

AMENDED IN SENATE AUGUST 17, 1999

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, 5135, 5191, 5259.5, 5326, 5328, 5329, 5331, 5371.2, 7531.5, 7711, and 9202 of, to add Sections 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 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.

(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.

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

This bill would repeal that authority.

(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.

(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.

(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.

(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.



(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.

(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.

(15) Existing law provides regulatory jurisdiction of household goods carriers, as defined, by the commission. 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.

(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.

(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
10 concerning these reports should be deleted from the
11 Public Utilities Code.

12 (b) Internal reorganization of the commission
13 resulting in name changes for many divisions of the
14 commission, together with recent reforms enacted by the
15 Legislature, require certain clarifications and corrections
16 of existing law.

17 (c) Regulatory changes mandated by state and federal
18 laws require conformance of various provisions of the
19 Public Utilities Code, including the repeal of provisions
20 rendered obsolete and the clarifications of continuing
21 commission authority. The repeal of a statute granting a



1 specific authority does not prohibit the commission from
2 providing the same or similar regulation pursuant to the
3 commission's constitutional and general statutory
4 authority.

5 SEC. 2. Section 830.11 of the Penal Code is amended
6 to read:

7 830.11. (a) The following persons are not peace
8 officers but may exercise the powers of arrest of a peace
9 officer as specified in Section 836 and the power to serve
10 warrants as specified in Sections 1523 and 1530 during the
11 course and within the scope of their employment, if they
12 receive a course in the exercise of those powers pursuant
13 to Section 832. The authority and powers of the persons
14 designated under this section shall extend to any place in
15 the state:

16 (1) Persons employed by the Department of Financial
17 Institutions designated by the Commissioner of Financial
18 Institutions, provided that the primary duty of these
19 persons shall be the enforcement of, and investigations
20 relating to, the provisions of law administered by the
21 Commissioner of Financial Institutions.

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

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

38 (4) Persons employed as investigators of the
39 Investigations Bureau of the Department of Insurance,
40 who are designated by the Chief of the Investigations

1 Bureau, provided that the primary duty of these persons
2 shall be the enforcement of the Insurance Code and other
3 laws relating to persons and businesses, licensed and
4 unlicensed by the Department of Insurance, who are
5 engaged in the business of insurance.

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

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

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

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

26 SEC. 4. Section 218.3 is added to the Public Utilities
27 Code, to read:

28 218.3. "Electric service provider" means an entity
29 that offers electrical service to residential and small
30 commercial customers, but does not include an electrical
31 corporation, as defined in Section 218, or a public agency
32 that offers electrical service to residential and small
33 commercial customers within its jurisdiction, or within
34 the service territory of a local publicly owned electric
35 utility. "Electric service provider" includes the
36 unregulated affiliates and subsidiaries of an electrical
37 corporation, as defined in Section 218.

38 SEC. 4.5. Section 224.8 is added to the Public Utilities
39 Code, to read:

1 224.8. “Network railroad transportation” means
2 railroad transportation that is subject to the jurisdiction
3 of the federal Surface Transportation Board pursuant to
4 subsection (a) or (b) of Section 10501 of Title 49 of the
5 United States Code.

6 SEC. 5. Section 248 is added to the Public Utilities
7 Code, to read:

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

19 SEC. 6. Section 308.5 of the Public Utilities Code is
20 amended to read:

21 308.5. Persons employed as investigators and
22 investigator supervisors of the Consumer Services
23 Division or the Rail Safety and Carrier Division of the
24 commission who are designated by the commission’s
25 executive director and approved by the commission have
26 the authority of peace officers, as specified in paragraph
27 (5) of subdivision (a) of Section 830.11 of the Penal Code,
28 while engaged in exercising the powers granted to or
29 performing the duties imposed upon them in
30 investigating the laws administered by the commission or
31 commencing directly or indirectly any criminal
32 prosecution arising from any investigation conducted
33 under these laws. All persons herein referred to shall be
34 deemed to be acting within the scope of employment
35 with respect to all acts and matters set forth in this section.

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

39 309.5. (a) There is within the commission a division
40 to represent the interests of public utility customers and

1 subscribers in commission proceedings. The goal of the
2 division shall be to obtain the lowest possible rate for
3 service consistent with reliable and safe service levels.

4 (b) The director of the division shall be appointed by
5 and serve at the pleasure of the Governor, subject to
6 confirmation by the Senate. The director shall annually
7 appear before the appropriate policy committees of the
8 Assembly and the Senate to report on the activities of the
9 division.

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

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

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

33 (f) There is hereby created the Public Utilities
34 Commission Ratepayer Advocate Account in the General
35 Fund. Moneys from the Public Utilities Commission
36 Utilities Reimbursement Account in the General Fund
37 shall be transferred in the annual Budget Act to the
38 Public Utilities Commission Ratepayer Advocate
39 Account. The funds in the Public Utilities Commission
40 Ratepayer Advocate Account shall be utilized exclusively

1 by the division in the performance of its duties. The
2 annual budget for the division shall be separately
3 identified in the commission's annual budget request.
4 The commission shall annually submit a staffing report
5 containing a comparison of the staffing levels for each
6 five-year period.

7 (g) This section shall remain in effect only until
8 January 1, 2002, and as of that date is repealed, unless a
9 later enacted statute, that is enacted before January 1,
10 2002, deletes or extends that date.

11 SEC. 8. Section 309.6 of the Public Utilities Code is
12 amended to read:

13 309.6. (a) The commission shall adopt procedures on
14 the disqualification of administrative law judges due to
15 bias or prejudice similar to those of other state agencies
16 and superior courts.

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

19 SEC. 8.3. Section 311 of the Public Utilities Code, as
20 amended by Section 2 of Chapter 886 of the Statutes of
21 1998, is amended to read:

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

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

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

38 (d) Consistent with the procedures contained in
39 Sections 1701.1, 1701.2, 1701.3, and 1701.4, the assigned
40 commissioner or the administrative law judge shall

1 prepare and file an opinion setting forth
2 recommendations, findings, and conclusions. The opinion
3 of the assigned commissioner or the administrative law
4 judge is the proposed decision and a part of the public
5 record in the proceeding. The proposed decision of the
6 assigned commissioner or the administrative law judge
7 shall be filed with the commission and served upon all
8 parties to the action or proceeding without undue delay,
9 not later than 90 days after the matter has been submitted
10 for decision. The commission shall issue its decision not
11 sooner than 30 days following filing and service of the
12 proposed decision by the assigned commissioner or the
13 administrative law judge, except that the 30-day period
14 may be reduced or waived by the commission in an
15 unforeseen emergency situation or upon the stipulation
16 of all parties to the proceeding or as otherwise provided
17 by law. The commission may, in issuing its decision, adopt,
18 modify, or set aside the proposed decision or any part of
19 the decision. Where the modification is of a decision in an
20 adjudicatory hearing it shall be based upon the evidence
21 in the record. Every finding, opinion, and order made in
22 the proposed decision and approved or confirmed by the
23 commission shall, upon that approval or confirmation, be
24 the finding, opinion, and order of the commission.

25 (e) Any item appearing on the commission's public
26 agenda as an alternate item to a proposed decision or to
27 a decision subject to subdivision (g) shall be served upon
28 all parties to the proceeding without undue delay and
29 shall be subject to public review and comment before it
30 may be voted upon. For purposes of this subdivision
31 "alternate" means either a substantive revision to a
32 proposed decision that materially changes the resolution
33 of a contested issue or any substantive addition to the
34 findings of fact, conclusions of law, or ordering
35 paragraphs. The commission shall adopt rules that
36 provide for the time and manner of review and comment
37 and the rescheduling of the item on a subsequent public
38 agenda, except that the item may not be rescheduled for
39 consideration sooner than 10 days following service of the
40 alternative item upon all parties. The commission's rules

1 may provide that the time and manner of review and
2 comment on an alternate item may be reduced or waived
3 by the commission in an unforeseen emergency situation.

4 (f) The commission may specify that the
5 administrative law judge assigned to a proceeding
6 involving an electrical, gas, telephone, railroad, or water
7 corporation, or a highway carrier, initiated by customer
8 or subscriber complaint need not prepare, file, and serve
9 an opinion, unless the commission finds that to do so is
10 required in the public interest in a particular case.

11 (g) (1) Prior to voting on any commission decision
12 not subject to subdivision (d), the decision shall be served
13 on parties and subject to at least 30 days public review and
14 comment. Any alternate to any commission decision shall
15 be subject to the same requirements as provided for
16 alternate decisions under subdivision (e). For purposes of
17 this subdivision, "decision" also includes resolutions,
18 including resolutions on advice letter filings.

19 (2) The 30-day period may be reduced or waived in an
20 unforeseen emergency situation, upon the stipulation of
21 all parties in the proceeding, for an uncontested matter
22 in which the decision grants the relief requested, or for an
23 order seeking temporary injunctive relief.

24 (3) This subdivision does not apply to ~~advice letter~~
25 ~~filings or to uncontested matters, uncontested matters~~
26 that pertain solely to water corporations, or to orders
27 instituting investigations or rulemakings, categorization
28 resolutions under Sections 1701.1 to 1701.4, inclusive, or
29 orders authorized by law to be considered in executive
30 session. Consistent with regulatory efficiency and the
31 need for adequate prior notice and comment on
32 commission decisions, the commission may adopt rules,
33 after notice and comment, establishing additional
34 categories of decisions subject to waiver or reduction of
35 the time period in this section.

36 (h) Notwithstanding any other provision of law,
37 amendments, revisions, or modifications by the
38 commission of its Rules of Practice and Procedure after
39 January 1, 1999, shall be submitted to the Office of
40 Administrative Law for prior review in accordance with

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

32 SEC. 8.5. Section 311 of the Public Utilities Code, as
33 added by Section 2.5 of Chapter 886 of the Statutes of
34 1998, is repealed.

35 SEC. 9. Section 314.5 of the Public Utilities Code is
36 amended to read:

37 314.5. The commission shall inspect and audit the
38 books and records for regulatory and tax purposes (a) at
39 least once in every three years in the case of every
40 electrical, gas, heat, telegraph, telephone, and water

1 corporation serving over 1,000 customers, and (b) at
2 least once in every five years in the case of every
3 electrical, gas, heat, telegraph, telephone, and water
4 corporation serving 1,000 or fewer customers. An audit
5 conducted in connection with a rate proceeding shall be
6 deemed to fulfill the requirements of this section. Reports
7 of such inspections and audits and other pertinent
8 information shall be furnished to the State Board of
9 Equalization for use in the assessment of public utilities.

10 SEC. 10. Section 394 of the Public Utilities Code is
11 amended to read:

12 394. (a) As used in this section, “electric service
13 provider” means an entity that offers electrical service to
14 residential and small commercial customers, but does not
15 include an electrical corporation, as defined in Section
16 218, or a public agency that offers electrical service to
17 residential and small commercial customers within its
18 jurisdiction, or within the service territory of a local
19 publicly owned electric utility. “Electric service
20 provider” includes the unregulated affiliates and
21 subsidiaries of an electrical corporation, as defined in
22 Section 218.

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

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

30 (2) Current telephone number.

31 (3) Current address.

32 (4) Agent for service of process.

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

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

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

38 (8) Disclosure of any civil, criminal, or regulatory
39 sanctions or penalties imposed within the 10 years
40 immediately prior to registration, against the company or

1 any owner, partner, officer, or director of the company
2 pursuant to any state or federal consumer protection law
3 or regulation, and of any felony convictions of any kind
4 against the company or any owner, partner, officer, or
5 director of the company. In addition, each electric service
6 provider shall furnish the commission with fingerprints
7 ~~for each owner, partner, officer, and director of the~~
8 ~~electric service provider~~ *those owners, partners, officers,*
9 *and managers of the electric service provider specified by*
10 *any commission decision applicable to all electric service*
11 *providers.* The commission shall submit completed
12 fingerprint cards to the Department of Justice. Those
13 fingerprints shall be available for use by the Department
14 of Justice and the Department of Justice may transmit the
15 fingerprints to the Federal Bureau of Investigation for a
16 national criminal history record check. The commission
17 may use information obtained from a national criminal
18 history record check conducted pursuant to this section
19 to determine an electric service provider's eligibility for
20 registration.

21 (9) Proof of financial viability. The commission shall
22 develop uniform standards for determining financial
23 viability and shall publish those standards for public
24 comment no later than March 31, 1998. In determining
25 the financial viability of the electric service provider, the
26 commission shall take into account the number of
27 customers the potential registrant expects to serve, the
28 number of kilowatthours of electricity it expects to
29 provide, and any other appropriate criteria to ensure that
30 residential and small commercial customers have
31 adequate recourse in the event of fraud or
32 nonperformance.

33 (10) Proof of technical and operational ability. The
34 commission shall develop uniform standards for
35 determining technical and operational capacity and shall
36 publish those standards for public comment no later than
37 March 31, 1998.

38 (b) Any registration filing approved by the
39 commission prior to the effective date of this section
40 which does not comply in all respects with the

1 requirements of subdivision (a) of Section 394 shall
2 nevertheless continue in force and effect so long as within
3 90 days of the effective date of this section the electric
4 service provider undertakes to supplement its
5 registration filing to the satisfaction of the commission.
6 Any registration that is not supplemented by the required
7 information within the time set forth in this subdivision
8 shall be suspended by the commission and shall not be
9 reinstated until the commission has found the registration
10 to be in full compliance with subdivision (a) of Section
11 394.

12 (c) Any public agency offering aggregation services as
13 provided for in Section 366 solely to retail electric
14 customers within its jurisdiction that has registered with
15 the commission prior to the enactment of this section may
16 voluntarily withdraw its registration to the extent that it
17 is exempted from registration under this chapter.

18 (d) Before reentering the market, electric service
19 providers whose registration has been revoked shall file
20 a formal application with the commission that satisfies the
21 requirements set forth in Section 394.1 and demonstrates
22 the fitness and ability of the electric service provider to
23 comply with all applicable rules of the commission.

24 (e) Registration with the commission is an exercise of
25 the licensing function of the commission, and does not
26 constitute regulation of the rates or terms and conditions
27 of service offered by electric service providers. Nothing
28 in this part authorizes the commission to regulate the
29 rates or terms and conditions of service offered by electric
30 service providers.

31 SEC. 10.1. Section 394.1 of the Public Utilities Code is
32 amended to read:

33 394.1. (a) The registration shall be deemed approved
34 and a registration number issued no later than 45 days
35 after the required information has been submitted, unless
36 the commission's executive director finds, upon review of
37 the information submitted by the electric service
38 provider or available to the commission, that there is
39 evidence to support a finding that the electric service
40 provider has committed an act constituting grounds for

1 denial of registration as specifically set forth in the
2 operative provisions of this chapter, including, but not
3 limited to, subdivision (c).

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

22 (c) (1) The commission may deny an application for
23 registration in accordance with subdivision (b) on the
24 grounds that the electric service provider or any officer
25 or director of the electric service provider has one or
26 more of the following:

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

29 (B) Failure to make a sufficient showing with respect
30 to paragraphs (1) to (10), inclusive, of subdivision (a) of
31 Section 394.

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

34 (2) The commission may deny registration pursuant to
35 this subdivision only if the crime or act is substantially
36 related to the qualifications, functions, or duties required
37 to provide retail electric service to end use customers of
38 electricity or the false statement is material to the
39 registration application. For purposes of this subdivision,
40 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 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 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 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 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 authority in these complaint proceedings is limited to

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

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

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

22 SEC. 10.3. Section 394.25 of the Public Utilities Code
23 is amended to read:

24 394.25. (a) The commission may enforce the
25 provisions of Sections 2102, 2103, 2104, 2105, 2107, 2108,
26 and 2114 against registered electric service providers as
27 if those electric service providers were public utilities as
28 defined in these code sections. Notwithstanding the
29 above, nothing in this section grants the commission
30 jurisdiction to regulate electric service providers other
31 than as specifically set forth in this part. Electric service
32 providers shall continue to be subject to the provisions of
33 Sections 2111 and 2112. Upon a finding by the
34 commission's executive director that there is evidence to
35 support a finding that the electric service provider has
36 committed an act constituting grounds for suspension or
37 revocation of registration as set forth in subdivision (b) of
38 Section 394.25, the commission shall notify the electric
39 service provider in writing and notice an expedited
40 hearing on the suspension or revocation of the electric

1 service provider's registration to be held within 30 days
2 of the notification to the electric service provider of the
3 executive director's finding of evidence to support
4 suspension or revocation of registration. The commission
5 shall, within 45 days after holding the hearing, issue a
6 decision on the suspension or revocation of registration,
7 which shall be based on findings of fact and conclusions
8 of law based on the evidence presented at the hearing.
9 The decision shall include the findings of fact and the
10 conclusions of law relied upon.

11 (b) An electric service provider may have its
12 registration suspended or revoked, immediately or
13 prospectively, in whole or in part, for any of the following
14 acts:

15 (1) Making material misrepresentations in the course
16 of soliciting customers, entering into service agreements
17 with those customers, or administering those service
18 agreements.

19 (2) Dishonesty, fraud, or deceit with the intent to
20 substantially benefit the electric service provider or its
21 employees, agents, or representatives, or to disadvantage
22 retail electric customers.

23 (3) Where the commission finds that there is evidence
24 that the electric service provider is not financially or
25 operationally capable of providing the offered electric
26 service.

27 (c) Pursuant to its authority to revoke or suspend
28 registration, the commission may suspend a registration
29 for a specified period or revoke the registration, or in lieu
30 of suspension or revocation, impose a moratorium on
31 adding or soliciting additional customers. Any suspension
32 or revocation of a registration shall require the electric
33 service provider to cease serving customers within the
34 boundaries of investor-owned electric corporations, and
35 the affected customers shall be served by the electrical
36 corporation until ~~such time as~~ *the time when* they may
37 select service from another service provider. Customers
38 shall not be liable for the payment of any early
39 termination fees or other penalties to any electric service
40 provider under the service agreement if the serving

1 electric service provider's registration is suspended or
2 revoked.

3 SEC. 10.4. Section 394.3 of the Public Utilities Code is
4 amended to read:

5 394.3. In order to carry out essential elements of a
6 sustainable and effective consumer protection program
7 in connection with electric service providers offering
8 electrical service to residential and small commercial
9 customers as intended by the Legislature in this article,
10 the following shall apply:

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

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

27 SEC. 10.5. Section 394.4 of the Public Utilities Code is
28 amended to read:

29 394.4. Rules that implement the following minimum
30 standards shall be adopted by the commission for electric
31 service providers offering electrical services to
32 residential and small commercial customers and the
33 governing body of a public agency offering electrical
34 services to residential and small commercial customers
35 within its jurisdiction:

36 (a) Confidentiality: Customer information shall be
37 confidential unless the customer consents in writing. This
38 shall encompass confidentiality of customer specific
39 billing, credit, or usage information. This requirement
40 shall not extend to disclosure of generic information



1 regarding the usage, load shape, or other general
2 characteristics of a group or rate classification, unless the
3 release of that information would reveal customer
4 specific information because of the size of the group, rate
5 classification, or nature of the information.

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

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

27 (d) Written notices: Notices describing the terms and
28 conditions of service as described in Section 394.5, service
29 agreements, notices of late payment, notices of
30 discontinuance of service, and disconnection notices
31 addressed to residential and small commercial customers
32 shall be easily understandable, and shall be provided in
33 the language in which the electric service provider
34 offered the services.

35 (e) Billing: All bills shall have a standard bill format, as
36 determined by the commission or the governing body,
37 and shall contain sufficient detail for the customer to
38 recalculate the bill for accuracy. Any late fees shall be
39 separately stated. Each electric service provider shall
40 provide on all customer bills a phone number by which

1 customers may contact the electric service provider to
2 report and resolve billing inquiries and complaints. An
3 electric service provider contacted by a customer
4 regarding a billing dispute shall advise the customer at
5 the time of the initial contact that the customer may file
6 a complaint with the commission if its dispute is not
7 satisfactorily resolved by the electric service provider.

8 (f) Meter integrity: An electric customer shall have a
9 reasonable opportunity to have its meter tested to ensure
10 the reasonable accuracy of the meter. The commission or
11 governing body shall determine who is responsible for the
12 cost of that testing.

13 (g) Customer deposits: Electric service providers may
14 require customer deposits before commencing service,
15 but in no event shall the deposit be more than the
16 estimated bill for the customer for a three-month period.

17 (h) Additional protections: The commission or the
18 governing body may adopt additional residential and
19 small commercial consumer protection standards that are
20 in the public interest.

21 SEC. 10.6. Section 394.5 of the Public Utilities Code is
22 amended to read:

23 394.5. (a) Except for an electrical corporation as
24 defined in Section 218, or a local publicly owned electric
25 utility as defined in subdivision (d) of Section 9604
26 offering electrical service to residential and small
27 commercial customers within its service territory, each
28 electric service provider offering electrical service to
29 residential and small commercial customers shall, prior to
30 the commencement of service, provide the potential
31 customer with a written notice of the service describing
32 the price, terms, and conditions of the service. The
33 notices shall include all of the following:

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

36 (A) The price of electricity expressed in a format
37 which makes it possible for residential and small
38 commercial customers to compare and select among
39 similar products and services on a standard basis. The
40 commission shall adopt rules to implement this

1 subdivision. The commission shall require disclosure of
2 the total price of electricity on a cents-per-kilowatthour
3 basis, including the costs of all electric services and
4 charges regulated by the commission. The commission
5 shall also require estimates of the total monthly bill for the
6 electric service at varying consumption levels, including
7 the costs of all electric services and charges regulated by
8 the commission. In determining these rules, the
9 commission may consider alternatives to the
10 cent-per-kilowatthour disclosure if other information
11 would provide the customer with sufficient information
12 to compare among alternatives on a standard basis.

13 (B) Separate disclosure of all recurring and
14 nonrecurring charges associated with the sale of
15 electricity.

16 (C) If services other than electricity are offered, an
17 itemization of the services and the charge or charges
18 associated with each.

19 (2) An explanation of the applicability and amount of
20 the competition transition charge, as determined
21 pursuant to Sections 367 to 376, inclusive.

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

25 (4) An explanation of the customer's financial
26 obligations, as well as the procedures regarding past due
27 payments, discontinuance of service, billing disputes, and
28 service complaints.

29 (5) The electric service provider's registration
30 number, if applicable.

31 (6) The right to change service providers upon
32 written notice, including disclosure of any fees or
33 penalties assessed by the supplier for early termination of
34 a contract.

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

38 (b) The commission may assist electric service
39 providers in developing the notice. The commission may
40 suggest inclusion of additional information it deems

1 necessary for the consumer protection purposes of this
2 section. On at least a semiannual basis, electric service
3 providers shall provide the commission with a copy of the
4 form of notice included in standard service plans made
5 available to residential and small commercial customers
6 as described in subdivision (a) of Section 392.1.

7 (c) Any electric service provider offering electric
8 services who declines to provide those services to a
9 consumer shall, upon request of the consumer, disclose to
10 that consumer the reason for the denial in writing within
11 30 days. At the time service is denied, the electric service
12 provider shall disclose to the consumer his or her right to
13 make ~~such a~~ *this* request. Consumers shall have at least 30
14 days from the date service is denied to make ~~such a~~ *the*
15 request.

16 SEC. 10.7. Section 394.8 of the Public Utilities Code is
17 amended to read:

18 394.8. Notwithstanding any other provision of this
19 article, requirements placed on an electric service
20 provider shall not apply to electrical services provided by
21 a local publicly owned electric utility to customers within
22 the jurisdiction or service territory of that local publicly
23 owned electric utility.

24 SEC. 10.8. Section 396 of the Public Utilities Code is
25 amended to read:

26 396. (a) A consumer damaged by a violation of this
27 article by an electric service provider is entitled to
28 recover all of the following:

29 (1) Actual damages.

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

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

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

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

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

1 SEC. 10.9. Section 421 of the Public Utilities Code is
2 amended to read:

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

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

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

31 (d) On January 1, 1992, the commission shall submit to
32 the Legislature a detailed budget implementing this
33 section for the 1992–93 fiscal year. The commission shall
34 also submit to the Legislature by January 1, 1993, and on
35 each January 1 thereafter, a detailed budget for
36 expenditure of railroad corporation fees for the ensuing
37 budget year. The budget for expenditure of railroad
38 corporation fees, for each of the 1996–97 and 1997–98 fiscal
39 years, shall not exceed the amount of three million dollars

1 (\$3,000,000). Expenditures of this budget shall be limited
2 to the following items:

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

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

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

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

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

28 (i) Rent.

29 (ii) Utilities.

30 (iii) Office furniture.

31 (iv) Office equipment.

32 (v) Office supplies.

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

36 (e) The Department of Finance shall notify the Joint
37 Legislative Budget Committee, pursuant to Section 28.00
38 of the annual Budget Act, prior to authorizing any change
39 in the Budget Act appropriation for railroad corporation
40 fees that is larger than one hundred thousand dollars

1 (\$100,000), or 10 percent of the amount budgeted,
2 whichever is less.

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

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

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

32 SEC. 11. Section 426 is added to the Public Utilities
33 Code, to read:

34 426. The commission shall use all moneys paid into the
35 Public Utilities Commission Transportation
36 Reimbursement Account by charter-party carriers in
37 connection with charter bus transportation, as defined in
38 subdivision (b) of Section 5363, solely for the following
39 purposes:

40 (a) Safety regulation.

1 (b) The administration of financial responsibility
2 requirements.

3 (c) Commission activities to ensure compliance with
4 safety regulation and financial responsibility
5 requirements.

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

8 SEC. 11.5. Section 454 of the Public Utilities Code is
9 amended to read:

10 454. (a) Except as provided in Section 455, no public
11 utility shall change any rate or so alter any classification,
12 contract, practice, or rule as to result in any new rate,
13 except upon a showing before the commission and a
14 finding by the commission that the new rate is justified.
15 Whenever any electrical, gas, heat, telephone, water, or
16 sewer system corporation files an application to change
17 any rate, other than a change reflecting and passing
18 through to customers only new costs to the corporation
19 which do not result in changes in revenue allocation, for
20 the services or commodities furnished by it, the
21 corporation shall furnish to its customers affected by the
22 proposed rate change notice of its application to the
23 commission for approval of the new rate. This notice
24 requirement does not apply to any rate change proposed
25 by a corporation pursuant to an advice letter submitted
26 to the commission in accordance with commission
27 procedures for this means of submission. The procedures
28 for advice letters may include provision for notice to
29 customers or subscribers on a case-by-case basis, as
30 determined by the commission. The corporation may
31 include the notice with the regular bill for charges
32 transmitted to the customers within 45 days if the
33 corporation operates on a 30-day billing cycle, or within
34 75 days if the corporation operates on a 60-day billing
35 cycle. If more than one application to change any rate is
36 filed within a single billing cycle, the corporation may
37 combine the notices into a single notice if the applications
38 are separately identified. The notice shall state the
39 amount of the proposed rate change expressed in both
40 dollar and percentage terms for the entire rate change as

1 well as for each customer classification, a brief statement
2 of the reasons the change is required or sought, and the
3 mailing, and if available, the e-mail address of the
4 commission to which any customer inquiries may be
5 directed regarding how to participate in, or receive
6 further notices regarding the date, time, or place of, any
7 hearing on the application, and the mailing address of the
8 corporation to which any customer inquiries relative to
9 the proposed rate change may be directed.

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

26 (c) The commission shall permit individual public
27 utility customers and subscribers affected by a proposed
28 rate change, and organizations formed to represent their
29 interests, to testify at any hearing on the proposed rate
30 change, except that the presiding officer need not allow
31 repetitive or irrelevant testimony and may conduct the
32 hearing in an efficient manner.

33 SEC. 12. Section 454.2 of the Public Utilities Code is
34 amended to read:

35 454.2. Notwithstanding Section 454, the commission
36 may establish a “zone of rate freedom” for any passenger
37 stage transportation service which is operating in
38 competition with other passenger transportation service
39 from any means of transportation, if the competition
40 together with the authorized zone of rate freedom will

1 result in reasonable rates and charges for the passenger
2 stage transportation service. An adjustment in rates or
3 charges within a zone of rate freedom established by the
4 commission is hereby deemed just and reasonable. The
5 commission may, upon protest or on its own motion,
6 suspend any adjustment in rates or charges under this
7 section and institute proceedings under its rules of
8 practice and procedure.

9 SEC. 13. Section 454.5 of the Public Utilities Code is
10 repealed.

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

13 SEC. 15. Section 458 of the Public Utilities Code is
14 amended to read:

15 458. (a) No common carrier, or any officer or agent
16 thereof, or any person acting for or employed by it, shall,
17 by means of known false billing, classification, weight,
18 weighing, or report of weight, or by any other device or
19 means assist, suffer, or permit any corporation or person
20 to obtain transportation for any person or property
21 between points within this state at less than the rates and
22 fares then established and in force as shown by the
23 schedules filed and in effect at the time.

24 No person, corporation, or any officer, agent, or
25 employee of a corporation shall, by means of false billing,
26 false or incorrect classification, false weight or weighing,
27 false representation as to contents or substance of a
28 package, or false report or statement of weight, or by any
29 other device or means, whether with or without the
30 consent or connivance of a common carrier or any of its
31 officers, agents, or employees, seek to obtain or obtain
32 such transportation for such property at less than the
33 rates then established and in force therefor.

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

36 SEC. 16. Section 459 of the Public Utilities Code is
37 amended to read:

38 459. (a) No person or corporation, or any officer,
39 agent, or employee of a corporation, shall knowingly,
40 directly or indirectly, by any false statement or

1 representation as to cost or value, or the nature or extent
2 of an injury, or by the use of any false billing, bill of lading,
3 receipt, voucher, roll, account, claim, certificate,
4 affidavit, or deposition, or upon any false, fictitious, or
5 fraudulent statement or entry, obtain or attempt to
6 obtain any allowance, rebate, or payment for damage, in
7 connection with or growing out of the transportation of
8 persons or property, or an agreement to transport such
9 persons or property, whether with or without the consent
10 or connivance of a common carrier or any of its officers,
11 agents, or employees. No common carrier, or any of its
12 officers, agents, or employees, shall knowingly pay or
13 offer to pay any such allowance, rebate, or claim for
14 damage.

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

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

19 SEC. 18. Section 461 of the Public Utilities Code is
20 repealed.

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

23 461.5. (a) (1) No discrimination in charges or
24 facilities for transportation shall be made by any railroad
25 or other transportation company between places or
26 persons, or in the facilities for the transportation of the
27 same classes of freight or passengers within this state. It
28 shall be unlawful for any railroad or other transportation
29 company to charge or receive any greater compensation
30 in the aggregate for the transportation of passengers or of
31 like kind of property for a shorter than for a longer
32 distance over the same line or route in the same direction,
33 the shorter being included within the longer distance, or
34 to charge any greater compensation as a through rate
35 than the aggregate of the intermediate rates.

36 (2) Upon application to the commission company may
37 be authorized by the commission to charge less for longer
38 than for shorter distances for the transportation of
39 persons or property and the commission may from time
40 to time prescribe the extent to which such company may

1 be relieved from the prohibition to charge less for the
2 longer than for the shorter haul. The commission may
3 authorize the issuance of excursion and commutation
4 tickets at special rates.

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

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

14 SEC. 20. Section 486 of the Public Utilities Code is
15 amended to read:

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

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

35 SEC. 21. Section 488 of the Public Utilities Code is
36 amended to read:

37 488. (a) Subject to such rules as the commission may
38 prescribe, the schedules of carriers shall be produced and
39 made available for inspection upon the demand of any
40 person. The form of every such schedule shall be

1 prescribed by the commission and shall conform, in the
2 case of any common carrier subject to federal regulation
3 as nearly as possible to the form of schedules prescribed
4 by the federal Surface Transportation Board.

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

7 SEC. 22. Section 491 of the Public Utilities Code is
8 amended to read:

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

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

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

39 (b) If any common carrier of property, in
40 contravention of subdivision (a), transports any property

1 for which it does not have schedules of rates, fares,
2 charges, and classifications on file, the commission may
3 establish a just and reasonable charge for the
4 transportation.

5 (c) This section is not applicable to network railroad
6 transportation.

7 SEC. 24. Section 494 of the Public Utilities Code is
8 amended to read:

9 494. (a) No common carrier shall charge, demand,
10 collect, or receive a different compensation for the
11 transportation of persons or property, or for any service
12 in connection therewith, than the applicable rates, fares,
13 and charges specified in its schedules filed and in effect
14 at the time, nor shall any such carrier refund or remit in
15 any manner or by any device any portion of the rates,
16 fares, or charges so specified, except upon order of the
17 commission as provided in this part, nor extend to any
18 corporation or person any privilege or facility in the
19 transportation of passengers or property except such as
20 are regularly and uniformly extended to all corporations
21 and persons.

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

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

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

28 SEC. 27. Section 527 of the Public Utilities Code is
29 amended to read:

30 527. Nothing in this part shall prevent the
31 interchange of free or reduced rate transportation for
32 passenger or express matter between common carriers,
33 their officers, agents, employees, attorneys, physicians
34 and surgeons, and members of their families, where such
35 common carriers are subject in whole or in part to the
36 jurisdiction of the commission or of the federal Surface
37 Transportation Board or where such common carriers,
38 though not in whole or in part subject to the jurisdiction
39 of this commission or of the federal Surface
40 Transportation Board are engaged in the business of

1 transporting passengers and freight by water between
2 the United States and foreign countries, and are
3 permitted by federal law to interchange such free
4 transportation with common carriers which are subject to
5 the jurisdiction of the Public Utilities Commission or the
6 federal Surface Transportation Board.

7 SEC. 28. Section 530 of the Public Utilities Code is
8 amended to read:

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

12 (1) Persons for the United States, state, county, or
13 municipal governments, or persons or property for
14 charitable or patriotic purposes, or to provide relief in
15 cases of general epidemic, pestilence, or calamity.

16 (2) Contractors and their employees, material or
17 supplies for use or engaged in carrying out their contracts
18 with such carriers, for construction, operation, or
19 maintenance work or work incidental thereto on the line
20 of the issuing carrier, to the extent only that such free or
21 reduced rate transportation is provided for in the
22 specifications upon which the contract is based and in the
23 contract itself.

24 (b) Common carriers may also enter into contracts
25 with telegraph and telephone corporations for an
26 exchange of service.

27 SEC. 29. Section 556 of the Public Utilities Code is
28 amended to read:

29 556. Every common carrier shall afford all
30 reasonable, proper, and equal facilities for the prompt
31 and efficient interchange and transfer of passengers
32 between the lines owned, operated, controlled, or leased
33 by it and the lines of every other common carrier, and
34 shall make such interchange and transfer promptly
35 without discrimination between passengers or carriers as
36 to compensation charged, service rendered, or facilities
37 afforded.

38 SEC. 30. Section 557 of the Public Utilities Code is
39 repealed.

1 SEC. 31. Section 559 of the Public Utilities Code is
2 amended to read:

3 559. (a) Nothing in Sections 556 to 558, inclusive,
4 shall limit or modify the duty of a common carrier to
5 establish joint rates, fares, and charges for the
6 transportation of passengers and property over the lines
7 owned, operated, controlled, or leased by it and the lines
8 of other common carriers, or the power of the commission
9 to require the establishment of such joint rates, fares, and
10 charges.

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

13 SEC. 32. Section 703 of the Public Utilities Code is
14 amended to read:

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

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

30 SEC. 34. Section 707 of the Public Utilities Code is
31 repealed.

32 SEC. 35. Section 728.5 of the Public Utilities Code is
33 amended to read:

34 728.5. (a) The commission may establish rates or
35 charges for the transportation of passengers and freight
36 by railroads and other transportation companies, except
37 motor carriers of property, and no railroad or other
38 transportation company under its jurisdiction, except
39 motor carriers of property, shall charge or demand or
40 collect or receive a greater or less or different

1 compensation for that transportation of passengers or
2 freight, or for any service in connection therewith,
3 between the points named in any tariff of rates
4 established by the commission than the rates, fares and
5 charges which are specified in that tariff. The commission
6 may examine books, records and papers of all railroad and
7 other transportation companies, except motor carriers of
8 property; may hear and determine complaints against
9 railroad and other transportation companies; and may
10 issue subpoenas and all necessary process and send for
11 persons and papers. The commission and each of the
12 commissioners may administer oaths, take testimony and
13 punish for contempt in the same manner and to the same
14 extent as courts of record. The commission may prescribe
15 a uniform system of accounts to be kept by all railroad and
16 other transportation companies, except motor carriers of
17 property.

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

20 SEC. 36. Section 730 of the Public Utilities Code is
21 amended to read:

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

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

38 SEC. 37. Section 731 of the Public Utilities Code is
39 repealed.

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

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

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

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

25 733. (a) If the common carriers do not agree upon
26 the division between them of the joint rates, fares, or
27 charges established by the commission over through
28 routes, the commission shall, after hearing, by
29 supplemental order, establish that division. Where any
30 railroad, or passenger stage corporation that is made a
31 party to a through route has itself over its own line an
32 equally satisfactory through route between the termini of
33 the through route established, that railroad, or passenger
34 stage corporation may require as its division of the joint
35 rate, fare, or charge its local rate, fare, or charge over the
36 portion of its line comprised in the through route, and the
37 commission may, in its discretion, allow to that railroad or
38 passenger stage corporation, more than its local rate, fare,
39 or charge if the commission determines that it will be
40 equitable so to do. The commission may establish and fix



1 through routes and joint rates, fares, or charges over
2 common carriers and stage or auto stage lines which may
3 not be otherwise subject to the provisions of this part, and
4 may fix the division of those joint rates, fares, or charges.

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

7 SEC. 40. Section 739.9 of the Public Utilities Code is
8 repealed.

9 SEC. 41. Section 740.8 of the Public Utilities Code is
10 amended to read:

11 740.8. As used in Section 740.3, “interests” of
12 ratepayers, short- or long-term, mean direct benefits that
13 are specific to ratepayers in the form of safer, more
14 reliable, or less costly gas or electrical service.

15 SEC. 42. Section 746 of the Public Utilities Code is
16 repealed.

17 SEC. 43. Section 747 of the Public Utilities Code is
18 repealed.

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

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

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

3 SEC. 45. Section 763.1 of the Public Utilities Code is
4 repealed.

5 SEC. 46. Section 764 of the Public Utilities Code is
6 repealed.

7 SEC. 47. Section 765 of the Public Utilities Code is
8 repealed.

9 SEC. 48. Section 765.5 of the Public Utilities Code is
10 amended to read:

11 765.5. (a) The purpose of this section is to provide
12 that the commission takes all appropriate action
13 necessary to ensure the safe operation of railroads in this
14 state.

15 (b) The commission shall dedicate sufficient resources
16 necessary to adequately carry out the State Participation
17 Program for the regulation of rail transportation of
18 hazardous materials as authorized by the Hazardous
19 Material Transportation Uniform Safety Act of 1990 (P.L.
20 101-615).

21 (c) On or before July 1, 1992, the commission shall hire
22 a minimum of six additional rail inspectors who are or
23 shall become federally certified, consisting of three
24 additional motive power and equipment inspectors, two
25 signal inspectors, and one operating practices inspector,
26 for the purpose of enforcing compliance by railroads
27 operating in this state with state and federal safety
28 regulations.

29 (d) On or before July 1, 1992, the commission shall
30 establish, by regulation, a minimum inspection standard
31 to ensure, at the time of inspection, that railroad
32 locomotives, equipment and facilities located in Class I
33 railroad yards in California will be inspected not less
34 frequently than every 180 days, and inspection of all
35 branch and main line track not less frequently than every
36 12 months.

37 SEC. 49. Section 769 of the Public Utilities Code is
38 repealed.

39 SEC. 50. Section 769.5 of the Public Utilities Code is
40 repealed.

1 SEC. 51. Section 788 of the Public Utilities Code is
2 amended to read:

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

5 (b) On or before March 1, 1992, and annually
6 thereafter, every telephone corporation that is a provider
7 of local exchange service shall issue to each of its
8 residential subscribers, in a manner and form approved
9 by the commission, a notice containing the following
10 information:

11 (1) An explanation of the responsibilities of the
12 subscriber and the telephone corporation in relation to
13 the customer's inside telephone wiring, as that term is
14 defined by and pursuant to Section 1941.4 of the Civil
15 Code, including an explanation of lessor and tenant
16 obligations.

17 (2) An explanation of the telephone corporation's
18 procedures and charges for determining and notifying
19 the subscriber of whether a malfunction in its telephone
20 wire is located in the telephone network, or is located in
21 the subscriber's inside telephone wiring, including
22 customer-provided equipment.

23 (3) If the telephone corporation offers any services to
24 maintain or repair a subscriber's inside telephone wiring,
25 a full description of the types of services offered,
26 including the rates, charges, and conditions for these
27 services, and whether those services are offered by
28 nonutility providers.

29 SEC. 52. Section 853 of the Public Utilities Code is
30 amended to read:

31 853. (a) This article does not apply to any person or
32 corporation which transacts no business subject to
33 regulation under this part, except performing services or
34 delivering commodities for or to public utilities or
35 municipal corporations or other public agencies
36 primarily for resale or use in serving the public or any
37 portion thereof, but shall apply to any public utility, and
38 any subsidiary or affiliate of, or corporation holding a
39 controlling interest in, a public utility, if the commission
40 finds, in a proceeding to which the public utility is or may

1 become a party, that the application of this article is
2 required by the public interest.

3 (b) The commission may from time to time by order
4 or rule, and subject to those terms and conditions as may
5 be prescribed therein, exempt any public utility or class
6 of public utility from this article if it finds that the
7 application thereof with respect to the public utility or
8 class of public utility is not necessary in the public
9 interest. The commission may establish rules or impose
10 requirements deemed necessary to protect the interest of
11 the customers or subscribers of the public utility or class
12 of public utility exempted under this subdivision. These
13 rules or requirements may include, but are not limited to,
14 notification of a proposed sale or transfer of assets or stock
15 and provision for refunds or credits to customers or
16 subscribers.

17 (c) The provisions of Sections 851 and 854 that prohibit
18 any assignment, acquisition, or change of control without
19 advance authorization from the commission, do not apply
20 to the transfer of the ownership interest in a water utility,
21 with 10,000 or fewer service connections, from a decedent
22 to a member of the decedent's family in the manner
23 provided in Section 240 of the Probate Code or by a will,
24 trust, or other instrument.

25 SEC. 53. Section 874 of the Public Utilities Code is
26 amended to read:

27 874. The lifeline telephone service rates and charges
28 shall be as follows:

29 (a) In a residential subscriber's service area where
30 measured service is not available, the lifeline telephone
31 service rates shall not be more than 50 percent of the rates
32 for basic flat rate service, exclusive of federally mandated
33 end user access charges, available to the residential
34 subscriber.

35 (b) In a residential subscriber's service area where
36 measured service is available, the subscriber may elect
37 either of the following:

38 (1) A lifeline telephone service measured rate of not
39 more than 50 percent of the basic rate for measured

1 service, exclusive of federally mandated end user access
2 charges, available to the residential subscriber.

3 (2) A lifeline flat rate of not more than 50 percent of
4 the rates for basic flat rate service, exclusive of federally
5 mandated end user access charges, available to the
6 residential subscriber.

7 (c) The lifeline telephone service installation or
8 connection charge, or both, shall not be more than 50
9 percent of the charge for basic residential service
10 installation or connection, or both. The commission may
11 limit the number of installation and connection charges,
12 or both, that may be incurred at the reduced rate in any
13 given period.

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

17 (e) The commission shall assess whether there is a
18 problem with customers who fraudulently obtain lifeline
19 telephone service. If the commission determines that
20 there is a problem, it shall recommend and promulgate
21 appropriate solutions. This assessment and the solutions
22 determined by the commission shall not, in and of
23 themselves, change the procedures developed pursuant
24 to Section 876.

25 SEC. 54. Section 882 of the Public Utilities Code is
26 amended to read:

27 882. (a) The Public Utilities Commission shall, as
28 soon as practicable, open a proceeding or proceedings to,
29 or as part of existing proceedings shall, consider ways to
30 ensure that advanced telecommunications services are
31 made available as ubiquitously and economically as
32 possible, in a timely fashion, to California's citizens,
33 institutions, and businesses. The proceeding or
34 proceedings should be completed within one year of
35 commencement.

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

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

4 (2) To provide the state's educational and health care
5 institutions with access to advanced communications
6 services.

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

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

13 (1) Whether the definition of universal service should
14 be broadened.

15 (2) How to encourage the timely and economic
16 development of an advanced public communications
17 infrastructure, which may include a variety of
18 competitive providers.

19 SEC. 55. Section 1701.1 of the Public Utilities Code is
20 amended to read:

21 1701.1. (a) The commission, consistent with due
22 process, public policy, and statutory requirements, shall
23 determine whether a proceeding requires a hearing. The
24 commission shall determine whether the matter requires
25 a quasi-legislative, an adjudication, or a ratesetting
26 hearing. The commission's decision as to the nature of the
27 proceeding shall be subject to a request for rehearing
28 within 10 days of the date of that decision. If that decision
29 is not appealed to the commission within that time period
30 it shall not be subsequently subject to judicial review.
31 Only those parties who have requested a rehearing
32 within that time period shall subsequently have standing
33 for judicial review and that review shall only be available
34 at the conclusion of the proceeding. The commission shall
35 render its decision regarding the rehearing within 30
36 days. The commission shall establish regulations
37 regarding ex parte communication on case
38 categorization issues.

39 (b) The commission upon initiating a hearing shall
40 assign one or more commissioners to oversee the case and

1 an administrative law judge where appropriate. The
2 assigned commissioner shall schedule a prehearing
3 conference. The assigned commissioner shall prepare
4 and issue by order or ruling a scoping memo that
5 describes the issues to be considered and the applicable
6 timetable for resolution.

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

11 (2) Adjudication cases, for purposes of this article, are
12 enforcement cases and complaints except those
13 challenging the reasonableness of any rates or charges as
14 specified in Section 1702.

15 (3) Ratesetting cases, for purposes of this article, are
16 cases in which rates are established for a specific
17 company, including, but not limited to, general rate cases,
18 performance-based ratemaking, and other ratesetting
19 mechanisms.

20 (4) “Ex parte communication,” for purposes of this
21 article, means any oral or written communication
22 between a decisionmaker and a person with an interest
23 in a matter before the commission concerning
24 substantive, but not procedural issues, that does not occur
25 in a public hearing, workshop, or other public
26 proceeding, or on the official record of the proceeding on
27 the matter. “Person with an interest,” for purposes of this
28 article, means any of the following:

29 (A) Any applicant, an agent or an employee of the
30 applicant, or a person receiving consideration for
31 representing the applicant, or a participant in the
32 proceeding on any matter before the commission.

33 (B) Any person with a financial interest, as described
34 in Article 1 (commencing with Section 87100) of Chapter
35 7 of Title 9 of the Government Code, in a matter before
36 the commission, or an agent or employee of the person
37 with a financial interest, or a person receiving
38 consideration for representing the person with a financial
39 interest.

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

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

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

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

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

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

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

34 SEC. 58. Section 1904 of the Public Utilities Code is
35 amended to read:

36 1904. The commission shall also charge and collect the
37 following fees:

38 (a) Except as otherwise provided in Section 1036 for
39 filing each application for a certificate of public
40 convenience and necessity, or for the mortgage, lease,

1 transfer, or assignment thereof, seventy-five dollars
2 (\$75).

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

23 SEC. 59. Chapter 4 (commencing with Section 2739)
24 of Part 2 of Division 1 of the Public Utilities Code is
25 repealed.

26 SEC. 60. Section 2851 of the Public Utilities Code is
27 repealed.

28 SEC. 61. Section 2881 of the Public Utilities Code is
29 amended to read:

30 2881. (a) The commission shall design and
31 implement a program to provide a telecommunications
32 device capable of serving the needs of individuals who are
33 deaf or hearing impaired, together with a single party
34 line, at no charge additional to the basic exchange rate, to
35 any subscriber who is certified as an individual who is deaf
36 or hearing impaired by a licensed physician and surgeon,
37 audiologist, or a qualified state or federal agency, as
38 determined by the commission, and to any subscriber
39 that is an organization representing individuals who are
40 deaf or hearing impaired, as determined and specified by

1 the commission pursuant to subdivision (e). A licensed
2 hearing aid dispenser may certify the need of an
3 individual to participate in the program if that individual
4 has been previously fitted with an amplified device by the
5 dispenser and the dispenser has the individual's hearing
6 records on file prior to certification.

7 (b) The commission shall also design and implement
8 a program to provide a dual-party relay system, using
9 third-party intervention to connect individuals who are
10 deaf or hearing impaired and offices of organizations
11 representing individuals who are deaf or hearing
12 impaired, as determined and specified by the commission
13 pursuant to subdivision (e), with persons of normal
14 hearing by way of intercommunications devices for
15 individuals who are deaf or hearing impaired and the
16 telephone system, making available reasonable access of
17 all phases of public telephone service to telephone
18 subscribers who are deaf or hearing impaired. In order to
19 make a dual-party relay system that will meet the
20 requirements of individuals who are deaf or hearing
21 impaired available at a reasonable cost, the commission
22 shall initiate an investigation, conduct public hearings to
23 determine the most cost-effective method of providing
24 dual-party relay service to the deaf or hearing impaired
25 when using a telecommunications device, and solicit the
26 advice, counsel, and physical assistance of statewide
27 nonprofit consumer organizations of the deaf, during the
28 development and implementation of the system. The
29 commission shall phase in this program, on a geographical
30 basis, over a three-year period ending on January 1, 1987.
31 The commission shall apply for certification of this
32 program under rules adopted by the Federal
33 Communications Commission pursuant to Section 401 of
34 the Americans with Disabilities Act of 1990 (Public Law
35 101-336).

36 (c) The commission shall also design and implement a
37 program whereby specialized or supplemental telephone
38 communications equipment may be provided to
39 subscribers who are certified to be disabled at no charge
40 additional to the basic exchange rate. The certification,

1 including a statement of medical need for specialized
2 telecommunications equipment, shall be provided by a
3 licensed physician and surgeon acting within the scope of
4 practice of his or her license, or by a qualified state or
5 federal agency as determined by the commission. The
6 commission shall, in this connection, study the feasibility
7 of, and implement, if determined to be feasible, personal
8 income criteria, in addition to the certification of
9 disability, for determining a subscriber's eligibility under
10 this subdivision.

11 (d) The commission shall establish a rate recovery
12 mechanism through a surcharge not to exceed one-half of
13 1 percent uniformly applied to a subscriber's intrastate
14 telephone service, other than one-way radio paging
15 service and universal telephone service, both within a
16 service area and between service areas, to allow providers
17 of the equipment and service specified in subdivisions
18 (a), (b), and (c), to recover costs as they are incurred
19 under this section. The surcharge shall be in effect until
20 January 1, 2001. The commission shall require that the
21 programs implemented under this section be identified
22 on subscribers' bills, and shall establish a fund and require
23 separate accounting for each of the programs
24 implemented under this section.

25 (e) The commission shall determine and specify those
26 statewide organizations representing the deaf or hearing
27 impaired which shall receive a telecommunications
28 device pursuant to subdivision (a) or a dual-party relay
29 system pursuant to subdivision (b), or both, and in which
30 offices the equipment shall be installed in the case of an
31 organization having more than one office.

32 (f) The commission may direct any telephone
33 corporation subject to its jurisdiction to comply with its
34 determinations and specifications pursuant to this
35 section.

36 (g) The commission shall annually review the
37 surcharge level and the balances in the funds established
38 pursuant to subdivision (d). Until January 1, 2001, the
39 commission shall be authorized to make, within the limits
40 set by subdivision (d), any necessary adjustments to the

1 surcharge to ensure that the programs supported thereby
2 are adequately funded and that the fund balances are not
3 excessive. A fund balance which is projected to exceed six
4 months' worth of projected expenses at the end of the
5 fiscal year is excessive.

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

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

20 (2) If and to the extent not prohibited under Section
21 401 of the Americans with Disabilities Act of 1990 (Public
22 Law 101-336), the imposition of limits or other restrictions
23 on maximum usage levels for the relay service, which
24 shall include the development of a program to provide
25 basic communications requirements to all relay users at
26 discounted rates, including discounted toll call rates, and,
27 for usage in excess of those basic requirements, at rates
28 which recover the full costs of service.

29 (3) More efficient means for obtaining and
30 distributing equipment to qualified subscribers.

31 (4) The establishment of quality standards for
32 increasing the efficiency of the relay system.

33 (i) In order to continue to meet the access needs of
34 individuals with functional limitations of hearing, vision,
35 movement, manipulation, speech and interpretation of
36 information, the commission shall perform ongoing
37 assessment of, and if appropriate, expand the scope of the
38 program to allow for additional access capability
39 consistent with evolving telecommunications
40 technology.

1 SEC. 62. Section 2881.1 of the Public Utilities Code is
2 amended to read:

3 2881.1. (a) In addition to the requirements of Section
4 2881, the commission shall design and implement a
5 program to provide a telecommunications device
6 capable of servicing the needs of the deaf or severely
7 hearing-impaired, together with a single party line, at no
8 charge additional to the basic exchange rate, to any
9 subscriber which is an agency of state government and
10 which the commission determines serves a significant
11 portion of the deaf or severely hearing-impaired
12 population, and to an office located in the State Capitol
13 and selected by the Joint Rules Committee, for purposes
14 of access by the deaf or severely hearing-impaired to
15 Members of the Legislature.

16 (b) The commission shall permit providers of
17 equipment and service specified in subdivision (a) to
18 recover costs as they are incurred under this section
19 pursuant to subdivision (d) of Section 2881.

20 (c) The commission may direct any telephone
21 corporation subject to its jurisdiction to comply with its
22 determinations pursuant to this section.

23 SEC. 63. Section 2882 of the Public Utilities Code is
24 repealed.

25 SEC. 64. Section 2882.5 of the Public Utilities Code is
26 repealed.

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

29 2889.8. The commission periodically shall assess the
30 reliability of the public telecommunications network and,
31 if necessary, develop recommendations for
32 improvement. The assessment shall include, but not be
33 limited to, all of the following:

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

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

39 (c) Consideration as to whether procedures should be
40 developed to notify customers about accessing other

1 telecommunications companies in the event of a service
2 disruption.

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

5 3950. It is a violation of law for any person or
6 corporation to operate, or cause to be operated, on the
7 highways of this state, any motor vehicle in the
8 transportation of property or passengers for
9 compensation in interstate commerce without having
10 first complied with the requirements of this chapter. That
11 violation may be prosecuted and punished as provided in
12 Section 16560 of the Vehicle Code.

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

15 4006. A fee of thirty-five dollars (\$35) shall be paid to
16 the commission for the filing of the initial registration of
17 private carriers of passengers, and an annual renewal fee
18 of thirty dollars (\$30) shall also be paid by private carriers
19 of passengers. The fees required to be paid by carriers of
20 passengers pursuant to this section shall be deposited in
21 the Public Utilities Commission Transportation
22 Reimbursement Account in the General Fund.

23 SEC. 68. Section 4007 of the Public Utilities Code is
24 amended to read:

25 4007. (a) When the department issues a carrier
26 identification number pursuant to Section 34507.5 of the
27 Vehicle Code to a private carrier of passengers, it shall
28 inform the carrier of the provisions of this chapter and the
29 requirement that the carrier register with the Public
30 Utilities Commission.

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

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

1 4021. (a) Any person or corporation who violates any
2 provision of this chapter is guilty of a misdemeanor, and
3 is punishable by a fine of not more than two thousand five
4 hundred dollars (\$2,500), or by imprisonment in the
5 county jail for not more than three months, or both.

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

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

13 4458. (a) The commission shall establish a surcharge
14 to be paid by operators with distribution systems subject
15 to this chapter on propane purchased for distribution to
16 their customers. The surcharge shall be designed to
17 partially recover the commission's costs of the propane
18 safety inspection and enforcement program required by
19 this chapter, and to partially recover the commission's
20 costs of collecting and administering the surcharge. The
21 commission shall collect the surcharge from the operators
22 and deposit it into the Propane Safety Inspection and
23 Enforcement Program Trust Fund, which,
24 notwithstanding Section 13340 of the Government Code,
25 is continuously appropriated, without regard to fiscal
26 years, to be used for the purposes of this chapter. The
27 surcharge shall be assessed on a per space or lot basis, shall
28 not exceed twenty-five cents (\$0.25) per month, and shall
29 be collected by the commission on an annual basis.

30 (b) Notwithstanding any other provision of law or
31 local ordinance, rule, regulation, or initiative measure,
32 the operator shall be entitled to recover the surcharge
33 collected pursuant to subdivision (a) from its customers.
34 However, the charge to any customer, to allow for the
35 operator's recovery, shall not exceed the actual
36 surcharge.

37 SEC. 71. Section 5001.5 of the Public Utilities Code is
38 amended to read:

39 5001.5. In addition to those purposes specified in
40 Sections 5001 and 5005, the commission may utilize the

1 funds it collects pursuant to this chapter for the following
2 purposes:

3 (a) The collection, aggregation, and analysis of data
4 and information on the economics of the household goods
5 carrier industry.

6 (b) The implementation of statutory policies or other
7 legislative directives contained in law relating to the
8 household goods carrier industry.

9 SEC. 72. Section 5002 of the Public Utilities Code is
10 amended to read:

11 5002. "Gross operating revenue" as used in this
12 chapter includes all revenue derived from the
13 transportation of property having origin and destination
14 within this state, where the revenue is derived from
15 transportation performed under a permit issued by the
16 commission.

17 SEC. 73. Section 5003.2 of the Public Utilities Code is
18 amended to read:

19 5003.2. (a) Notwithstanding Section 5003.1, the
20 commission shall require every highway carrier
21 otherwise subject to Section 5003.1 for whom the
22 commission does not establish minimum or maximum
23 rates, or require rates to be on file with the commission,
24 to pay a fee equal to one-tenth of 1 percent of the amount
25 of gross operating revenue.

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

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

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

3 5009. The employees, representatives, and inspectors
4 of the commission may, under its order or direction,
5 inspect and examine any books, accounts, records,
6 memoranda, documents, papers, and correspondence
7 kept or required to be kept by any transportation agency
8 referred to in this chapter. The provisions of this section
9 shall, to the extent deemed necessary by the commission,
10 apply to persons having direct or indirect control over, or
11 affiliated with any transportation agency.

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

14 5012. The Public Utilities Commission shall conduct
15 an audit of the expenditures of the funds received
16 pursuant to this chapter each fiscal year. The results of
17 this audit shall be reported in writing, on or before
18 February 15th of each year thereafter, with respect to the
19 audit for the fiscal year ending on the previous June 30th,
20 to the appropriate policy and budget committees of the
21 respective houses of the Legislature.

22 SEC. 76. Section 5102 of the Public Utilities Code is
23 amended to read:

24 5102. The use of the public highways for the
25 transportation of used household goods and personal
26 effects for compensation is a business affected with a
27 public interest. It is the purpose of this chapter to
28 preserve for the public the full benefit and use of public
29 highways consistent with the needs of commerce without
30 unnecessary congestion or wear and tear upon such
31 highways; to secure to the people just, reasonable and
32 nondiscriminatory rates for transportation by carriers
33 operating upon the highways; and to secure full and
34 unrestricted flow of traffic by motor carriers over the
35 highways which will adequately meet reasonable public
36 demands by providing for the regulation of rates of all
37 carriers so that adequate and dependable service by all
38 necessary carriers shall be maintained and the full use of
39 the highways preserved to the public.

1 SEC. 77. Section 5109 of the Public Utilities Code is
2 amended to read:

3 5109. "Household goods carrier" includes every
4 corporation or person, their lessees, trustee, receivers or
5 trustees appointed by any court whatsoever, engaged in
6 the transportation for compensation or hire as a business
7 by means of a motor vehicle or motor vehicles being used
8 in the transportation of used household goods and
9 personal effects over any public highway in this state.

10 SEC. 78. Section 5112 of the Public Utilities Code is
11 amended to read:

12 5112. The regulation of the transportation of used
13 household goods and personal effects in a motor vehicle
14 or motor vehicles over any public highway in this state
15 shall be exclusively as provided in this chapter. Any
16 provision of the Public Utilities Act in conflict with the
17 provisions of this chapter does not apply to a household
18 goods carrier.

19 SEC. 79. Section 5113 of the Public Utilities Code is
20 amended to read:

21 5113. The transportation of used household goods and
22 personal effects in any truck or trailer for compensation
23 over any public highway in this state is a highly
24 specialized type of truck transportation. This chapter is
25 enacted for the limited purpose of providing necessary
26 regulation for this specialized type of truck
27 transportation only, and is not to be construed for any
28 purpose as a precedent for the extension of such
29 regulation to any other type of truck transportation not
30 presently so restricted.

31 SEC. 80. Section 5133 of the Public Utilities Code is
32 amended to read:

33 5133. No household goods carrier shall engage, or
34 attempt to engage, in the business of the transportation
35 of used household goods and personal effects, by motor
36 vehicle over any public highway in this state, unless there
37 is in force a permit issued by the commission authorizing
38 those operations.

39 SEC. 81. Section 5135 of the Public Utilities Code is
40 amended to read:



1 5135. (a) Before a permit is hereafter issued the
 2 commission shall require the applicant to establish ability
 3 and reasonable financial responsibility to initiate the
 4 proposed operations. The commission shall require the
 5 applicant to establish his or her knowledge and ability to
 6 engage in business as a household goods carrier by
 7 examination. The examination may be written or oral, or
 8 in the form of a demonstration of skill or any combination
 9 of these, and any investigation of character, experience
 10 and any tests of technical knowledge and manual skill that
 11 the commission determines to be appropriate may be
 12 employed. In any examination the qualification of the
 13 applicant shall be determined by an appraisal made by a
 14 member of the commission's staff. An applicant who has
 15 been determined to be unqualified may thereafter
 16 establish his or her qualifications through a subsequent
 17 examination; but no subsequent examination shall be
 18 taken prior to 30 days from the date when ~~such~~ *the*
 19 applicant was found to be unqualified. If the staff member
 20 determines that the applicant is not qualified, then the
 21 matter shall be set for hearing and the qualification of the
 22 applicant shall be determined by the commission on the
 23 basis of evidence of qualifications presented at the
 24 hearing, which evidence may include consideration of
 25 any written examination of the applicant. If the staff
 26 member determines that the applicant is qualified, the
 27 commission may issue a permit without hearing, unless
 28 the commission determines that a hearing is desirable, in
 29 which event the commission may set the application for
 30 hearing.

31 (b) An applicant may qualify in one of the following
 32 ways:

33 (1) If an individual, he or she may qualify by personal
 34 examination or by examination of his responsible
 35 managing employee.

36 (2) If a copartnership or corporation, or any other type
 37 of business organization, it may qualify by examination of
 38 the responsible managing officer, employee who works at
 39 least 32 hours per week, or partner of ~~such~~ *the* applicant
 40 firm.

1 (c) If the individual qualified by examination ceases to
2 be connected with the permitholder, the permitholder
3 shall notify the commission in writing within 30 days after
4 ~~such~~ *the* cessation. If notice is given the permit shall
5 remain in force a reasonable length of time in order that
6 another representative of applicant may be qualified
7 before the commission. If the permitholder fails to notify
8 the commission of ~~such~~ *the* cessation within a 30-day
9 period, at the end of that period the permit shall be
10 automatically suspended.

11 (d) The commission shall require each applicant for a
12 permit to submit fingerprints for each owner, partner,
13 officer, and director as a prerequisite to the issuance of a
14 permit to operate as a household goods carrier. The
15 commission shall submit completed fingerprint cards to
16 the Department of Justice. Those fingerprints shall be
17 available for use by the Department of Justice and the
18 Department of Justice may transmit the fingerprints to
19 the Federal Bureau of Investigation for a national
20 criminal history record check. The commission may use
21 any information obtained from the national criminal
22 history record check conducted pursuant to this section
23 to determine the applicant's qualification for permit.

24 (e) The commission may refuse to issue a permit if it
25 is shown that an applicant or an officer, director, partner
26 or associate thereof has committed any act constituting
27 dishonesty or fraud; committed any act which,
28 committed by a permitholder would be grounds for a
29 suspension or revocation of the permit; misrepresented
30 any material fact on ~~his~~ *the* application; or, committed a
31 felony, or crime involving moral turpitude.

32 (f) The commission shall issue a permit only to those
33 applicants who it finds have demonstrated that they
34 possess sufficient knowledge, ability, integrity and
35 financial resources and responsibility to perform the
36 service within the scope of their application.

37 (g) A permit may not be issued unless it has been
38 shown that applicant meets one of the following
39 residence requirements: If an individual, applicant shall
40 have resided in the State of California for not less than 90

1 days next preceding the filing of the application. If a
2 partnership, the partner having the largest percentage
3 interest in the partnership shall have resided in the State
4 of California continuously for not less than 90 days next
5 preceding the filing of the application. If a corporation,
6 applicant shall be a domestic corporation or shall have
7 qualified to transact business in the State of California as
8 a foreign corporation at the time of filing the application.

9 (h) The commission shall prescribe, amend, and
10 repeal rules in accordance with law for the administration
11 of this section.

12 SEC. 81.5. Section 5137 is added to the Public Utilities
13 Code, to read:

14 5137. (a) A household goods carrier, under its
15 permit, may also transport used office, store, and
16 institution furniture and fixtures. The commission shall
17 not regulate the service, routes, or prices charged for the
18 transportation of used office, store, and institution
19 furniture and fixtures by a household goods carrier. The
20 commission shall do nothing under this section that is in
21 conflict with federal law as contained in Section 14501 of
22 Title 49 of the United States Code.

23 (b) If a household goods carrier elects to transport
24 used office, store, and institution furniture and fixtures
25 under its household goods carrier permit all of the
26 following apply:

27 (1) A permit is not needed from the Department of
28 Motor Vehicles under the Motor Carriers of Property
29 Permit Act in the Vehicle Code to conduct that
30 transportation.

31 (2) The transportation is subject to the commission's
32 safety and insurance requirements, except that the cargo
33 insurance requirements of subdivision (c) of Section 5161
34 shall not apply.

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

37 (c) To exercise the election pursuant to this section, a
38 household goods carrier shall notify the commission of the
39 election or the revocation of that election by filing a
40 notice with the commission in the manner and on the

1 form prescribed by the commission. If a household goods
2 carrier does not elect to be subject to the provisions of this
3 section or revokes a prior election to do so, the household
4 goods carrier shall comply with the provisions of the
5 Motor Carriers of Property Permit Act when transporting
6 used office, store, and institution furniture and fixtures.

7 SEC. 82. Section 5191 of the Public Utilities Code is
8 amended to read:

9 5191. (a) The commission shall establish or approve
10 just, reasonable, and nondiscriminatory maximum or
11 minimum or maximum and minimum rates to be charged
12 by household goods carriers for the transportation of used
13 household goods and personal effects and for accessorial
14 service performed in connection therewith.

15 (b) In establishing or approving rates, the commission
16 shall account for the cost of all transportation service
17 performed or to be performed, for any accessorial service
18 performed or to be performed in connection therewith,
19 the value of the commodity transported, and the value of
20 the equipment, facilities, and personnel reasonably
21 necessary to perform the service.

22 (c) The commission shall establish or approve no
23 minimum rate for household goods carriers unless it finds
24 that the rate is at a sufficient level to allow safe operation
25 upon the highways of the state and accounts for the cost
26 of trained drivers and other reasonable expense of
27 operation of household goods carriers.

28 (d) In establishing or approving any maximum rates
29 for household goods carriers, the commission shall, on or
30 immediately after January 1, 1996, adjust the current level
31 of maximum rates by application and use of the index
32 number methodology relied upon by the commission in
33 1992 to assist in the establishment of the current level of
34 maximum rates and make that adjustment for the time
35 period from the date that index was last relied upon to the
36 latest date that index data is available. Thereafter,
37 maximum rates shall be adjusted at least once annually by
38 use of the same index methodology, or another index
39 methodology found by the commission to be appropriate
40 for the adjustment of household goods carrier maximum

1 rates, less a reasonable percentage of any index increase
2 to encourage higher productivity and promote efficiency
3 and economy of operation by household goods carriers.
4 The commission may also adjust maximum rates when
5 deemed reasonable to allow for extraordinary changes in
6 household goods carrier costs.

7 SEC. 83. Section 5195 of the Public Utilities Code is
8 repealed.

9 SEC. 84. Section 5259.5 of the Public Utilities Code is
10 amended to read:

11 5259.5. (a) Whenever the commission determines
12 that any household goods carrier or any officer, director,
13 or agent of any household goods carrier has abandoned,
14 or is abandoning stored household goods or property of
15 any shippers under contract with the carrier or carriers,
16 it may commence a proceeding in superior court for the
17 purpose of having the court appoint either a receiver or
18 commission staff to identify the stored items of property,
19 to take possession of the property, and to arrange the
20 return of the property to its owners in accordance with
21 the orders of the court and with regard for the protection
22 of all property rights involved.

23 (b) The proceeding shall be brought in the superior
24 court in and for the county, or city and county, in which
25 the cause or some part thereof arose, or in which the
26 person or corporation complained of has its principal
27 place of business, or in which the person complained of
28 resides. The commission shall commence the proceeding
29 in the name of the people of the State of California, by
30 petition to the superior court, alleging the facts and
31 circumstances involved and praying for appropriate
32 relief by way of mandamus, or injunction, or the
33 appointment of a receiver, and authorizing the
34 commission to arrange for the hiring of a receiver who
35 shall be required to comply with the requirements of
36 Sections 566, 567, and 568 of the Code of Civil Procedure.

37 (c) The court may also appoint a receiver to manage
38 the business of the household goods carrier or carriers and
39 return property to its owner or owners upon a showing by
40 the commission satisfactory to the court that the

1 abandonment or threatened abandonment by the carrier
2 jeopardizes property or funds of others in the custody or
3 under the control of the carrier. The court may make any
4 other order that it finds appropriate to protect and
5 preserve those funds or property. Service of the order of
6 the court on a household goods carrier may be
7 accomplished by person delivery to the person to be
8 served, or by posting a copy of the order at the dwelling
9 house, usual place of abode, usual place of business, or
10 usual residence of the person to be served and thereafter
11 mailing a copy of the order, by first-class mail, postage
12 prepaid, to the location where the order was posted.

13 (d) In the event a receiver is appointed by the court
14 and the commission is responsible for contracting for a
15 receiver to carry out the duties authorized by this section,
16 the commission may contract on an emergency basis with
17 a qualified person or corporation to serve as receiver
18 under the conditions and guidelines set by the court. The
19 contract for the receiver services may be executed by the
20 commission on an expedited basis and without
21 compliance with the requirements of Sections 11042 and
22 14615 of the Government Code and Sections 10295 and
23 10318 of the Public Contract Code. The receiver shall be
24 paid from the fees collected pursuant to Section 5003.2.

25 SEC. 85. Section 5326 of the Public Utilities Code is
26 amended to read:

27 5326. An adequate transportation system is essential
28 to the welfare of the state, and an important part of that
29 system is service rendered by household goods carriers.

30 SEC. 86. Section 5328 of the Public Utilities Code is
31 amended to read:

32 5328. (a) On and after the effective date of this
33 article, there is imposed upon every household goods
34 carriers, and every person or corporation, owning or
35 operating motor vehicles in the transportation of
36 property for hire upon the public highways, under the
37 jurisdiction of the commission, a license fee equal to
38 one-tenth of 1 percent of gross operating revenue, which
39 shall be payable to the commission in the manner and at
40 the times provided for the payment of the fee provided

1 in Section 5003.1. For purposes of this section, “gross
2 operating revenue” shall be the gross operating revenue
3 defined in Section 5002.

4 (b) The license fee imposed by this section is in lieu of
5 all city or city and county excise or license taxes of any
6 kind, character, or description whatever, upon the
7 intercity transportation business of any household goods
8 carrier, and every person or corporation owning or
9 operating motor vehicles in the transportation of
10 property for hire upon the public highways, under the
11 jurisdiction of the commission.

12 (c) This section does not prohibit the imposition by
13 any city, or city and county, of any excise or license tax
14 authorized under Division 2 (commencing with Section
15 6001) of the Revenue and Taxation Code.

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

18 5329. On and after the effective date of this article,
19 any person or corporation, subject to the license fee
20 imposed by Section 5328, required to pay any excise or
21 license tax of any kind, character, or description whatever
22 imposed by any city, or city and county, other than an
23 excise or license tax authorized under Division 2
24 (commencing with Section 6001) of the Revenue and
25 Taxation Code, for the privilege of doing any
26 transportation business therein on or after the effective
27 date of this article and on which it pays the license fee
28 imposed by Section 5328, may credit the amount of the tax
29 against the fee imposed by Section 5328.

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

32 5331. (a) If any person or corporation is in default in
33 the payment of the license fee prescribed by this chapter
34 for a period of 30 days or more, the commission may
35 suspend or revoke any permit or license of the person or
36 corporation, shall estimate from all available information
37 the gross operating revenue of that person or corporation,
38 shall compute the license fee required by Section 5328,
39 and shall impose a penalty of 25 percent of the fee for
40 failure, neglect, or refusal to report. In no event shall the

1 amount of the penalty be less than one dollar (\$1). Upon
2 payment of the estimated license fee and the penalty, the
3 permit or license of the agency suspended in accordance
4 with the provisions of this section shall be reinstated.

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

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

13 SEC. 89. Section 5363 is added to the Public Utilities
14 Code, to read:

15 5363. (a) Any provision of the Public Utilities Act
16 (Part 1 (commencing with Section 201) of Division 1) or
17 of this chapter applicable to charter bus transportation
18 that conflicts with the federal Transportation Equity Act
19 for the 21st Century (P.L. 105-178) does not apply to
20 charter bus transportation to the extent of that conflict.
21 If any provision of the Public Utilities Act or of this
22 chapter applicable to charter bus transportation, or the
23 application thereof to any person or circumstance, is
24 invalid as a result of federal preemption, the remainder
25 of the act, or the application of the provision to other
26 persons or circumstances, shall not be affected thereby.

27 (b) (1) Except as specified in paragraph (2), as used
28 in this section, “charter bus transportation” means
29 transportation, using a vehicle designed, used, or
30 maintained for carrying more than 10 persons, including
31 the driver, of a group of persons who, pursuant to a
32 common purpose, under a single contract, at a fixed
33 charge for the motor vehicle, have acquired the exclusive
34 use of the motor vehicle to travel together.

35 (2) If a federal court or agency with the jurisdiction to
36 construe Section 14501(a)(1)(C) of Title 49 of the United
37 States Code determines that additional transportation
38 falls within the meaning of the term “charter bus
39 transportation,” as used in that section, the federal
40 construction of that term shall prevail.

1 SEC. 89.2. Section 5371.2 of the Public Utilities Code
2 is amended to read:

3 5371.2. (a) All holders of certificates issued under this
4 section shall operate from a service area to be determined
5 by the commission. In no case shall this area encompass
6 more than a radius of 125 air miles from the home
7 terminal. The home terminal shall be designated by the
8 applicant. This certificate shall be classified as a class B
9 certificate. This section shall not apply to certificates
10 subject to Section 5371.1.

11 (b) The restriction on a service area imposed by
12 subdivision (a) does not apply to the holder of a class B
13 certificate if that person is providing charter bus
14 transportation as defined in subdivision (b) of Section
15 5363.

16 SEC. 89.4. Section 7531.5 of the Public Utilities Code
17 is amended to read:

18 7531.5. Upon receipt by it of an application, filed with
19 either the federal Surface Transportation Board or the
20 Public Utilities Commission, to abandon a line of railroad,
21 the Public Utilities Commission shall forward a copy of
22 the application to the Department of Transportation
23 within 10 days.

24 SEC. 90. Section 7532 of the Public Utilities Code is
25 repealed.

26 SEC. 91. Section 7532.5 of the Public Utilities Code is
27 repealed.

28 SEC. 92. Section 7711 of the Public Utilities Code is
29 amended to read:

30 7711. On or before July 1, 1992, and on or before July
31 1 annually thereafter, the commission shall report to the
32 Legislature on sites on railroad lines in the state it finds
33 to be hazardous. The report shall include, but not be
34 limited to, information on all of the following:

35 (a) A list, prepared pursuant to Section 59019 of the
36 Health and Safety Code, of all commodities transported
37 on railroad lines in the state that could pose a hazard to
38 the public or the environment in the event of a train
39 derailment or other accident.

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

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

(d) A list of all railroad sites in the state that the commission, pursuant to Section 20106 of Title 49 of the United States Code, determines pose a local safety hazard. The commission may submit in the annual report the list of railroad sites submitted in the immediate prior year annual report, and may amend or revise that list from the immediate prior year as necessary. Factors that the commission shall consider in determining a local safety hazard may include, but need not be limited to, all of the following:

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

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

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

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

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

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

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

(e) In determining which railroad sites pose a local safety hazard pursuant to subdivision (d), the commission

1 shall consider the history of accidents at or near the sites.
2 The commission shall not limit its determination to sites
3 at which accidents have already occurred, but shall
4 identify potentially hazardous sites based on the criteria
5 enumerated in subdivision (d) and all other criteria that
6 the commission determines influence railroad safety. The
7 commission shall also consider whether any local safety
8 hazards at railroad sites have been eliminated or
9 sufficiently remediated to warrant removal of the site
10 from the list required under subdivision (d).

11 SEC. 93. Section 7902 of the Public Utilities Code is
12 repealed.

13 SEC. 94. Section 7902.5 of the Public Utilities Code is
14 repealed.

15 SEC. 95. Section 9202 of the Public Utilities Code is
16 amended to read:

17 9202. (a) Commencing on or before March 1, 1985,
18 the State Energy Resources Conservation and
19 Development Commission shall participate in a meeting
20 on an annual basis which shall include representatives
21 from all of the following:

22 (1) San Diego Gas and Electric Company.

23 (2) Pacific Gas and Electric Company.

24 (3) Southern California Gas Company.

25 (4) Southern California Edison Company.

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

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

31 (2) The Electric Power Research Institute.

32 (3) The Gas Research Institute.

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

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

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

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

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

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

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

(d) As used in this chapter, “commercial motor vehicle” means any self-propelled vehicle listed in

1 subdivisions (a), (b), (f), (g), and (k) of Section 34500 of
 2 the Vehicle Code, any motor truck of two or more axles
 3 that is more than 10,000 pounds gross vehicle weight
 4 rating, and any other motor vehicle used to transport
 5 property for compensation. “Commercial motor vehicle”
 6 does not include vehicles operated by household goods
 7 carriers, as defined in Section 5109 of the Public Utilities
 8 Code, vehicles operated by household goods carriers to
 9 transport used office, store, and institution furniture and
 10 fixtures under their household goods carrier permit
 11 pursuant to Section 5137 of the Public Utilities Code,
 12 pickup trucks as defined in Section 471, and two-axle daily
 13 rental trucks with gross vehicle weight ratings less than
 14 26,001 pounds when operated in noncommercial use.

15 (e) The “number of commercial motor vehicles
 16 operated by the motor carrier of property” as used in this
 17 section means all of the commercial motor vehicles
 18 owned, registered to, or leased by the carrier. For
 19 interstate and foreign motor carriers of property the fees
 20 set forth in subdivision (a) shall be apportioned based on
 21 the percentage of fleet miles traveled in California in
 22 intrastate commerce. In the absence of records to
 23 establish intrastate fleet miles, the fees set forth in
 24 subdivision (a) shall be apportioned on total fleet miles
 25 traveled in California.

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

30 (g) (1) Fees contained in this chapter shall not apply
 31 to a motor carrier of property while engaged solely in
 32 interstate or foreign transportation of property by motor
 33 vehicle. No motor carrier of property shall engage in any
 34 interstate or foreign transportation of property for
 35 compensation by motor vehicle on any public highway in
 36 this state without first having registered the operation
 37 with the Department of Motor Vehicles or with the
 38 carrier’s base registration state, if other than California,
 39 as determined in accordance with final regulations issued
 40 by the Interstate Commerce Commission pursuant to the

1 Intermodal Surface Efficiency Act of 1991 (49 U.S.C. Sec.
2 11506). To register with the Department of Motor
3 Vehicles, carriers specified in this subdivision shall
4 comply with the following:

5 (A) When the operation requires authority from the
6 Interstate Commerce Commission under the Interstate
7 Commerce Act, or authority from another federal
8 regulatory agency, a copy of that authority shall be filed
9 with the initial application for registration. A copy of any
10 additions or amendments to the authority shall be filed
11 with the Department of Motor Vehicles.

12 (B) If the operation does not require authority from
13 the Interstate Commerce Commission under the
14 Interstate Commerce Act, or authority from another
15 federal regulatory agency, an affidavit of that exempt
16 status shall be filed with the application for registration.

17 (2) The Department of Motor Vehicles shall grant
18 registration upon the filing of the application pursuant to
19 applicable law and the payment of any applicable fees,
20 subject to the carrier's compliance with this chapter.

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

25 SEC. 97. Section 34505.6 of the Vehicle Code is
26 amended to read:

27 34505.6. (a) Upon determining that a motor carrier
28 of property who is operating any vehicle described in
29 subdivision (a), (b), (e), (f), (g), or (k) of Section 34500,
30 or any motortruck of two or more axles that is more than
31 10,000 pounds gross vehicle weight rating, on a public
32 highway, has done either of the following: (1) failed to
33 maintain any vehicle of a type described above in a safe
34 operating condition or to comply with the Vehicle Code
35 or with regulations contained in Title 13 of the California
36 Code of Regulations relative to motor carrier safety, and,
37 in the department's opinion, that failure presents an
38 imminent danger to public safety or constitutes a
39 consistent failure so as to justify a suspension or
40 revocation of the motor carrier's motor carrier permit or

1 (2) failed to enroll all drivers in the pull notice system as
2 required by Section 1808.1, the department shall
3 recommend that the Department of Motor Vehicles
4 suspend or revoke the carrier's motor carrier permit. For
5 interstate operators, the department shall recommend to
6 the federal Highway Administration Office of Motor
7 Carriers that appropriate administrative action be taken
8 against the carrier. For purposes of this subdivision, two
9 consecutive unsatisfactory compliance ratings for an
10 inspected terminal assigned because the motor carrier
11 failed to comply with the periodic report requirements of
12 Section 1808.1 or the cancellation of the carrier's
13 enrollment by the Department of Motor Vehicles for
14 nonpayment of required fees is a consistent failure. The
15 department shall retain a record, by operator, of every
16 recommendation made pursuant to this section.

17 (b) Upon determining that a household goods carrier,
18 or a household goods carrier transporting used office,
19 store, and institution furniture and fixtures under its
20 household goods carrier permit pursuant to Section 5137
21 of the Public Utilities Code, operating any vehicle
22 described in subdivision (a), (b), (e), (f), (g), or (k) of
23 Section 34500 on a public highway has done either of the
24 following: (1) failed to maintain any vehicle used in
25 transportation for compensation in a safe operating
26 condition or to comply with the Vehicle Code or with
27 regulations contained in Title 13 of the California Code of
28 Regulations relative to motor carrier safety, and, in the
29 department's opinion, that failure presents an imminent
30 danger to public safety or constitutes a consistent failure
31 so as to justify a suspension, revocation, or denial of the
32 motor carrier's operating authority or (2) failed to enroll
33 all drivers in the pull notice system as required by Section
34 1808.1, the department shall recommend that the Public
35 Utilities Commission deny, suspend, or revoke the
36 carrier's operating authority. For interstate operators,
37 the department shall recommend to the Federal
38 Highway Administration Office of Motor Carriers that
39 appropriate administrative action be taken against the
40 carrier. For purposes of this subdivision, two consecutive

1 unsatisfactory compliance ratings for an inspected
2 terminal assigned because the motor carrier failed to
3 comply with the periodic report requirements of Section
4 1808.1 or the cancellation of the carrier's enrollment by
5 the Department of Motor Vehicles for the nonpayment
6 of required fees is a consistent failure. The department
7 shall retain a record, by operator, of every
8 recommendation made pursuant to this section.

9 (c) Before transmitting a recommendation pursuant
10 to subdivision (a), the department shall notify the carrier
11 in writing of all of the following:

12 (1) That the department has determined that the
13 carrier's safety record is unsatisfactory, furnishing a copy
14 of any documentation or summary of any other evidence
15 supporting the determination.

16 (2) That the determination may result in a suspension,
17 revocation, or denial of the carrier's motor carrier permit
18 by the Department of Motor Vehicles, suspension,
19 revocation, of the motor carrier's operating authority by
20 the California Public Utilities Commission, or
21 administrative action by the federal Highway
22 Administration Office of Motor Carriers.

23 (3) That the carrier may request a review of the
24 determination by the department within five days of its
25 receipt of the notice required under this subdivision. If a
26 review pursuant to this paragraph is requested by the
27 carrier, the department shall conduct and evaluate that
28 review prior to transmitting any notification pursuant to
29 subdivision (a) or (b).

30 (d) Upon receipt of a written recommendation from
31 the department that a motor carrier permit or operating
32 authority be suspended, revoked, or denied, the
33 Department of Motor Vehicles or Public Utilities
34 Commission, as appropriate, shall, pending a hearing in
35 the matter pursuant to Section 34623 or appropriate
36 Public Utilities Commission authority, suspend the motor
37 carrier permit or operating authority. The written
38 recommendation shall specifically indicate compliance
39 with subdivision (c).

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

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

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

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

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

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

1 SEC. 99. Section 34622 of the Vehicle Code is
2 amended to read:

3 34622. This chapter does not apply to any of the
4 following:

5 (a) Vehicles that are exempt from vehicle registration
6 fees.

7 (b) A household goods carrier transporting used
8 office, store, and institution furniture and fixtures under
9 its household goods carrier permit pursuant to Section
10 5137 of the Public Utilities Code.

