5 pursuant to subdivision (d). Until January 1, 2001, the
6 commission shall be authorized to make, within the limits
7 set by subdivision (d), any necessary adjustments to the
8 surcharge to ensure that the programs supported thereby
9 are adequately funded and that the fund balances are not
10 excessive. A fund balance which is projected to exceed six
11 months' worth of projected expenses at the end of the
12 fiscal year is excessive.

13 (h) The commission shall prepare and submit to the
14 Legislature, on or before December 31, 1988, and
15 annually thereafter, a report on the fiscal status of the
16 programs established and funded pursuant to this section
17 and Sections 2881.1 and 2881.2. The report shall include
18 a statement of the surcharge level established pursuant to
19 subdivision (d) and revenues produced by the surcharge,
20 an accounting of program expenses, and an evaluation of
21 options for controlling those expenses and increasing
22 program efficiency, including, but not limited to, all of the
23 following proposals:

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

27 (2) If and to the extent not prohibited under Section
28 401 of the Americans with Disabilities Act of 1990 (Public
29 Law 101-336), the imposition of limits or other restrictions
30 on maximum usage levels for the relay service, which
31 shall include the development of a program to provide
32 basic communications requirements to all relay users at
33 discounted rates, including discounted toll call rates, and,
34 for usage in excess of those basic requirements, at rates
35 which recover the full costs of service.

36 (3) More efficient means for obtaining and
37 distributing equipment to qualified subscribers.

38 (4) The establishment of quality standards for
39 increasing the efficiency of the relay system.

1 (i) In order to continue to meet the access needs of
2 individuals with functional limitations of hearing, vision,
3 movement, manipulation, speech and interpretation of
4 information, the commission shall perform ongoing
5 assessment of, and if appropriate, expand the scope of the
6 program to allow for additional access capability
7 consistent with evolving telecommunications
8 technology.

9 SEC. 62. Section 2881.1 of the Public Utilities Code is
10 amended to read:

11 2881.1. (a) In addition to the requirements of Section
12 2881, the commission shall design and implement a
13 program to provide a telecommunications device
14 capable of servicing the needs of the deaf or severely
15 hearing-impaired, together with a single party line, at no
16 charge additional to the basic exchange rate, to any
17 subscriber which is an agency of state government and
18 which the commission determines serves a significant
19 portion of the deaf or severely hearing-impaired
20 population, and to an office located in the State Capitol
21 and selected by the Joint Rules Committee, for purposes
22 of access by the deaf or severely hearing-impaired to
23 Members of the Legislature.

24 (b) The commission shall permit providers of
25 equipment and service specified in subdivision (a) to
26 recover costs as they are incurred under this section
27 pursuant to subdivision (d) of Section 2881.

28 (c) The commission may direct any telephone
29 corporation subject to its jurisdiction to comply with its
30 determinations pursuant to this section.

31 SEC. 63. Section 2882 of the Public Utilities Code is
32 repealed.

33 SEC. 64. Section 2882.5 of the Public Utilities Code is
34 repealed.

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

37 2889.8. The commission periodically shall assess the
38 reliability of the public telecommunications network and,
39 if necessary, develop recommendations for

1 improvement. The assessment shall include, but not be
2 limited to, all of the following:

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

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

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

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

14 3950. It is a violation of law for any person or
15 corporation to operate, or cause to be operated, on the
16 highways of this state, any motor vehicle in the
17 transportation of property or passengers for
18 compensation in interstate commerce without having
19 first complied with the requirements of this chapter. That
20 violation may be prosecuted and punished as provided in
21 Section 16560 of the Vehicle Code.

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

24 4006. A fee of thirty-five dollars (\$35) shall be paid to
25 the commission for the filing of the initial registration of
26 private carriers of passengers, and an annual renewal fee
27 of thirty dollars (\$30) shall also be paid by private carriers
28 of passengers. The fees required to be paid by carriers of
29 passengers pursuant to this section shall be deposited in
30 the Public Utilities Commission Transportation
31 Reimbursement Account in the General Fund.

32 SEC. 68. Section 4007 of the Public Utilities Code is
33 amended to read:

34 4007. (a) When the department issues a carrier
35 identification number pursuant to Section 34507.5 of the
36 Vehicle Code to a private carrier of passengers, it shall
37 inform the carrier of the provisions of this chapter and the
38 requirement that the carrier register with the Public
39 Utilities Commission.

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

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

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

(b) A violation of this section is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when the conditions specified in either paragraph (1) or (2) of subdivision (d) of Section 17 of the Penal Code are met.

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

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

1 (b) Notwithstanding any other provision of law or
2 local ordinance, rule, regulation, or initiative measure,
3 the operator shall be entitled to recover the surcharge
4 collected pursuant to subdivision (a) from its customers.
5 However, the charge to any customer, to allow for the
6 operator's recovery, shall not exceed the actual
7 surcharge.

8 SEC. 71. Section 5001.5 of the Public Utilities Code is
9 amended to read:

10 5001.5. In addition to those purposes specified in
11 Sections 5001 and 5005, the commission may utilize the
12 funds it collects pursuant to this chapter for the following
13 purposes:

14 (a) The collection, aggregation, and analysis of data
15 and information on the economics of the household goods
16 carrier industry.

17 (b) The implementation of statutory policies or other
18 legislative directives contained in law relating to the
19 household goods carrier industry.

20 SEC. 72. Section 5002 of the Public Utilities Code is
21 amended to read:

22 5002. "Gross operating revenue" as used in this
23 chapter includes all revenue derived from the
24 transportation of property having origin and destination
25 within this state, where the revenue is derived from
26 transportation performed under a permit issued by the
27 commission.

28 SEC. 73. Section 5003.2 of the Public Utilities Code is
29 amended to read:

30 5003.2. (a) Notwithstanding Section 5003.1, the
31 commission shall require every highway carrier
32 otherwise subject to Section 5003.1 for whom the
33 commission does not establish minimum or maximum
34 rates, or require rates to be on file with the commission,
35 to pay a fee equal to one-tenth of 1 percent of the amount
36 of gross operating revenue.

37 (b) When a household goods carrier pursuant to
38 Section 5137 elects to transport under its household goods
39 carrier permit used office, store, and institution furniture
40 and fixtures, notwithstanding Section 5003.1, the fee on

1 the gross operating revenue derived from transporting
2 those items shall be one-tenth of 1 percent.

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

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

13 5009. The employees, representatives, and inspectors
14 of the commission may, under its order or direction,
15 inspect and examine any books, accounts, records,
16 memoranda, documents, papers, and correspondence
17 kept or required to be kept by any transportation agency
18 referred to in this chapter. The provisions of this section
19 shall, to the extent deemed necessary by the commission,
20 apply to persons having direct or indirect control over, or
21 affiliated with any transportation agency.

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

24 5012. The Public Utilities Commission shall conduct
25 an audit of the expenditures of the funds received
26 pursuant to this chapter each fiscal year. The results of
27 this audit shall be reported in writing, on or before
28 February 15th of each year thereafter, with respect to the
29 audit for the fiscal year ending on the previous June 30th,
30 to the appropriate policy and budget committees of the
31 respective houses of the Legislature.

32 SEC. 76. Section 5102 of the Public Utilities Code is
33 amended to read:

34 5102. The use of the public highways for the
35 transportation of used household goods and personal
36 effects for compensation is a business affected with a
37 public interest. It is the purpose of this chapter to
38 preserve for the public the full benefit and use of public
39 highways consistent with the needs of commerce without
40 unnecessary congestion or wear and tear upon such

1 highways; to secure to the people just, reasonable and
2 nondiscriminatory rates for transportation by carriers
3 operating upon the highways; and to secure full and
4 unrestricted flow of traffic by motor carriers over the
5 highways which will adequately meet reasonable public
6 demands by providing for the regulation of rates of all
7 carriers so that adequate and dependable service by all
8 necessary carriers shall be maintained and the full use of
9 the highways preserved to the public.

10 SEC. 77. Section 5109 of the Public Utilities Code is
11 amended to read:

12 5109. "Household goods carrier" includes every
13 corporation or person, their lessees, trustee, receivers or
14 trustees appointed by any court whatsoever, engaged in
15 the transportation for compensation or hire as a business
16 by means of a motor vehicle or motor vehicles being used
17 in the transportation of used household goods and
18 personal effects over any public highway in this state.

19 SEC. 78. Section 5112 of the Public Utilities Code is
20 amended to read:

21 5112. The regulation of the transportation of used
22 household goods and personal effects in a motor vehicle
23 or motor vehicles over any public highway in this state
24 shall be exclusively as provided in this chapter. Any
25 provision of the Public Utilities Act in conflict with the
26 provisions of this chapter does not apply to a household
27 goods carrier.

28 SEC. 79. Section 5113 of the Public Utilities Code is
29 amended to read:

30 5113. The transportation of used household goods and
31 personal effects in any truck or trailer for compensation
32 over any public highway in this state is a highly
33 specialized type of truck transportation. This chapter is
34 enacted for the limited purpose of providing necessary
35 regulation for this specialized type of truck
36 transportation only, and is not to be construed for any
37 purpose as a precedent for the extension of such
38 regulation to any other type of truck transportation not
39 presently so restricted.

1 SEC. 80. Section 5133 of the Public Utilities Code is
2 amended to read:

3 5133. No household goods carrier shall engage, or
4 attempt to engage, in the business of the transportation
5 of used household goods and personal effects, by motor
6 vehicle over any public highway in this state, unless there
7 is in force a permit issued by the commission authorizing
8 those operations.

9 SEC. 81. *Section 5135 of the Public Utilities Code is*
10 *amended to read:*

11 5135. (a) Before a permit is hereafter issued the
12 commission shall require the applicant to establish ability
13 and reasonable financial responsibility to initiate the
14 proposed operations. The commission shall require the
15 applicant to establish his *or her* knowledge and ability to
16 engage in business as a household goods carrier by
17 examination. The examination may be written or oral, or
18 in the form of a demonstration of skill or any combination
19 of these, and any investigation of character, experience
20 and any tests of technical knowledge and manual skill
21 ~~which that~~ the commission ~~deems~~ *are determines to be*
22 appropriate may be employed. In any examination the
23 qualification of the applicant shall be determined by an
24 appraisal made by a member of the commission's staff. An
25 applicant who has been determined to be unqualified
26 may thereafter establish his *or her* qualifications through
27 a subsequent examination; but no subsequent
28 examination shall be taken prior to ~~three (3) months~~ 30
29 days from the date when such applicant was found to be
30 unqualified. ~~When~~ *If* the staff member ~~shall determine~~
31 *determines* that the applicant is not qualified, then the
32 matter shall be set for hearing and the qualification of the
33 applicant shall be determined by the commission on the
34 basis of evidence of qualifications presented at ~~such the~~
35 hearing, which evidence may include consideration of
36 any written examination of the applicant. ~~When~~ *If* the
37 staff member ~~shall determine~~ *determines* that the
38 applicant is qualified, *the commission may issue* a permit
39 ~~may issue~~ without hearing, unless the commission ~~shall~~
40 ~~consider~~ *determines that* a hearing is desirable, in which

1 event the *commission may set the application may be set*
2 *for hearing by the commission.*

3 ~~An~~

4 (b) An applicant may qualify in one of the following
5 ways: ~~(a) if~~

6 (1) If an individual, he or she may qualify by personal
7 examination or by examination of his responsible
8 managing employee; ~~(b) if~~

9 (2) If a copartnership or corporation, or any other type
10 of business organization, it may qualify by examination of
11 the responsible managing officer ~~or member of the~~
12 ~~personnel~~, employee who works at least 32 hours per
13 week, or partner of such applicant firm. ~~If.~~

14 (c) If the individual qualified by examination ceases to
15 be connected with the permitholder, ~~said the~~
16 permitholder shall notify the commission in writing
17 within 30 days after such cessation. If notice is given the
18 permit shall remain in force a reasonable length of time
19 in order that another representative of applicant may be
20 qualified before the ~~Public Utilities Commission~~
21 ~~commission~~. If the permitholder fails to notify the
22 commission of such cessation within a 30-day period, at
23 the end of that period the permit shall be automatically
24 suspended.

25 ~~The~~

26 (d) The commission shall require each applicant for a
27 permit to submit fingerprints for each owner, partner,
28 officer, and director as a prerequisite to the issuance of a
29 permit to operate as a household goods carrier. The
30 commission shall submit completed fingerprint cards to
31 the Department of Justice. Those fingerprints shall be
32 available for use by the Department of Justice and the
33 Department of Justice may transmit the fingerprints to
34 the Federal Bureau of Investigation for a national
35 criminal history record check. The commission may use
36 any information obtained from the national criminal
37 history record check conducted pursuant to this section
38 to determine the applicant's qualification for permit.

39 (e) The commission may refuse to issue a permit if it
40 ~~shall be~~ is shown that an applicant or an officer, director,

1 partner or associate thereof has committed any act
2 constituting dishonesty or fraud; committed any act
3 which, committed by a permitholder would be grounds
4 for a suspension or revocation of the permit;
5 misrepresented any material fact on his application; or,
6 committed a felony, or crime involving moral turpitude.

7 ~~The~~

8 (f) *The* commission shall issue a permit only to those
9 applicants who it finds have demonstrated that they
10 possess sufficient knowledge, ability, integrity and
11 financial resources and responsibility to perform the
12 service within the scope of their application.

13 ~~No~~

14 (g) A permit ~~shall~~ *may not* be issued unless it has been
15 shown that applicant meets one of the following
16 residence requirements: If an individual, applicant ~~must~~
17 *shall* have resided in the State of California for not less
18 than 90 days next preceding the filing of the application.
19 If a partnership, the partner having the largest
20 percentage interest in the partnership ~~must~~ *shall* have
21 resided in the State of California continuously for not less
22 than 90 days next preceding the filing of the application.
23 If a corporation, applicant ~~must~~ *shall* be a domestic
24 corporation or ~~must~~ *shall* have qualified to transact
25 business in the State of California as a foreign corporation
26 at the time of filing the application.

27 ~~The~~

28 (h) *The* commission shall prescribe, amend, and
29 repeal rules in accordance with law for the administration
30 of this section.

31 *SEC. 81.5.* Section 5137 is added to the Public Utilities
32 Code, to read:

33 5137. (a) A household goods carrier, under its
34 permit, may also transport used office, store, and
35 institution furniture and fixtures. The commission shall
36 not regulate the service, routes, or prices charged for the
37 transportation of used office, store, and institution
38 furniture and fixtures by a household goods carrier. The
39 commission shall do nothing under this section that is in

1 conflict with federal law as contained in Section 14501 of
2 Title 49 of the United States Code.

3 (b) If a household goods carrier elects to transport
4 used office, store, and institution furniture and fixtures
5 under its household goods carrier permit all of the
6 following apply:

7 (1) A permit is not needed from the Department of
8 Motor Vehicles under the Motor Carriers of Property
9 Permit Act in the Vehicle Code to conduct that
10 transportation.

11 (2) The transportation is subject to the commission's
12 safety and insurance requirements, except that the cargo
13 insurance requirements of subdivision (c) of Section 5161
14 shall not apply.

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

17 (c) To exercise the election pursuant to this section, a
18 household goods carrier shall notify the commission of the
19 election or the revocation of that election by filing a
20 notice with the commission in the manner and on the
21 form prescribed by the commission. If a household goods
22 carrier does not elect to be subject to the provisions of this
23 section or revokes a prior election to do so, the household
24 goods carrier shall comply with the provisions of the
25 Motor Carriers of Property Permit Act when transporting
26 used office, store, and institution furniture and fixtures.

27 SEC. 82. Section 5191 of the Public Utilities Code is
28 amended to read:

29 5191. (a) The commission shall establish or approve
30 just, reasonable, and nondiscriminatory maximum or
31 minimum or maximum and minimum rates to be charged
32 by household goods carriers for the transportation of used
33 household goods and personal effects and for accessorial
34 service performed in connection therewith.

35 (b) In establishing or approving rates, the commission
36 shall account for the cost of all transportation service
37 performed or to be performed, for any accessorial service
38 performed or to be performed in connection therewith,
39 the value of the commodity transported, and the value of

1 the equipment, facilities, and personnel reasonably
2 necessary to perform the service.

3 (c) The commission shall establish or approve no
4 minimum rate for household goods carriers unless it finds
5 that the rate is at a sufficient level to allow safe operation
6 upon the highways of the state and accounts for the cost
7 of trained drivers and other reasonable expense of
8 operation of household goods carriers.

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

28 SEC. 83. Section 5195 of the Public Utilities Code is
29 repealed.

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

32 5259.5. (a) Whenever the commission determines
33 that any household goods carrier or any officer, director,
34 or agent of any household goods carrier has abandoned,
35 or is abandoning stored household goods or property of
36 any shippers under contract with the carrier or carriers,
37 it may commence a proceeding in superior court for the
38 purpose of having the court appoint either a receiver or
39 commission staff to identify the stored items of property,
40 to take possession of the property, and to arrange the

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

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

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

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

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

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

8 5326. An adequate transportation system is essential
9 to the welfare of the state, and an important part of that
10 system is service rendered by household goods carriers.

11 SEC. 86. Section 5328 of the Public Utilities Code is
12 amended to read:

13 5328. (a) On and after the effective date of this
14 article, there is imposed upon every household goods
15 carriers, and every person or corporation, owning or
16 operating motor vehicles in the transportation of
17 property for hire upon the public highways, under the
18 jurisdiction of the commission, a license fee equal to
19 one-tenth of 1 percent of gross operating revenue, which
20 shall be payable to the commission in the manner and at
21 the times provided for the payment of the fee provided
22 in Section 5003.1. For purposes of this section, “gross
23 operating revenue” shall be the gross operating revenue
24 defined in Section 5002.

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

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

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

39 5329. On and after the effective date of this article,
40 any person or corporation, subject to the license fee

1 imposed by Section 5328, required to pay any excise or
2 license tax of any kind, character, or description whatever
3 imposed by any city, or city and county, other than an
4 excise or license tax authorized under Division 2
5 (commencing with Section 6001) of the Revenue and
6 Taxation Code, for the privilege of doing any
7 transportation business therein on or after the effective
8 date of this article and on which it pays the license fee
9 imposed by Section 5328, may credit the amount of the tax
10 against the fee imposed by Section 5328.

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

13 5331. (a) If any person or corporation is in default in
14 the payment of the license fee prescribed by this chapter
15 for a period of 30 days or more, the commission may
16 suspend or revoke any permit or license of the person or
17 corporation, shall estimate from all available information
18 the gross operating revenue of that person or corporation,
19 shall compute the license fee required by Section 5328,
20 and shall impose a penalty of 25 percent of the fee for
21 failure, neglect, or refusal to report. In no event shall the
22 amount of the penalty be less than one dollar (\$1). Upon
23 payment of the estimated license fee and the penalty, the
24 permit or license of the agency suspended in accordance
25 with the provisions of this section shall be reinstated.

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

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

34 SEC. 89. *Section 5363 is added to the Public Utilities*
35 *Code, to read:*

36 5363. (a) *Any provision of the Public Utilities Act*
37 *(Part 1 (commencing with Section 201) of Division 1) or*
38 *of this chapter applicable to charter bus transportation*
39 *that conflicts with the federal Transportation Equity Act*
40 *for the 21st Century (P.L. 105-178) does not apply to*

1 charter bus transportation to the extent of that conflict.
2 If any provision of the Public Utilities Act or of this
3 chapter applicable to charter bus transportation, or the
4 application thereof to any person or circumstance, is
5 invalid as a result of federal preemption, the remainder
6 of the act, or the application of the provision to other
7 persons or circumstances, shall not be affected thereby.

8 (b) (1) Except as specified in paragraph (2), as used
9 in this section, “charter bus transportation” means
10 transportation, using a vehicle designed, used, or
11 maintained for carrying more than 10 persons, including
12 the driver, of a group of persons who, pursuant to a
13 common purpose, under a single contract, at a fixed
14 charge for the motor vehicle, have acquired the exclusive
15 use of the motor vehicle to travel together.

16 (2) If a federal court or agency with the jurisdiction to
17 construe Section 14501(a)(1)(C) of Title 49 of the United
18 States Code determines that additional transportation
19 falls within the meaning of the term “charter bus
20 transportation,” as used in that section, the federal
21 construction of that term shall prevail.

22 SEC. 89.2. Section 5371.2 of the Public Utilities Code
23 is amended to read:

24 5371.2. (a) All holders of certificates issued under this
25 section shall operate from a service area to be determined
26 by the commission. In no case shall this area encompass
27 more than a radius of 125 air miles from the home
28 terminal. The home terminal shall be designated by the
29 applicant. This certificate shall be classified as a class B
30 certificate. This section shall not apply to certificates
31 subject to Section 5371.1.

32 (b) The restriction on a service area imposed by
33 subdivision (a) does not apply to the holder of a class B
34 certificate if that person is providing charter bus
35 transportation as defined in subdivision (b) of Section
36 5363.

37 SEC. 89.4. Section 7531.5 of the Public Utilities Code
38 is amended to read:

39 7531.5. Upon receipt by it of an application, filed with
40 either the federal Surface Transportation Board or the

1 Public Utilities Commission, to abandon a line of railroad,
2 the Public Utilities Commission shall forward a copy of
3 the application to the Department of Transportation
4 within 10 days.

5 SEC. 90. Section 7532 of the Public Utilities Code is
6 repealed.

7 SEC. 91. Section 7532.5 of the Public Utilities Code is
8 repealed.

9 SEC. 92. Section 7711 of the Public Utilities Code is
10 amended to read:

11 7711. On or before July 1, 1992, and on or before July
12 1 annually thereafter, the commission shall report to the
13 Legislature on sites on railroad lines in the state it finds
14 to be hazardous. The report shall include, but not be
15 limited to, information on all of the following:

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

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

28 (c) A list of all railroad derailment accident sites in the
29 state on which accidents have occurred within at least the
30 previous five years. The list shall describe the nature and
31 probable causes of the accidents, if known, and shall
32 indicate whether the accidents occurred at or near sites
33 that the commission, pursuant to subdivision (d), has
34 determined pose a local safety hazard.

35 (d) A list of all railroad sites in the state that the
36 commission, pursuant to Section 20106 of Title 49 of the
37 United States Code, determines pose a local safety
38 hazard. The commission may submit in the annual report
39 the list of railroad sites submitted in the immediate prior
40 year annual report, and may amend or revise that list

1 from the immediate prior year as necessary. Factors that
2 the commission shall consider in determining a local
3 safety hazard may include, but need not be limited to, all
4 of the following:

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

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

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

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

12 (5) The hazard posed by the release of the commodity
13 into the environment.

14 (6) The value of special railroad equipment in the
15 process of safely loading, transporting, storing, or
16 unloading potentially hazardous commodities.

17 (7) The proximity of railroad activity to human
18 activity or sensitive environmental areas.

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

31 SEC. 93. Section 7902 of the Public Utilities Code is
32 repealed.

33 SEC. 94. Section 7902.5 of the Public Utilities Code is
34 repealed.

35 SEC. 95. Section 9202 of the Public Utilities Code is
36 amended to read:

37 9202. (a) Commencing on or before March 1, 1985,
38 the State Energy Resources Conservation and
39 Development Commission shall participate in a meeting

1 on an annual basis which shall include representatives
2 from all of the following:

3 (1) San Diego Gas and Electric Company.

4 (2) Pacific Gas and Electric Company.

5 (3) Southern California Gas Company.

6 (4) Southern California Edison Company.

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

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

12 (2) The Electric Power Research Institute.

13 (3) The Gas Research Institute.

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

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

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

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

26 7232. (a) Every motor carrier of property shall
27 annually pay a permit fee to the Department of Motor
28 Vehicles. The fees contained in this section are due and
29 shall be paid by each carrier at the time of application for
30 an initial motor carrier permit, and upon annual renewal,
31 with the Department of Motor Vehicles, pursuant to the
32 Motor Carriers of Property Permit Act, as set forth in
33 Division 14.85 (commencing with Section 34600) of the
34 Vehicle Code. The Department of Motor Vehicles may,
35 upon initial application for a motor carrier permit, assign
36 an expiration date not less than six months, nor more than
37 18 months, from date of application, and may charge
38 one-twelfth of the annual fee for each month covered by
39 the initial permit. The fee paid by each motor carrier of
40 property shall be based on the number of commercial

1 motor vehicles operated in California by the motor
2 carrier of property.

3 (b) As used in this chapter, “motor carrier of
4 property” means any person who operates any
5 commercial motor vehicle as defined in subdivision (d).
6 “Motor carrier of property” does not include a household
7 goods carrier, as defined in Section 5109 of the Public
8 Utilities Code, a household goods carrier transporting
9 used office, store, and institution furniture and fixtures
10 under its household goods carrier permits pursuant to
11 Section 5137 of the Public Utilities Code, persons
12 providing only transportation of passengers, or a
13 passenger stage corporation transporting baggage and
14 express upon a passenger vehicle incidental to the
15 transportation of passengers.

16 (c) As used in this chapter, “for-hire motor carrier of
17 property” means a motor carrier of property, as defined
18 in subdivision (b), who transports property for
19 compensation.

20 (d) As used in this chapter, “commercial motor
21 vehicle” means any self-propelled vehicle listed in
22 subdivisions (a), (b), (f), (g), and (k) of Section 34500 of
23 the Vehicle Code, any motor truck of two or more axles
24 that is more than 10,000 pounds gross vehicle weight
25 rating, and any other motor vehicle used to transport
26 property for compensation. “Commercial motor vehicle”
27 does not include vehicles operated by household goods
28 carriers, as defined in Section 5109 of the Public Utilities
29 Code, vehicles operated by household goods carriers to
30 transport used office, store, and institution furniture and
31 fixtures under their household goods carrier permit
32 pursuant to Section 5137 of the Public Utilities Code,
33 pickup trucks as defined in Section 471, and two-axle daily
34 rental trucks with gross vehicle weight ratings less than
35 26,001 pounds when operated in noncommercial use.

36 (e) The “number of commercial motor vehicles
37 operated by the motor carrier of property” as used in this
38 section means all of the commercial motor vehicles
39 owned, registered to, or leased by the carrier. For
40 interstate and foreign motor carriers of property the fees

1 set forth in subdivision (a) shall be apportioned based on
2 the percentage of fleet miles traveled in California in
3 intrastate commerce. In the absence of records to
4 establish intrastate fleet miles, the fees set forth in
5 subdivision (a) shall be apportioned on total fleet miles
6 traveled in California.

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

11 (g) (1) Fees contained in this chapter shall not apply
12 to a motor carrier of property while engaged solely in
13 interstate or foreign transportation of property by motor
14 vehicle. No motor carrier of property shall engage in any
15 interstate or foreign transportation of property for
16 compensation by motor vehicle on any public highway in
17 this state without first having registered the operation
18 with the Department of Motor Vehicles or with the
19 carrier’s base registration state, if other than California,
20 as determined in accordance with final regulations issued
21 by the Interstate Commerce Commission pursuant to the
22 Intermodal Surface Efficiency Act of 1991 (49 U.S.C. Sec.
23 11506). To register with the Department of Motor
24 Vehicles, carriers specified in this subdivision shall
25 comply with the following:

26 (A) When the operation requires authority from the
27 Interstate Commerce Commission under the Interstate
28 Commerce Act, or authority from another federal
29 regulatory agency, a copy of that authority shall be filed
30 with the initial application for registration. A copy of any
31 additions or amendments to the authority shall be filed
32 with the Department of Motor Vehicles.

33 (B) If the operation does not require authority from
34 the Interstate Commerce Commission under the
35 Interstate Commerce Act, or authority from another
36 federal regulatory agency, an affidavit of that exempt
37 status shall be filed with the application for registration.

38 (2) The Department of Motor Vehicles shall grant
39 registration upon the filing of the application pursuant to

1 applicable law and the payment of any applicable fees,
2 subject to the carrier's compliance with this chapter.

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

7 SEC. 97. Section 34505.6 of the Vehicle Code is
8 amended to read:

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

39 (b) Upon determining that a household goods carrier,
40 or a household goods carrier transporting used office,

1 store, and institution furniture and fixtures under its
2 household goods carrier permit pursuant to Section 5137
3 of the Public Utilities Code, operating any vehicle
4 described in subdivision (a), (b), (e), (f), (g), or (k) of
5 Section 34500 on a public highway has done either of the
6 following: (1) failed to maintain any vehicle used in
7 transportation for compensation in a safe operating
8 condition or to comply with the Vehicle Code or with
9 regulations contained in Title 13 of the California Code of
10 Regulations relative to motor carrier safety, and, in the
11 department's opinion, that failure presents an imminent
12 danger to public safety or constitutes a consistent failure
13 so as to justify a suspension, revocation, or denial of the
14 motor carrier's operating authority or (2) failed to enroll
15 all drivers in the pull notice system as required by Section
16 1808.1, the department shall recommend that the Public
17 Utilities Commission deny, suspend, or revoke the
18 carrier's operating authority. For interstate operators,
19 the department shall recommend to the Federal
20 Highway Administration Office of Motor Carriers that
21 appropriate administrative action be taken against the
22 carrier. For purposes of this subdivision, two consecutive
23 unsatisfactory compliance ratings for an inspected
24 terminal assigned because the motor carrier failed to
25 comply with the periodic report requirements of Section
26 1808.1 or the cancellation of the carrier's enrollment by
27 the Department of Motor Vehicles for the nonpayment
28 of required fees is a consistent failure. The department
29 shall retain a record, by operator, of every
30 recommendation made pursuant to this section.

31 (c) Before transmitting a recommendation pursuant
32 to subdivision (a), the department shall notify the carrier
33 in writing of all of the following:

34 (1) That the department has determined that the
35 carrier's safety record is unsatisfactory, furnishing a copy
36 of any documentation or summary of any other evidence
37 supporting the determination.

38 (2) That the determination may result in a suspension,
39 revocation, or denial of the carrier's motor carrier permit
40 by the Department of Motor Vehicles, suspension,

1 revocation, of the motor carrier's operating authority by
2 the California Public Utilities Commission, or
3 administrative action by the federal Highway
4 Administration Office of Motor Carriers.

5 (3) That the carrier may request a review of the
6 determination by the department within five days of its
7 receipt of the notice required under this subdivision. If a
8 review pursuant to this paragraph is requested by the
9 carrier, the department shall conduct and evaluate that
10 review prior to transmitting any notification pursuant to
11 subdivision (a) or (b).

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

22 SEC. 98. Section 34601 of the Vehicle Code is
23 amended to read:

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

37 (b) As used in this division, "for-hire motor carrier or
38 property" means a motor carrier of property as defined
39 in subdivision (a) who transports property for
40 compensation.

1 (c) (1) As used in this division, except as provided in
2 paragraph (2), a commercial motor vehicle is defined as
3 any self-propelled vehicle listed in subdivisions (a), (b),
4 (f), (g), and (k) of Section 34500, any motor truck of two
5 or more axles that is more than 10,000 pounds gross
6 vehicle weight rating, and any other motor vehicle used
7 to transport property for compensation.

8 (2) “Commercial motor vehicle” does not include
9 vehicles operated by household goods carriers, as defined
10 in Section 5109 of the Public Utilities Code, vehicles
11 operated by a household goods carrier to transport used
12 office, store, and institution furniture and fixtures under
13 its household goods carrier permit pursuant to Section
14 5137 of the Public Utilities Code, or pickup trucks as
15 defined in Section 471 and two-axle daily rental trucks
16 with gross vehicle weight ratings less than 26,001 pounds
17 when operated in noncommercial use.

18 (d) For purposes of this chapter, “private carrier”
19 means a motor carrier of property, as defined in
20 subdivision (a), who does not transport any goods or
21 property for compensation.

22 SEC. 99. Section 34622 of the Vehicle Code is
23 amended to read:

24 34622. This chapter does not apply to any of the
25 following:

26 (a) Vehicles that are exempt from vehicle registration
27 fees.

28 (b) A household goods carrier transporting used
29 office, store, and institution furniture and fixtures under
30 its household goods carrier permit pursuant to Section
31 5137 of the Public Utilities Code.

