

AMENDED IN SENATE SEPTEMBER 3, 1999

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, 2890, 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 requires persons, corporation, or billing agents that transmit telephone bills to include information concerning the nature of the charges, dispute resolution, and complaint procedures. Until January 1, 2001, this includes a bill for noncommunications-related goods and services included in an envelop with a telephone bill.*

This bill would require a toll free number for resolving disputes and appropriate addresses for filing written complaints, as prescribed.

(14) 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)~~

(15) 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~~ *require the transfer of these funds to the Utilities Reimbursement Account in the General Fund, to be available upon appropriation to cover the cost of the propane safety inspection and enforcement program.*

~~(15)~~

(16) 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)–~~

(17) 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)–~~

(18) 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)–~~

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

(20) (a) *This bill would incorporate additional changes in Section 7232 of the Revenue and Taxation Code proposed by SB 532, to become operative only if both bills are enacted and become operative on or before January 1, 2000, and this bill is chaptered last.*



(b) This bill would incorporate additional changes in Section 34601 of the Vehicle Code proposed by SB 533, to become operative only if both bills are enacted and become operative on or before January 1, 2000, and this bill is chaptered last.

Vote: majority. Appropriation: ~~yes~~—no. 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
22 specific authority does not prohibit the commission from
23 providing the same or similar regulation pursuant to the
24 commission's constitutional and general statutory
25 authority.

26 SEC. 2. Section 830.11 of the Penal Code is amended
27 to read:

28 830.11. (a) The following persons are not peace
29 officers but may exercise the powers of arrest of a peace
30 officer as specified in Section 836 and the power to serve

1 warrants as specified in Sections 1523 and 1530 during the
2 course and within the scope of their employment, if they
3 receive a course in the exercise of those powers pursuant
4 to Section 832. The authority and powers of the persons
5 designated under this section shall extend to any place in
6 the state:

7 (1) Persons employed by the Department of Financial
8 Institutions designated by the Commissioner of Financial
9 Institutions, provided that the primary duty of these
10 persons shall be the enforcement of, and investigations
11 relating to, the provisions of law administered by the
12 Commissioner of Financial Institutions.

13 (2) Persons employed by the Department of Real
14 Estate designated by the Real Estate Commissioner,
15 provided that the primary duty of these persons shall be
16 the enforcement of the laws set forth in Part 1
17 (commencing with Section 10000) and Part 2
18 (commencing with Section 11000) of Division 4 of the
19 Business and Professions Code. The Real Estate
20 Commissioner may designate persons under this section,
21 who at the time of their designation, are assigned to the
22 Special Investigations Unit, internally known as the Crisis
23 Response Team.

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

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

37 (5) Persons employed as investigators and investigator
38 supervisors of the Consumer Services Division or the Rail
39 Safety and Carrier Division of the Public Utilities
40 Commission who are designated by the commission's

1 executive director and approved by the commission,
2 provided that the primary duty of these persons shall be
3 the enforcement of the law as that duty is set forth in
4 Section 308.5 of the Public Utilities Code.

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

8 (c) Persons designated pursuant to this section shall be
9 included as “peace officers of the state” under paragraph
10 (2) of subdivision (c) of Section 11105 for the purpose of
11 receiving state summary criminal history information
12 and shall be furnished that information on the same basis
13 as peace officers of the state designated in paragraph (2)
14 of subdivision (c) of Section 11105.

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

17 SEC. 4. Section 218.3 is added to the Public Utilities
18 Code, to read:

19 218.3. “Electric service provider” means an entity
20 that offers electrical service to residential and small
21 commercial customers, but does not include an electrical
22 corporation, as defined in Section 218, or a public agency
23 that offers electrical service to residential and small
24 commercial customers within its jurisdiction, or within
25 the service territory of a local publicly owned electric
26 utility. “Electric service provider” includes the
27 unregulated affiliates and subsidiaries of an electrical
28 corporation, as defined in Section 218.

29 SEC. 4.5. Section 224.8 is added to the Public Utilities
30 Code, to read:

31 224.8. “Network railroad transportation” means
32 railroad transportation that is subject to the jurisdiction
33 of the federal Surface Transportation Board pursuant to
34 subsection (a) or (b) of Section 10501 of Title 49 of the
35 United States Code.

36 SEC. 5. Section 248 is added to the Public Utilities
37 Code, to read:

38 248. Any provision of the Public Utilities Act that is in
39 conflict with the railroad provisions of Part A of Subtitle
40 4 of Title 49 of the United States Code shall be

1 inapplicable to railroad transportation to the extent of
2 that conflict. If any provision in the Public Utilities Act
3 applicable to railroad transportation, or the application
4 thereof to any person or circumstance, is in conflict with
5 Part A of Subtitle 4 of Title 49 of the United States Code,
6 the remainder of the act or the application of the
7 provision to other persons or circumstances shall be
8 unaffected to the extent no conflict exists.

9 SEC. 6. Section 308.5 of the Public Utilities Code is
10 amended to read:

11 308.5. Persons employed as investigators and
12 investigator supervisors of the Consumer Services
13 Division or the Rail Safety and Carrier Division of the
14 commission who are designated by the commission's
15 executive director and approved by the commission have
16 the authority of peace officers, as specified in paragraph
17 (5) of subdivision (a) of Section 830.11 of the Penal Code,
18 while engaged in exercising the powers granted to or
19 performing the duties imposed upon them in
20 investigating the laws administered by the commission or
21 commencing directly or indirectly any criminal
22 prosecution arising from any investigation conducted
23 under these laws. All persons herein referred to shall be
24 deemed to be acting within the scope of employment
25 with respect to all acts and matters set forth in this section.

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

29 309.5. (a) There is within the commission a division
30 to represent the interests of public utility customers and
31 subscribers in commission proceedings. The goal of the
32 division shall be to obtain the lowest possible rate for
33 service consistent with reliable and safe service levels.

34 (b) The director of the division shall be appointed by
35 and serve at the pleasure of the Governor, subject to
36 confirmation by the Senate. The director shall annually
37 appear before the appropriate policy committees of the
38 Assembly and the Senate to report on the activities of the
39 division.

1 (c) The commission shall, by rule or order, provide for
2 the assignment of personnel to, and the functioning of,
3 the division. The division may employ experts necessary
4 to carry out its functions. Personnel and resources shall be
5 provided to the division at a level sufficient to ensure that
6 customer and subscriber interests are fairly represented
7 in all significant proceedings.

8 (d) The commission shall develop appropriate
9 procedures to ensure that the existence of the division
10 does not create a conflict of roles for any employee or his
11 or her representative. The procedures shall include, but
12 shall not be limited to, the development of a code of
13 conduct and procedures for ensuring that advocates and
14 their representatives on a particular case or proceeding
15 are not advising decisionmakers on the same case or
16 proceeding.

17 (e) The division may compel the production or
18 disclosure of any information it deems necessary to
19 perform its duties from entities regulated by the
20 commission provided that any objections to any request
21 for information shall be decided by the assigned
22 commissioner or by the president of the commission if
23 there is no assigned commissioner.

24 (f) There is hereby created the Public Utilities
25 Commission Ratepayer Advocate Account in the General
26 Fund. Moneys from the Public Utilities Commission
27 Utilities Reimbursement Account in the General Fund
28 shall be transferred in the annual Budget Act to the
29 Public Utilities Commission Ratepayer Advocate
30 Account. The funds in the Public Utilities Commission
31 Ratepayer Advocate Account shall be utilized exclusively
32 by the division in the performance of its duties. The
33 annual budget for the division shall be separately
34 identified in the commission's annual budget request.
35 The commission shall annually submit a staffing report
36 containing a comparison of the staffing levels for each
37 five-year period.

38 (g) This section shall remain in effect only until
39 January 1, 2002, and as of that date is repealed, unless a

1 later enacted statute, that is enacted before January 1,
2 2002, deletes or extends that date.

3 SEC. 8. Section 309.6 of the Public Utilities Code is
4 amended to read:

5 309.6. (a) The commission shall adopt procedures on
6 the disqualification of administrative law judges due to
7 bias or prejudice similar to those of other state agencies
8 and superior courts.

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

11 SEC. 8.3. Section 311 of the Public Utilities Code, as
12 amended by Section 2 of Chapter 886 of the Statutes of
13 1998, is amended to read:

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

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

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

30 (d) Consistent with the procedures contained in
31 Sections 1701.1, 1701.2, 1701.3, and 1701.4, the assigned
32 commissioner or the administrative law judge shall
33 prepare and file an opinion setting forth
34 recommendations, findings, and conclusions. The opinion
35 of the assigned commissioner or the administrative law
36 judge is the proposed decision and a part of the public
37 record in the proceeding. The proposed decision of the
38 assigned commissioner or the administrative law judge
39 shall be filed with the commission and served upon all
40 parties to the action or proceeding without undue delay,

1 not later than 90 days after the matter has been submitted
 2 for decision. The commission shall issue its decision not
 3 sooner than 30 days following filing and service of the
 4 proposed decision by the assigned commissioner or the
 5 administrative law judge, except that the 30-day period
 6 may be reduced or waived by the commission in an
 7 unforeseen emergency situation or upon the stipulation
 8 of all parties to the proceeding or as otherwise provided
 9 by law. The commission may, in issuing its decision, adopt,
 10 modify, or set aside the proposed decision or any part of
 11 the decision. Where the modification is of a decision in an
 12 adjudicatory hearing it shall be based upon the evidence
 13 in the record. Every finding, opinion, and order made in
 14 the proposed decision and approved or confirmed by the
 15 commission shall, upon that approval or confirmation, be
 16 the finding, opinion, and order of the commission.

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

36 (f) The commission may specify that the
 37 administrative law judge assigned to a proceeding
 38 involving an electrical, gas, telephone, railroad, or water
 39 corporation, or a highway carrier, initiated by customer
 40 or subscriber complaint need not prepare, file, and serve

1 an opinion, unless the commission finds that to do so is
2 required in the public interest in a particular case.

3 (g) (1) Prior to voting on any commission decision
4 not subject to subdivision (d), the decision shall be served
5 on parties and subject to at least 30 days public review and
6 comment. Any alternate to any commission decision shall
7 be subject to the same requirements as provided for
8 alternate decisions under subdivision (e). For purposes of
9 this subdivision, “decision” also includes resolutions,
10 including resolutions on advice letter filings.

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

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

27 (h) Notwithstanding any other provision of law,
28 amendments, revisions, or modifications by the
29 commission of its Rules of Practice and Procedure after
30 January 1, 1999, shall be submitted to the Office of
31 Administrative Law for prior review in accordance with
32 Sections 11349, 11349.3, 11349.4, 11349.5, 11349.6, and
33 11350.3 of, and subdivisions (a) and (b) of Section 11349.1
34 of, the Government Code. If the commission adopts an
35 emergency revision to its Rules of Practice and Procedure
36 based upon a finding that the revision is necessary for the
37 preservation of the public peace, health and safety, or
38 general welfare, this emergency revision shall only be
39 reviewed by the Office of Administrative Law in
40 accordance with subdivisions (b) to (d), inclusive, of

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

23 SEC. 8.5. Section 311 of the Public Utilities Code, as
24 added by Section 2.5 of Chapter 886 of the Statutes of
25 1998, is repealed.

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

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

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

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

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

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

21 (2) Current telephone number.

22 (3) Current address.

23 (4) Agent for service of process.

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

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

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

29 (8) Disclosure of any civil, criminal, or regulatory
30 sanctions or penalties imposed within the 10 years
31 immediately prior to registration, against the company or
32 any owner, partner, officer, or director of the company
33 pursuant to any state or federal consumer protection law
34 or regulation, and of any felony convictions of any kind
35 against the company or any owner, partner, officer, or
36 director of the company. In addition, each electric service
37 provider shall furnish the commission with fingerprints
38 for those owners, partners, officers, and managers of the
39 electric service provider specified by any commission
40 decision applicable to all electric service providers. The

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

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

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

28 ~~(b)~~

29 (c) Any registration filing approved by the
30 commission prior to the effective date of this section
31 which does not comply in all respects with the
32 requirements of subdivision (a) of Section 394 shall
33 nevertheless continue in force and effect so long as within
34 90 days of the effective date of this section the electric
35 service provider undertakes to supplement its
36 registration filing to the satisfaction of the commission.
37 Any registration that is not supplemented by the required
38 information within the time set forth in this subdivision
39 shall be suspended by the commission and shall not be
40 reinstated until the commission has found the registration

1 to be in full compliance with subdivision (a) of Section
2 394.

3 ~~(e)~~

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

10 ~~(d)~~

11 (e) Before reentering the market, electric service
12 providers whose registration has been revoked shall file
13 a formal application with the commission that satisfies the
14 requirements set forth in Section 394.1 and demonstrates
15 the fitness and ability of the electric service provider to
16 comply with all applicable rules of the commission.

17 ~~(e)~~

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

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

27 394.1. (a) The registration shall be deemed approved
28 and a registration number issued no later than 45 days
29 after the required information has been submitted, unless
30 the commission's executive director finds, upon review of
31 the information submitted by the electric service
32 provider or available to the commission, that there is
33 evidence to support a finding that the electric service
34 provider has committed an act constituting grounds for
35 denial of registration as specifically set forth in the
36 operative provisions of this chapter, including, but not
37 limited to, subdivision (c).

38 (b) Upon a finding by the commission's executive
39 director that there is evidence to support a finding that
40 the electric service provider has committed an act



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

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

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

23 (B) Failure to make a sufficient showing with respect
 24 to paragraphs (1) to (10), inclusive, of subdivision (a) of
 25 Section 394.

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

28 (2) The commission may deny registration pursuant to
 29 this subdivision only if the crime or act is substantially
 30 related to the qualifications, functions, or duties required
 31 to provide retail electric service to end use customers of
 32 electricity or the false statement is material to the
 33 registration application. For purposes of this subdivision,
 34 conviction of a crime shall be established in the same
 35 manner as that set forth in paragraph (1) of subdivision
 36 (a) of Section 480 of the Business and Professions Code.

37 (d) The commission shall require electric service
 38 providers registered under this section to update their
 39 registration information set forth in paragraphs (1) to
 40 (10), inclusive, of subdivision (a) of Section 394 within 60

1 days of any material change in the information provided.
2 Material changes to any other information required
3 pursuant to this article shall be updated annually.

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

6 394.2. (a) The commission shall accept, compile, and
7 attempt to informally resolve consumer complaints
8 regarding ~~registered~~ electric service providers. Where
9 the commission reasonably suspects a pattern of customer
10 abuses, the commission may, on its own motion, initiate
11 investigations into the activities of electric service
12 providers offering electrical service. Consumer
13 complaints regarding service by a public agency offering
14 electric service within the political boundary of the
15 public agency or service territory of a local publicly
16 owned electric utility shall continue to be resolved by the
17 public agency. Within the service territory of a local
18 publicly owned utility, consumer complaints arising from
19 the violation of direct access rules adopted by the
20 governing body of the local publicly owned utility shall be
21 resolved through the local publicly owned utility's
22 consumer complaint procedures.

23 (b) Notwithstanding other provisions, residential and
24 small commercial customers shall have the option to
25 proceed with a complaint against an electric service
26 provider either through an action filed in the judicial
27 court system or through a complaint filed with the
28 commission. A customer who elects either the judicial or
29 commission remedies may not raise the same claim in
30 both forums. The commission shall have the authority to
31 accept, compile, and resolve residential, and small
32 commercial consumer complaints, including the
33 authority to award reparations. The commission's
34 authority in these complaint proceedings is limited to
35 adjudication of complaints regarding residential and
36 small commercial electric service provided by an electric
37 service provider and shall not be expanded to include
38 either an award of any other damages or regulation of the
39 rates or charges of the ~~registered entity~~ electric service
40 provider. However, a person or electric service provider

1 that takes a conflict to the commission shall not be
2 precluded from pursuing an appeal of the decision
3 through the courts as provided for in law.

4 (c) In connection with customer complaints or
5 commission investigations into customer abuses, electric
6 service providers shall provide the commission access to
7 their accounts, books, papers, and documents related to
8 California transactions as described in Sections 313 and
9 314, provided the information is relevant to the complaint
10 or investigation.

11 (d) No electric service provider may discontinue
12 service to a customer for a disputed amount if that
13 customer has filed a complaint that is pending with the
14 commission, and that customer has paid the disputed
15 amount into an escrow account.

16 SEC. 10.3. Section 394.25 of the Public Utilities Code
17 is amended to read:

18 394.25. (a) The commission may enforce the
19 provisions of Sections 2102, 2103, 2104, 2105, 2107, 2108,
20 and 2114 against ~~registered~~ electric service providers as
21 if those electric service providers were public utilities as
22 defined in these code sections. Notwithstanding the
23 above, nothing in this section grants the commission
24 jurisdiction to regulate electric service providers other
25 than as specifically set forth in this part. Electric service
26 providers shall continue to be subject to the provisions of
27 Sections 2111 and 2112. Upon a finding by the
28 commission's executive director that there is evidence to
29 support a finding that the electric service provider has
30 committed an act constituting grounds for suspension or
31 revocation of registration as set forth in subdivision (b) of
32 Section 394.25, the commission shall notify the electric
33 service provider in writing and notice an expedited
34 hearing on the suspension or revocation of the electric
35 service provider's registration to be held within 30 days
36 of the notification to the electric service provider of the
37 executive director's finding of evidence to support
38 suspension or revocation of registration. The commission
39 shall, within 45 days after holding the hearing, issue a
40 decision on the suspension or revocation of registration,

1 which shall be based on findings of fact and conclusions
2 of law based on the evidence presented at the hearing.
3 The decision shall include the findings of fact and the
4 conclusions of law relied upon.

5 (b) An electric service provider may have its
6 registration suspended or revoked, immediately or
7 prospectively, in whole or in part, for any of the following
8 acts:

9 (1) Making material misrepresentations in the course
10 of soliciting customers, entering into service agreements
11 with those customers, or administering those service
12 agreements.

13 (2) Dishonesty, fraud, or deceit with the intent to
14 substantially benefit the electric service provider or its
15 employees, agents, or representatives, or to disadvantage
16 retail electric customers.

17 (3) Where the commission finds that there is evidence
18 that the electric service provider is not financially or
19 operationally capable of providing the offered electric
20 service.

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

36 SEC. 10.4. Section 394.3 of the Public Utilities Code is
37 amended to read:

38 394.3. In order to carry out essential elements of a
39 sustainable and effective consumer protection program
40 in connection with electric service providers offering

1 electrical service to residential and small commercial
2 customers as intended by the Legislature in this article,
3 the following shall apply:

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

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

20 SEC. 10.5. Section 394.4 of the Public Utilities Code is
21 amended to read:

22 394.4. Rules that implement the following minimum
23 standards shall be adopted by the commission for electric
24 service providers offering electrical services to
25 residential and small commercial customers and the
26 governing body of a public agency offering electrical
27 services to residential and small commercial customers
28 within its jurisdiction:

29 (a) Confidentiality: Customer information shall be
30 confidential unless the customer consents in writing. This
31 shall encompass confidentiality of customer specific
32 billing, credit, or usage information. This requirement
33 shall not extend to disclosure of generic information
34 regarding the usage, load shape, or other general
35 characteristics of a group or rate classification, unless the
36 release of that information would reveal customer
37 specific information because of the size of the group, rate
38 classification, or nature of the information.

39 (b) Physical disconnects and reconnects: Only an
40 electrical corporation, or a publicly owned electric utility,

1 that provides physical delivery service to the affected
2 customer shall have the authority to physically disconnect
3 or reconnect a customer from the transmission or
4 distribution grid. Physical disconnection by electrical
5 corporations subject to the commission's jurisdiction shall
6 occur only in accordance with protocols established by
7 the commission. Physical disconnection by publicly
8 owned electric utilities shall occur only in accordance
9 with protocols established by the governing board of the
10 local publicly owned electric utility.

11 (c) Change in providers: Upon adequate notice
12 supplied by a electric service provider to the electric
13 corporation or local publicly owned electric utility
14 providing physical delivery service, customers who are
15 eligible for direct access may change their energy
16 supplier. Energy suppliers may charge for this change,
17 provided that any fee or penalty charged by the supplier
18 associated with early termination of service, shall be
19 disclosed in that contract or applicable tariff.

20 (d) Written notices: Notices describing the terms and
21 conditions of service as described in Section 394.5, service
22 agreements, notices of late payment, notices of
23 discontinuance of service, and disconnection notices
24 addressed to residential and small commercial customers
25 shall be easily understandable, and shall be provided in
26 the language in which the electric service provider
27 offered the services.

28 (e) Billing: All bills shall have a standard bill format, as
29 determined by the commission or the governing body,
30 and shall contain sufficient detail for the customer to
31 recalculate the bill for accuracy. Any late fees shall be
32 separately stated. Each electric service provider shall
33 provide on all customer bills a phone number by which
34 customers may contact the electric service provider to
35 report and resolve billing inquiries and complaints. An
36 electric service provider contacted by a customer
37 regarding a billing dispute shall advise the customer at
38 the time of the initial contact that the customer may file
39 a complaint with the commission if its dispute is not
40 satisfactorily resolved by the electric service provider.



1 (f) Meter integrity: An electric customer shall have a
2 reasonable opportunity to have its meter tested to ensure
3 the reasonable accuracy of the meter. The commission or
4 governing body shall determine who is responsible for the
5 cost of that testing.

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

10 (h) Additional protections: The commission or the
11 governing body may adopt additional residential and
12 small commercial consumer protection standards that are
13 in the public interest.

14 SEC. 10.6. Section 394.5 of the Public Utilities Code is
15 amended to read:

16 394.5. (a) Except for an electrical corporation as
17 defined in Section 218, or a local publicly owned electric
18 utility as defined in subdivision (d) of Section 9604
19 offering electrical service to residential and small
20 commercial customers within its service territory, each
21 electric service provider offering electrical service to
22 residential and small commercial customers shall, prior to
23 the commencement of service, provide the potential
24 customer with a written notice of the service describing
25 the price, terms, and conditions of the service. The
26 notices shall include all of the following:

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

29 (A) The price of electricity expressed in a format
30 which makes it possible for residential and small
31 commercial customers to compare and select among
32 similar products and services on a standard basis. The
33 commission shall adopt rules to implement this
34 subdivision. The commission shall require disclosure of
35 the total price of electricity on a cents-per-kilowatthour
36 basis, including the costs of all electric services and
37 charges regulated by the commission. The commission
38 shall also require estimates of the total monthly bill for the
39 electric service at varying consumption levels, including
40 the costs of all electric services and charges regulated by

1 the commission. In determining these rules, the
2 commission may consider alternatives to the
3 cent-per-kilowatthour disclosure if other information
4 would provide the customer with sufficient information
5 to compare among alternatives on a standard basis.

6 (B) Separate disclosure of all recurring and
7 nonrecurring charges associated with the sale of
8 electricity.

9 (C) If services other than electricity are offered, an
10 itemization of the services and the charge or charges
11 associated with each.

12 (2) An explanation of the applicability and amount of
13 the competition transition charge, as determined
14 pursuant to Sections 367 to 376, inclusive.

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

18 (4) An explanation of the customer's financial
19 obligations, as well as the procedures regarding past due
20 payments, discontinuance of service, billing disputes, and
21 service complaints.

22 (5) The electric service provider's registration
23 number, if applicable.

24 (6) The right to change service providers upon
25 written notice, including disclosure of any fees or
26 penalties assessed by the supplier for early termination of
27 a contract.

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

31 (b) The commission may assist electric service
32 providers in developing the notice. The commission may
33 suggest inclusion of additional information it deems
34 necessary for the consumer protection purposes of this
35 section. On at least a semiannual basis, electric service
36 providers shall provide the commission with a copy of the
37 form of notice included in standard service plans made
38 available to residential and small commercial customers
39 as described in subdivision (a) of Section 392.1.

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

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

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

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

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

(1) Actual damages.

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

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

(4) Equitable relief as the court deems proper.

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

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

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

421. (a) The commission shall annually determine a fee to be paid by every passenger stage corporation, charter-party carrier of passengers, pipeline corporation, for-hire vessel operator, common carrier vessel operator, railroad corporation, and commercial air operator and every other common carrier and related business subject

1 to the jurisdiction of the commission, except as otherwise
2 provided in Article 3 (commencing with Section 431) of
3 this chapter and Chapter 6 (commencing with Section
4 5001) of Division 2.

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

14 (c) Notwithstanding any other provision of law, the
15 fees paid by railroad corporations shall be used for
16 state-funded railroad investigation and enforcement
17 activities of the commission, other than the rail safety
18 activities funded by the Transportation Planning and
19 Development Account pursuant to Section 99315.5. The
20 railroad fees shall be set annually at a level which
21 generates not less than the amount sufficient to fund
22 activities pursuant to Sections 765.5, 7711, and 7712.

23 (d) On January 1, 1992, the commission shall submit to
24 the Legislature a detailed budget implementing this
25 section for the 1992–93 fiscal year. The commission shall
26 also submit to the Legislature by January 1, 1993, and on
27 each January 1 thereafter, a detailed budget for
28 expenditure of railroad corporation fees for the ensuing
29 budget year. The budget for expenditure of railroad
30 corporation fees, for each of the 1996–97 and 1997–98 fiscal
31 years, shall not exceed the amount of three million dollars
32 (\$3,000,000). Expenditures of this budget shall be limited
33 to the following items:

34 (1) Expenditures for employees occupying, and
35 actually performing service in, railroad-safety personnel
36 positions that are directly involved in inspecting railroads
37 and enforcing rail safety regulations. The commission
38 shall expend the funds budgeted pursuant to this
39 subdivision for the salaries, per diem, and travel expenses
40 of employees specified in this paragraph, unless by

1 statute, the commission is specifically prohibited from
2 expending all or part of those funds.

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

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

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

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

17 ~~Overhead costs shall be limited to only the following~~
18 ~~items:~~

19 ~~(i) Rent.~~

20 ~~(ii) Utilities.~~

21 ~~(iii) Office furniture.~~

22 ~~(iv) Office equipment.~~

23 ~~(v) Office supplies.~~

24 ~~(B) This paragraph shall become inoperative on~~
25 ~~January 1, 2002, unless a later enacted statute deletes or~~
26 ~~extends that date.~~

27 (e) The Department of Finance shall notify the Joint
28 Legislative Budget Committee, pursuant to Section 28.00
29 of the annual Budget Act, prior to authorizing any change
30 in the Budget Act appropriation for railroad corporation
31 fees that is larger than one hundred thousand dollars
32 (\$100,000), or 10 percent of the amount budgeted,
33 whichever is less.

34 (f) Except as otherwise provided in this subdivision,
35 commencing with the 1993-94 fiscal year, and in each
36 subsequent fiscal year until the 1999-2000 fiscal year, the
37 commission shall conduct an audit of the expenditure of
38 the funds received pursuant to this section, except that
39 for the 1996-97 fiscal year and fiscal years thereafter the
40 audit shall be conducted by the Bureau of State Audits.

1 The results of this audit shall be reported, in writing,
2 commencing on or before February 15, 1995, with respect
3 to the audit for the 1993–94 fiscal year, and on or before
4 January 15 of each year thereafter, with respect to the
5 audit for the fiscal year ending on the previous June 30,
6 to the appropriate policy and budget committees of the
7 respective houses of the Legislature. The commission
8 shall reimburse the Bureau of State Audits for the costs of
9 the audits beginning with the 1996–97 fiscal year.

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

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

23 SEC. 11. Section 426 is added to the Public Utilities
24 Code, to read:

25 426. The commission shall use all moneys paid into the
26 Public Utilities Commission Transportation
27 Reimbursement Account by charter-party carriers in
28 connection with charter bus transportation, as defined in
29 subdivision (b) of Section 5363, solely for the following
30 purposes:

31 (a) Safety regulation.

32 (b) The administration of financial responsibility
33 requirements.

34 (c) Commission activities to ensure compliance with
35 safety regulation and financial responsibility
36 requirements.

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

39 SEC. 11.5. Section 454 of the Public Utilities Code is
40 amended to read:

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



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

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

24 SEC. 12. Section 454.2 of the Public Utilities Code is
25 amended to read:

26 454.2. Notwithstanding Section 454, the commission
27 may establish a “zone of rate freedom” for any passenger
28 stage transportation service which is operating in
29 competition with other passenger transportation service
30 from any means of transportation, if the competition
31 together with the authorized zone of rate freedom will
32 result in reasonable rates and charges for the passenger
33 stage transportation service. An adjustment in rates or
34 charges within a zone of rate freedom established by the
35 commission is hereby deemed just and reasonable. The
36 commission may, upon protest or on its own motion,
37 suspend any adjustment in rates or charges under this
38 section and institute proceedings under its rules of
39 practice and procedure.



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

3 SEC. 14. Section 457 of the Public Utilities Code is
4 repealed.

5 SEC. 15. Section 458 of the Public Utilities Code is
6 amended to read:

7 458. (a) No common carrier, or any officer or agent
8 thereof, or any person acting for or employed by it, shall,
9 by means of known false billing, classification, weight,
10 weighing, or report of weight, or by any other device or
11 means assist, suffer, or permit any corporation or person
12 to obtain transportation for any person or property
13 between points within this state at less than the rates and
14 fares then established and in force as shown by the
15 schedules filed and in effect at the time.

16 No person, corporation, or any officer, agent, or
17 employee of a corporation shall, by means of false billing,
18 false or incorrect classification, false weight or weighing,
19 false representation as to contents or substance of a
20 package, or false report or statement of weight, or by any
21 other device or means, whether with or without the
22 consent or connivance of a common carrier or any of its
23 officers, agents, or employees, seek to obtain or obtain
24 such transportation for such property at less than the
25 rates then established and in force therefor.

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

28 SEC. 16. Section 459 of the Public Utilities Code is
29 amended to read:

30 459. (a) No person or corporation, or any officer,
31 agent, or employee of a corporation, shall knowingly,
32 directly or indirectly, by any false statement or
33 representation as to cost or value, or the nature or extent
34 of an injury, or by the use of any false billing, bill of lading,
35 receipt, voucher, roll, account, claim, certificate,
36 affidavit, or deposition, or upon any false, fictitious, or
37 fraudulent statement or entry, obtain or attempt to
38 obtain any allowance, rebate, or payment for damage, in
39 connection with or growing out of the transportation of
40 persons or property, or an agreement to transport such

1 persons or property, whether with or without the consent
2 or connivance of a common carrier or any of its officers,
3 agents, or employees. No common carrier, or any of its
4 officers, agents, or employees, shall knowingly pay or
5 offer to pay any such allowance, rebate, or claim for
6 damage.

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

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

11 SEC. 18. Section 461 of the Public Utilities Code is
12 repealed.

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

15 461.5. (a) (1) No discrimination in charges or
16 facilities for transportation shall be made by any railroad
17 or other transportation company between places or
18 persons, or in the facilities for the transportation of the
19 same classes of freight or passengers within this state. It
20 shall be unlawful for any railroad or other transportation
21 company to charge or receive any greater compensation
22 in the aggregate for the transportation of passengers or of
23 like kind of property for a shorter than for a longer
24 distance over the same line or route in the same direction,
25 the shorter being included within the longer distance, or
26 to charge any greater compensation as a through rate
27 than the aggregate of the intermediate rates.

28 (2) Upon application to the commission company may
29 be authorized by the commission to charge less for longer
30 than for shorter distances for the transportation of
31 persons or property and the commission may from time
32 to time prescribe the extent to which such company may
33 be relieved from the prohibition to charge less for the
34 longer than for the shorter haul. The commission may
35 authorize the issuance of excursion and commutation
36 tickets at special rates.

37 (3) Nothing contained in this section shall be
38 construed to prevent the commission from ordering and
39 compelling any railroad or other transportation company
40 to make reparation to any shipper on account of the rates

1 charged to such shipper being excessive or
2 discriminatory, provided no discrimination will result
3 from such reparation.

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

6 SEC. 20. Section 486 of the Public Utilities Code is
7 amended to read:

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

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

27 SEC. 21. Section 488 of the Public Utilities Code is
28 amended to read:

29 488. (a) Subject to such rules as the commission may
30 prescribe, the schedules of carriers shall be produced and
31 made available for inspection upon the demand of any
32 person. The form of every such schedule shall be
33 prescribed by the commission and shall conform, in the
34 case of any common carrier subject to federal regulation
35 as nearly as possible to the form of schedules prescribed
36 by the federal Surface Transportation Board.

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

39 SEC. 22. Section 491 of the Public Utilities Code is
40 amended to read:

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

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

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

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

37 (c) This section is not applicable to network railroad
38 transportation.

39 SEC. 24. Section 494 of the Public Utilities Code is
40 amended to read:

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

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

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

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

20 SEC. 27. Section 527 of the Public Utilities Code is
21 amended to read:

22 527. Nothing in this part shall prevent the
23 interchange of free or reduced rate transportation for
24 passenger or express matter between common carriers,
25 their officers, agents, employees, attorneys, physicians
26 and surgeons, and members of their families, where such
27 common carriers are subject in whole or in part to the
28 jurisdiction of the commission or of the federal Surface
29 Transportation Board or where such common carriers,
30 though not in whole or in part subject to the jurisdiction
31 of this commission or of the federal Surface
32 Transportation Board are engaged in the business of
33 transporting passengers and freight by water between
34 the United States and foreign countries, and are
35 permitted by federal law to interchange such free
36 transportation with common carriers which are subject to
37 the jurisdiction of the Public Utilities Commission or the
38 federal Surface Transportation Board.

39 SEC. 28. Section 530 of the Public Utilities Code is
40 amended to read:

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

4 (1) Persons for the United States, state, county, or
5 municipal governments, or persons or property for
6 charitable or patriotic purposes, or to provide relief in
7 cases of general epidemic, pestilence, or calamity.

8 (2) Contractors and their employees, material or
9 supplies for use or engaged in carrying out their contracts
10 with such carriers, for construction, operation, or
11 maintenance work or work incidental thereto on the line
12 of the issuing carrier, to the extent only that such free or
13 reduced rate transportation is provided for in the
14 specifications upon which the contract is based and in the
15 contract itself.

16 (b) Common carriers may also enter into contracts
17 with telegraph and telephone corporations for an
18 exchange of service.

19 SEC. 29. Section 556 of the Public Utilities Code is
20 amended to read:

21 556. Every common carrier shall afford all
22 reasonable, proper, and equal facilities for the prompt
23 and efficient interchange and transfer of passengers
24 between the lines owned, operated, controlled, or leased
25 by it and the lines of every other common carrier, and
26 shall make such interchange and transfer promptly
27 without discrimination between passengers or carriers as
28 to compensation charged, service rendered, or facilities
29 afforded.

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

32 SEC. 31. Section 559 of the Public Utilities Code is
33 amended to read:

34 559. (a) Nothing in Sections 556 to 558, inclusive,
35 shall limit or modify the duty of a common carrier to
36 establish joint rates, fares, and charges for the
37 transportation of passengers and property over the lines
38 owned, operated, controlled, or leased by it and the lines
39 of other common carriers, or the power of the commission

1 to require the establishment of such joint rates, fares, and
2 charges.

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

5 SEC. 32. Section 703 of the Public Utilities Code is
6 amended to read:

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

20 SEC. 33. Section 706 of the Public Utilities Code is
21 repealed.

22 SEC. 34. Section 707 of the Public Utilities Code is
23 repealed.

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

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

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

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

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

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

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

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

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

34 732. (a) Whenever the commission, after a hearing
35 finds that the rates, fares, or charges in force over two or
36 more common carriers, between any two points in this
37 state, are unjust, unreasonable, or excessive, or that no
38 satisfactory through route or joint rate, fare, or charge
39 exists between such points, and that the public
40 convenience and necessity demand the establishment of

1 such a through route and joint rate, fare, or charge, the
2 commission may order such common carriers to establish
3 such through route and may establish and fix a joint rate,
4 fare, or charge which will be fair, just, reasonable, and
5 sufficient, to be charged and collected in the future, and
6 the terms and conditions under which such through route
7 shall be operated. The commission may order that freight
8 moving between such points shall be carried by the
9 common carriers participating in such through route and
10 joint rate, without being transferred from the originating
11 cars.

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

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

16 733. (a) If the common carriers do not agree upon
17 the division between them of the joint rates, fares, or
18 charges established by the commission over through
19 routes, the commission shall, after hearing, by
20 supplemental order, establish that division. Where any
21 railroad, or passenger stage corporation that is made a
22 party to a through route has itself over its own line an
23 equally satisfactory through route between the termini of
24 the through route established, that railroad, or passenger
25 stage corporation may require as its division of the joint
26 rate, fare, or charge its local rate, fare, or charge over the
27 portion of its line comprised in the through route, and the
28 commission may, in its discretion, allow to that railroad or
29 passenger stage corporation, more than its local rate, fare,
30 or charge if the commission determines that it will be
31 equitable so to do. The commission may establish and fix
32 through routes and joint rates, fares, or charges over
33 common carriers and stage or auto stage lines which may
34 not be otherwise subject to the provisions of this part, and
35 may fix the division of those joint rates, fares, or charges.

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

38 SEC. 40. Section 739.9 of the Public Utilities Code is
39 repealed.

1 SEC. 41. Section 740.8 of the Public Utilities Code is
2 amended to read:

3 740.8. As used in Section 740.3, “interests” of
4 ratepayers, short- or long-term, mean direct benefits that
5 are specific to ratepayers in the form of safer, more
6 reliable, or less costly gas or electrical service.

7 SEC. 42. Section 746 of the Public Utilities Code is
8 repealed.

9 SEC. 43. Section 747 of the Public Utilities Code is
10 repealed.

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

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

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

34 SEC. 45. Section 763.1 of the Public Utilities Code is
35 repealed.

36 SEC. 46. Section 764 of the Public Utilities Code is
37 repealed.

38 SEC. 47. Section 765 of the Public Utilities Code is
39 repealed.



1 SEC. 48. Section 765.5 of the Public Utilities Code is
2 amended to read:

3 765.5. (a) The purpose of this section is to provide
4 that the commission takes all appropriate action
5 necessary to ensure the safe operation of railroads in this
6 state.

7 (b) The commission shall dedicate sufficient resources
8 necessary to adequately carry out the State Participation
9 Program for the regulation of rail transportation of
10 hazardous materials as authorized by the Hazardous
11 Material Transportation Uniform Safety Act of 1990 (P.L.
12 101-615).

13 (c) On or before July 1, 1992, the commission shall hire
14 a minimum of six additional rail inspectors who are or
15 shall become federally certified, consisting of three
16 additional motive power and equipment inspectors, two
17 signal inspectors, and one operating practices inspector,
18 for the purpose of enforcing compliance by railroads
19 operating in this state with state and federal safety
20 regulations.

21 (d) On or before July 1, 1992, the commission shall
22 establish, by regulation, a minimum inspection standard
23 to ensure, at the time of inspection, that railroad
24 locomotives, equipment and facilities located in Class I
25 railroad yards in California will be inspected not less
26 frequently than every 180 days, and inspection of all
27 branch and main line track not less frequently than every
28 12 months.

29 SEC. 49. Section 769 of the Public Utilities Code is
30 repealed.

31 SEC. 50. Section 769.5 of the Public Utilities Code is
32 repealed.

33 SEC. 51. Section 788 of the Public Utilities Code is
34 amended to read:

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

37 (b) On or before March 1, 1992, and annually
38 thereafter, every telephone corporation that is a provider
39 of local exchange service shall issue to each of its
40 residential subscribers, in a manner and form approved

1 by the commission, a notice containing the following
2 information:

3 (1) An explanation of the responsibilities of the
4 subscriber and the telephone corporation in relation to
5 the customer's inside telephone wiring, as that term is
6 defined by and pursuant to Section 1941.4 of the Civil
7 Code, including an explanation of lessor and tenant
8 obligations.

9 (2) An explanation of the telephone corporation's
10 procedures and charges for determining and notifying
11 the subscriber of whether a malfunction in its telephone
12 wire is located in the telephone network, or is located in
13 the subscriber's inside telephone wiring, including
14 customer-provided equipment.

15 (3) If the telephone corporation offers any services to
16 maintain or repair a subscriber's inside telephone wiring,
17 a full description of the types of services offered,
18 including the rates, charges, and conditions for these
19 services, and whether those services are offered by
20 nonutility providers.

21 SEC. 52. Section 853 of the Public Utilities Code is
22 amended to read:

23 853. (a) This article does not apply to any person or
24 corporation which transacts no business subject to
25 regulation under this part, except performing services or
26 delivering commodities for or to public utilities or
27 municipal corporations or other public agencies
28 primarily for resale or use in serving the public or any
29 portion thereof, but shall apply to any public utility, and
30 any subsidiary or affiliate of, or corporation holding a
31 controlling interest in, a public utility, if the commission
32 finds, in a proceeding to which the public utility is or may
33 become a party, that the application of this article is
34 required by the public interest.

35 (b) The commission may from time to time by order
36 or rule, and subject to those terms and conditions as may
37 be prescribed therein, exempt any public utility or class
38 of public utility from this article if it finds that the
39 application thereof with respect to the public utility or
40 class of public utility is not necessary in the public

1 interest. The commission may establish rules or impose
2 requirements deemed necessary to protect the interest of
3 the customers or subscribers of the public utility or class
4 of public utility exempted under this subdivision. These
5 rules or requirements may include, but are not limited to,
6 notification of a proposed sale or transfer of assets or stock
7 and provision for refunds or credits to customers or
8 subscribers.

9 (c) The provisions of Sections 851 and 854 that prohibit
10 any assignment, acquisition, or change of control without
11 advance authorization from the commission, do not apply
12 to the transfer of the ownership interest in a water utility,
13 with 10,000 or fewer service connections, from a decedent
14 to a member of the decedent's family in the manner
15 provided in Section 240 of the Probate Code or by a will,
16 trust, or other instrument.

17 SEC. 53. Section 874 of the Public Utilities Code is
18 amended to read:

19 874. The lifeline telephone service rates and charges
20 shall be as follows:

21 (a) In a residential subscriber's service area where
22 measured service is not available, the lifeline telephone
23 service rates shall not be more than 50 percent of the rates
24 for basic flat rate service, exclusive of federally mandated
25 end user access charges, available to the residential
26 subscriber.

27 (b) In a residential subscriber's service area where
28 measured service is available, the subscriber may elect
29 either of the following:

30 (1) A lifeline telephone service measured rate of not
31 more than 50 percent of the basic rate for measured
32 service, exclusive of federally mandated end user access
33 charges, available to the residential subscriber.

34 (2) A lifeline flat rate of not more than 50 percent of
35 the rates for basic flat rate service, exclusive of federally
36 mandated end user access charges, available to the
37 residential subscriber.

38 (c) The lifeline telephone service installation or
39 connection charge, or both, shall not be more than 50
40 percent of the charge for basic residential service

1 installation or connection, or both. The commission may
2 limit the number of installation and connection charges,
3 or both, that may be incurred at the reduced rate in any
4 given period.

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

8 (e) The commission shall assess whether there is a
9 problem with customers who fraudulently obtain lifeline
10 telephone service. If the commission determines that
11 there is a problem, it shall recommend and promulgate
12 appropriate solutions. This assessment and the solutions
13 determined by the commission shall not, in and of
14 themselves, change the procedures developed pursuant
15 to Section 876.

16 SEC. 54. Section 882 of the Public Utilities Code is
17 amended to read:

18 882. (a) The Public Utilities Commission shall, as
19 soon as practicable, open a proceeding or proceedings to,
20 or as part of existing proceedings shall, consider ways to
21 ensure that advanced telecommunications services are
22 made available as ubiquitously and economically as
23 possible, in a timely fashion, to California's citizens,
24 institutions, and businesses. The proceeding or
25 proceedings should be completed within one year of
26 commencement.

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

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

33 (2) To provide the state's educational and health care
34 institutions with access to advanced communications
35 services.

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



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

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

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

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

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

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

(c) (1) Quasi-legislative cases, for purposes of this article, are cases that establish policy, including, but not

1 limited to, rulemakings and investigations which may
2 establish rules affecting an entire industry.

3 (2) Adjudication cases, for purposes of this article, are
4 enforcement cases and complaints except those
5 challenging the reasonableness of any rates or charges as
6 specified in Section 1702.

7 (3) Ratesetting cases, for purposes of this article, are
8 cases in which rates are established for a specific
9 company, including, but not limited to, general rate cases,
10 performance-based ratemaking, and other ratesetting
11 mechanisms.

12 (4) “Ex parte communication,” for purposes of this
13 article, means any oral or written communication
14 between a decisionmaker and a person with an interest
15 in a matter before the commission concerning
16 substantive, but not procedural issues, that does not occur
17 in a public hearing, workshop, or other public
18 proceeding, or on the official record of the proceeding on
19 the matter. “Person with an interest,” for purposes of this
20 article, means any of the following:

21 (A) Any applicant, an agent or an employee of the
22 applicant, or a person receiving consideration for
23 representing the applicant, or a participant in the
24 proceeding on any matter before the commission.

25 (B) Any person with a financial interest, as described
26 in Article 1 (commencing with Section 87100) of Chapter
27 7 of Title 9 of the Government Code, in a matter before
28 the commission, or an agent or employee of the person
29 with a financial interest, or a person receiving
30 consideration for representing the person with a financial
31 interest.

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

37 The commission shall by regulation adopt and publish
38 a definition of decisionmakers and persons for purposes
39 of this section, along with any requirements for written
40 reporting of ex parte communications and appropriate

1 sanctions for noncompliance with any rule proscribing ex
2 parte communications. The regulation shall provide that
3 reportable communications shall be reported by the
4 party, whether the communication was initiated by the
5 party or the decisionmaker. Communications shall be
6 reported within three working days of the
7 communication by filing a “Notice of Ex Parte
8 Communication” with the commission in accordance
9 with the procedures established by the commission for
10 the service of that notice. The notice shall include the
11 following information:

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

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

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

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

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

25 SEC. 58. Section 1904 of the Public Utilities Code is
26 amended to read:

27 1904. The commission shall also charge and collect the
28 following fees:

29 (a) Except as otherwise provided in Section 1036 for
30 filing each application for a certificate of public
31 convenience and necessity, or for the mortgage, lease,
32 transfer, or assignment thereof, seventy-five dollars
33 (\$75).

34 (b) For a certificate authorizing an issue of bonds,
35 notes, or other evidences of indebtedness, two dollars
36 (\$2) for each one thousand dollars (\$1,000) of the face
37 value of the authorized issue or fraction thereof up to one
38 million dollars (\$1,000,000), one dollar (\$1) for each one
39 thousand dollars (\$1,000) over one million dollars
40 (\$1,000,000) and up to ten million dollars (\$10,000,000),

1 and fifty cents (\$0.50) for each one thousand dollars
2 (\$1,000) over ten million dollars (\$10,000,000), with a
3 minimum fee in any case of fifty dollars (\$50). No fee
4 need be paid on such portion of any such issue as may be
5 used to guarantee, take over, refund, discharge, or retire
6 any stock, bond, note or other evidence of indebtedness
7 on which a fee has theretofore been paid to the
8 commission. If the commission modified the amount of
9 the issue requested in any case and the applicant
10 thereupon elects not to avail itself of the commission's
11 authorization, no fee shall be paid, and if such fee is paid
12 prior to the issuance of such certificate by the
13 commission, such fee shall be returned.

14 SEC. 59. Chapter 4 (commencing with Section 2739)
15 of Part 2 of Division 1 of the Public Utilities Code is
16 repealed.

17 SEC. 60. Section 2851 of the Public Utilities Code is
18 repealed.

19 SEC. 61. Section 2881 of the Public Utilities Code is
20 amended to read:

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

38 (b) The commission shall also design and implement
39 a program to provide a dual-party relay system, using
40 third-party intervention to connect individuals who are

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

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

1 disability, for determining a subscriber's eligibility under
2 this subdivision.

3 (d) The commission shall establish a rate recovery
4 mechanism through a surcharge not to exceed one-half of
5 1 percent uniformly applied to a subscriber's intrastate
6 telephone service, other than one-way radio paging
7 service and universal telephone service, both within a
8 service area and between service areas, to allow providers
9 of the equipment and service specified in subdivisions
10 (a), (b), and (c), to recover costs as they are incurred
11 under this section. The surcharge shall be in effect until
12 January 1, 2001. The commission shall require that the
13 programs implemented under this section be identified
14 on subscribers' bills, and shall establish a fund and require
15 separate accounting for each of the programs
16 implemented under this section.

17 (e) The commission shall determine and specify those
18 statewide organizations representing the deaf or hearing
19 impaired which shall receive a telecommunications
20 device pursuant to subdivision (a) or a dual-party relay
21 system pursuant to subdivision (b), or both, and in which
22 offices the equipment shall be installed in the case of an
23 organization having more than one office.

24 (f) The commission may direct any telephone
25 corporation subject to its jurisdiction to comply with its
26 determinations and specifications pursuant to this
27 section.

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

38 (h) The commission shall prepare and submit to the
39 Legislature, on or before December 31, 1988, and
40 annually thereafter, a report on the fiscal status of the

1 programs established and funded pursuant to this section
2 and Sections 2881.1 and 2881.2. The report shall include
3 a statement of the surcharge level established pursuant to
4 subdivision (d) and revenues produced by the surcharge,
5 an accounting of program expenses, and an evaluation of
6 options for controlling those expenses and increasing
7 program efficiency, including, but not limited to, all of the
8 following proposals:

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

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

21 (3) More efficient means for obtaining and
22 distributing equipment to qualified subscribers.

23 (4) The establishment of quality standards for
24 increasing the efficiency of the relay system.

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

33 SEC. 62. Section 2881.1 of the Public Utilities Code is
34 amended to read:

35 2881.1. (a) In addition to the requirements of Section
36 2881, the commission shall design and implement a
37 program to provide a telecommunications device
38 capable of servicing the needs of the deaf or severely
39 hearing-impaired, together with a single party line, at no
40 charge additional to the basic exchange rate, to any

1 subscriber which is an agency of state government and
2 which the commission determines serves a significant
3 portion of the deaf or severely hearing-impaired
4 population, and to an office located in the State Capitol
5 and selected by the Joint Rules Committee, for purposes
6 of access by the deaf or severely hearing-impaired to
7 Members of the Legislature.

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

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

15 SEC. 63. Section 2882 of the Public Utilities Code is
16 repealed.

17 SEC. 64. Section 2882.5 of the Public Utilities Code is
18 repealed.

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

21 2889.8. The commission periodically shall assess the
22 reliability of the public telecommunications network and,
23 if necessary, develop recommendations for
24 improvement. The assessment shall include, but not be
25 limited to, all of the following:

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

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

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

35 SEC. 65.5. *Section 2890 of the Public Utilities Code, as*
36 *added by Section 2 of Chapter 1041 of the Statutes of 1998,*
37 *is amended to read:*

38 2890. (a) A telephone bill may only contain charges
39 for communications-related goods and services,
40 including, but not limited to, wired and wireless

1 communications service, Internet access, video service,
2 information service, telephone equipment that is
3 connected to a telecommunications network, and cable
4 set top boxes. The commission may permit a billing
5 telephone company to include in the same envelope with
6 a subscriber's telephone bill, a separate bill for
7 noncommunications-related goods and services. The
8 commission may also specify the kinds of
9 noncommunications-related goods and services that may
10 be billed in this manner.

11 (b) A telephone bill, and a bill for
12 noncommunications-related goods and services that is
13 included in the same envelope as a telephone bill, may
14 only contain charges for products or services, the
15 purchase of which the subscriber has authorized.

16 (c) ~~Where~~ When a person or corporation obtains a
17 written order for a product or service, the written order
18 shall be a separate document from any solicitation
19 material. The sole purpose of the document is to explain
20 the nature and extent of the transaction. Written orders
21 and written solicitation materials shall be unambiguous,
22 legible, and in a minimum 10-point type. Written or oral
23 solicitation materials used to obtain an order for a product
24 or service shall be in the same language as the written
25 order. Written orders may not be used as entry forms for
26 sweepstakes, contests, or any other program that offers
27 prizes or gifts.

28 (d) The commission may only permit a subscriber's
29 local telephone service to be disconnected for
30 nonpayment of charges relating to the subscriber's basic
31 local exchange telephone service, long distance
32 telephone service within a local access and transport area
33 (intraLATA), long distance telephone service between
34 local access and transport areas (interLATA), and
35 international telephone service.

36 (e) (1) A billing telephone company shall clearly
37 identify, and use a separate billing section for, each
38 person, corporation, or billing agent that generates a
39 charge on a subscriber's telephone bill. A billing
40 telephone company may not bill for a person,

1 corporation, or billing agent, unless that person,
2 corporation or billing agent complies with paragraph (2).

3 (2) Any person, corporation, or billing agent that
4 charges subscribers for products or services on a
5 telephone bill, or on a bill for noncommunications-related
6 goods and services that is included in the same envelope
7 as a telephone bill, shall do all of the following:

8 (A) Include, or cause to be included, in the bill the
9 amount being charged for each product or service,
10 including any taxes or surcharges, and a clear and concise
11 description of the service, product, or other offering for
12 which a charge has been imposed.

13 (B) Include, or cause to be included, for each entity
14 that charges for a product or service, information with
15 regard to how to resolve any dispute about that charge,
16 including the name, ~~address, and telephone number~~ of
17 the party responsible for generating the charge, *a*
18 *toll-free telephone number of the entity responsible for*
19 *resolving disputes regarding the charge*, and a
20 description of the manner in which a dispute regarding
21 the charge may be addressed, ~~including~~. *Each telephone*
22 *bill shall include* the appropriate telephone ~~number~~
23 *numbers* of the ~~commission~~ *commissions* that a customer
24 may use to register a complaint.

25 (C) Establish, maintain, and staff a toll-free telephone
26 number to respond to questions or disputes about its
27 charges *and to provide the appropriate addresses to*
28 *which written questions or complaints may be sent*. The
29 person, corporation, or billing agent that generates a
30 charge may also contract with a third party, including,
31 but not limited to, the billing telephone corporation, to
32 provide that service on behalf of the person, corporation
33 or billing agent.

34 (D) Provide a means for expeditiously resolving
35 subscriber disputes over charges for a product or service,
36 the purchase of which was not authorized by the
37 subscriber. In the case of a dispute, there is a rebuttable
38 presumption that an unverified charge for a product or
39 service was not authorized by the subscriber and that the
40 subscriber is not responsible for that charge. With regard

1 to direct dialed telecommunications services, evidence
2 that a call was dialed is prima facie evidence of
3 authorization. If recurring charges arise from the use of
4 those subscriber-initiated services, the recurring charges
5 are subject to this section.

6 (f) If an entity responsible for generating a charge on
7 a telephone bill, or on a bill for
8 noncommunications-related goods and services that is
9 included in the same envelope as a telephone bill,
10 receives a complaint from a subscriber that the subscriber
11 did not authorize the purchase of the product or service
12 associated with that charge, the entity, not later than 30
13 days from the date on which the complaint is received,
14 shall verify the subscriber's authorization of that charge
15 or undertake to resolve the billing dispute to the
16 subscriber's satisfaction.

17 (g) For purposes of this section, "billing agent" is the
18 clearinghouse or billing aggregator.

19 (h) This section shall remain in effect only until
20 January 1, 2001, and as of that date is repealed, unless a
21 later enacted statute that is enacted before January 1,
22 2001, deletes or extends that date.

23 *SEC. 65.7. Section 2890 of the Public Utilities Code, as*
24 *added by Section 3 of Chapter 1041 of the Statutes of 1998,*
25 *is amended to read:*

26 2890. (a) A telephone bill may only contain charges
27 for products or services, the purchase of which the
28 subscriber has authorized.

29 (b) ~~Where~~ *When* a person or corporation obtains a
30 written order for a product or service, the written order
31 shall be a separate document from any solicitation
32 material. The sole purpose of the document is to explain
33 the nature and extent of the transaction. Written orders
34 and written solicitation materials shall be unambiguous,
35 legible, and in a minimum 10-point type. Written or oral
36 solicitation materials used to obtain an order for a product
37 or service shall be in the same language as the written
38 order. Written orders may not be used as entry forms for
39 sweepstakes, contests, or any other program that offers
40 prizes or gifts.

1 (c) The commission may only permit a subscriber's
2 local telephone service to be disconnected for
3 nonpayment of charges relating to the subscriber's basic
4 local exchange telephone service, long distance
5 telephone service within a local access and transport area
6 (intraLATA), long distance telephone service between
7 local access and transport areas (interLATA), and
8 international telephone service.

9 (d) (1) A billing telephone company shall clearly
10 identify, and use a separate billing section for, each
11 person, corporation, or billing agent that generates a
12 charge on a subscriber's telephone bill. A billing
13 telephone company may not bill for a person,
14 corporation, or billing agent, unless that person,
15 corporation or billing agent complies with paragraph (2).

16 (2) Any person, corporation, or billing agent that
17 charges subscribers for products or services on a
18 telephone bill shall do all of the following:

19 (A) Include, or cause to be included, in the telephone
20 bill the amount being charged for each product or
21 service, including any taxes or surcharges, and a clear and
22 concise description of the service, product, or other
23 offering for which a charge has been imposed.

24 (B) Include, or cause to be included, for each entity
25 that charges for a product or service, information with
26 regard to how to resolve any dispute about that charge,
27 including the name, ~~address, and telephone number~~ of
28 the party responsible for generating the charge and a
29 *toll-free telephone number or other no cost means of*
30 *contacting the entity responsible for resolving disputes*
31 *regarding the charge and* a description of the manner in
32 which a dispute regarding the charge may be addressed;
33 ~~including~~. *Each telephone bill shall include the*
34 appropriate telephone number of the commission that a
35 subscriber may use to register a complaint.

36 (C) Establish, maintain, and staff a toll-free telephone
37 number to respond to questions or disputes about its
38 charges *and to provide the appropriate addresses to*
39 *which written questions or complaints may be sent*. The
40 person, corporation, or billing agent that generates a

1 charge may also contract with a third party, including,
2 but not limited to, the billing telephone corporation, to
3 provide that service on behalf of the person, corporation
4 or billing agent.

5 (D) Provide a means for expeditiously resolving
6 subscriber disputes over charges for a product or service,
7 the purchase of which was not authorized by the
8 subscriber. In the case of a dispute, there is a rebuttable
9 presumption that an unverified charge for a product or
10 service was not authorized by the subscriber and that the
11 subscriber is not responsible for that charge. With regard
12 to direct dialed telecommunications services, evidence
13 that a call was dialed is prima facie evidence of
14 authorization. If recurring charges arise from the use of
15 those subscriber-initiated services, the recurring charges
16 are subject to this section.

17 (e) If an entity responsible for generating a charge on
18 a telephone bill receives a complaint from a subscriber
19 that the subscriber did not authorize the purchase of the
20 product or service associated with that charge, the entity,
21 not later than 30 days from the date on which the
22 complaint is received, shall verify the subscriber's
23 authorization of that charge or undertake to resolve the
24 billing dispute to the subscriber's satisfaction.

25 (f) For purposes of this section, "billing agent" is the
26 clearinghouse or billing aggregator.

27 (g) This section shall become operative on January 1,
28 2001.

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

31 3950. It is a violation of law for any person or
32 corporation to operate, or cause to be operated, on the
33 highways of this state, any motor vehicle in the
34 transportation of property or passengers for
35 compensation in interstate commerce without having
36 first complied with the requirements of this chapter. That
37 violation may be prosecuted and punished as provided in
38 Section 16560 of the Vehicle Code.

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

1 4006. A fee of thirty-five dollars (\$35) shall be paid to
2 the commission for the filing of the initial registration of
3 private carriers of passengers, and an annual renewal fee
4 of thirty dollars (\$30) shall also be paid by private carriers
5 of passengers. The fees required to be paid by carriers of
6 passengers pursuant to this section shall be deposited in
7 the Public Utilities Commission Transportation
8 Reimbursement Account in the General Fund.

9 SEC. 68. Section 4007 of the Public Utilities Code is
10 amended to read:

11 4007. (a) When the department issues a carrier
12 identification number pursuant to Section 34507.5 of the
13 Vehicle Code to a private carrier of passengers, it shall
14 inform the carrier of the provisions of this chapter and the
15 requirement that the carrier register with the Public
16 Utilities Commission.

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

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

27 4021. (a) Any person or corporation who violates any
28 provision of this chapter is guilty of a misdemeanor, and
29 is punishable by a fine of not more than two thousand five
30 hundred dollars (\$2,500), or by imprisonment in the
31 county jail for not more than three months, or both.

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

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

39 4458. (a) The commission shall establish a surcharge
40 to be paid by operators with distribution systems subject

1 to this chapter on propane purchased for distribution to
 2 their customers. The surcharge shall be designed to
 3 partially recover the commission's costs of the propane
 4 safety inspection and enforcement program required by
 5 this chapter, and to partially recover the commission's
 6 costs of collecting and administering the surcharge. The
 7 commission shall collect the surcharge from the operators
 8 and deposit it into the Propane Safety Inspection and
 9 Enforcement Program Trust Fund, ~~which,~~
 10 ~~notwithstanding Section 13340 of the Government Code,~~
 11 ~~is continuously appropriated, without regard to fiscal~~
 12 ~~years, to be used for the purposes of this chapter for~~
 13 ~~transfer to the commission's Utilities Reimbursement~~
 14 ~~Account in the General Fund, which shall be used, upon~~
 15 ~~appropriation by the Legislature, for purposes of Chapter~~
 16 ~~4.1 (commencing with Section 4451) of Division 2 of the~~
 17 ~~Public Utilities Code.~~ The surcharge shall be assessed on
 18 a per space or lot basis, shall not exceed twenty-five cents
 19 (\$0.25) per month, and shall be collected by the
 20 commission on an annual basis.

21 (b) Notwithstanding any other provision of law or
 22 local ordinance, rule, regulation, or initiative measure,
 23 the operator shall be entitled to recover the surcharge
 24 collected pursuant to subdivision (a) from its customers.
 25 However, the charge to any customer, to allow for the
 26 operator's recovery, shall not exceed the actual
 27 surcharge.

28 SEC. 71. Section 5001.5 of the Public Utilities Code is
 29 amended to read:

30 5001.5. In addition to those purposes specified in
 31 Sections 5001 and 5005, the commission may utilize the
 32 funds it collects pursuant to this chapter for the following
 33 purposes:

34 (a) The collection, aggregation, and analysis of data
 35 and information on the economics of the household goods
 36 carrier industry.

37 (b) The implementation of statutory policies or other
 38 legislative directives contained in law relating to the
 39 household goods carrier industry.

1 SEC. 72. Section 5002 of the Public Utilities Code is
2 amended to read:

3 5002. “Gross operating revenue” as used in this
4 chapter includes all revenue derived from the
5 transportation of property having origin and destination
6 within this state, where the revenue is derived from
7 transportation performed under a permit issued by the
8 commission.

9 SEC. 73. Section 5003.2 of the Public Utilities Code is
10 amended to read:

11 5003.2. (a) Notwithstanding Section 5003.1, the
12 commission shall require every highway carrier
13 otherwise subject to Section 5003.1 for whom the
14 commission does not establish minimum or maximum
15 rates, or require rates to be on file with the commission,
16 to pay a fee equal to one-tenth of 1 percent of the amount
17 of gross operating revenue.

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

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

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

34 5009. The employees, representatives, and inspectors
35 of the commission may, under its order or direction,
36 inspect and examine any books, accounts, records,
37 memoranda, documents, papers, and correspondence
38 kept or required to be kept by any transportation agency
39 referred to in this chapter. The provisions of this section
40 shall, to the extent deemed necessary by the commission,

1 apply to persons having direct or indirect control over, or
2 affiliated with any transportation agency.

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

5 5012. The Public Utilities Commission shall conduct
6 an audit of the expenditures of the funds received
7 pursuant to this chapter each fiscal year. The results of
8 this audit shall be reported in writing, on or before
9 February 15th of each year thereafter, with respect to the
10 audit for the fiscal year ending on the previous June 30th,
11 to the appropriate policy and budget committees of the
12 respective houses of the Legislature.

13 SEC. 76. Section 5102 of the Public Utilities Code is
14 amended to read:

15 5102. The use of the public highways for the
16 transportation of used household goods and personal
17 effects for compensation is a business affected with a
18 public interest. It is the purpose of this chapter to
19 preserve for the public the full benefit and use of public
20 highways consistent with the needs of commerce without
21 unnecessary congestion or wear and tear upon such
22 highways; to secure to the people just, reasonable and
23 nondiscriminatory rates for transportation by carriers
24 operating upon the highways; and to secure full and
25 unrestricted flow of traffic by motor carriers over the
26 highways which will adequately meet reasonable public
27 demands by providing for the regulation of rates of all
28 carriers so that adequate and dependable service by all
29 necessary carriers shall be maintained and the full use of
30 the highways preserved to the public.

31 SEC. 77. Section 5109 of the Public Utilities Code is
32 amended to read:

33 5109. "Household goods carrier" includes every
34 corporation or person, their lessees, trustee, receivers or
35 trustees appointed by any court whatsoever, engaged in
36 the transportation for compensation or hire as a business
37 by means of a motor vehicle or motor vehicles being used
38 in the transportation of used household goods and
39 personal effects over any public highway in this state.

1 SEC. 78. Section 5112 of the Public Utilities Code is
2 amended to read:

3 5112. The regulation of the transportation of used
4 household goods and personal effects in a motor vehicle
5 or motor vehicles over any public highway in this state
6 shall be exclusively as provided in this chapter. Any
7 provision of the Public Utilities Act in conflict with the
8 provisions of this chapter does not apply to a household
9 goods carrier.

10 SEC. 79. Section 5113 of the Public Utilities Code is
11 amended to read:

12 5113. The transportation of used household goods and
13 personal effects in any truck or trailer for compensation
14 over any public highway in this state is a highly
15 specialized type of truck transportation. This chapter is
16 enacted for the limited purpose of providing necessary
17 regulation for this specialized type of truck
18 transportation only, and is not to be construed for any
19 purpose as a precedent for the extension of such
20 regulation to any other type of truck transportation not
21 presently so restricted.

22 SEC. 80. Section 5133 of the Public Utilities Code is
23 amended to read:

24 5133. No household goods carrier shall engage, or
25 attempt to engage, in the business of the transportation
26 of used household goods and personal effects, by motor
27 vehicle over any public highway in this state, unless there
28 is in force a permit issued by the commission authorizing
29 those operations.

30 SEC. 81. Section 5135 of the Public Utilities Code is
31 amended to read:

32 5135. (a) Before a permit is hereafter issued the
33 commission shall require the applicant to establish ability
34 and reasonable financial responsibility to initiate the
35 proposed operations. The commission shall require the
36 applicant to establish his or her knowledge and ability to
37 engage in business as a household goods carrier by
38 examination. The examination may be written or oral, or
39 in the form of a demonstration of skill or any combination
40 of these, and any investigation of character, experience

1 and any tests of technical knowledge and manual skill that
2 the commission determines to be appropriate may be
3 employed. In any examination the qualification of the
4 applicant shall be determined by an appraisal made by a
5 member of the commission's staff. An applicant who has
6 been determined to be unqualified may thereafter
7 establish his or her qualifications through a subsequent
8 examination; but no subsequent examination shall be
9 taken prior to 30 days from the date when the applicant
10 was found to be unqualified. If the staff member
11 determines that the applicant is not qualified, then the
12 matter shall be set for hearing and the qualification of the
13 applicant shall be determined by the commission on the
14 basis of evidence of qualifications presented at the
15 hearing, which evidence may include consideration of
16 any written examination of the applicant. If the staff
17 member determines that the applicant is qualified, the
18 commission may issue a permit without hearing, unless
19 the commission determines that a hearing is desirable, in
20 which event the commission may set the application for
21 hearing.

22 (b) An applicant may qualify in one of the following
23 ways:

24 (1) If an individual, he or she may qualify by personal
25 examination or by examination of his responsible
26 managing employee.

27 (2) If a copartnership or corporation, or any other type
28 of business organization, it may qualify by examination of
29 the responsible managing officer, employee who works at
30 least 32 hours per week, or partner of the applicant firm.

31 (c) If the individual qualified by examination ceases to
32 be connected with the permitholder, the permitholder
33 shall notify the commission in writing within 30 days after
34 the cessation. If notice is given the permit shall remain in
35 force a reasonable length of time in order that another
36 representative of applicant may be qualified before the
37 commission. If the permitholder fails to notify the
38 commission of the cessation within a 30-day period, at the
39 end of that period the permit shall be automatically
40 suspended.

1 (d) The commission shall require each applicant for a
2 permit to submit fingerprints for each owner, partner,
3 officer, and director as a prerequisite to the issuance of a
4 permit to operate as a household goods carrier. The
5 commission shall submit completed fingerprint cards to
6 the Department of Justice. Those fingerprints shall be
7 available for use by the Department of Justice and the
8 Department of Justice may transmit the fingerprints to
9 the Federal Bureau of Investigation for a national
10 criminal history record check. The commission may use
11 any information obtained from the national criminal
12 history record check conducted pursuant to this section
13 to determine the applicant's qualification for permit.

14 (e) The commission may refuse to issue a permit if it
15 is shown that an applicant or an officer, director, partner
16 or associate thereof has committed any act constituting
17 dishonesty or fraud; committed any act which,
18 committed by a permitholder would be grounds for a
19 suspension or revocation of the permit; misrepresented
20 any material fact on the application; or, committed a
21 felony, or crime involving moral turpitude.

22 (f) The commission shall issue a permit only to those
23 applicants who it finds have demonstrated that they
24 possess sufficient knowledge, ability, integrity and
25 financial resources and responsibility to perform the
26 service within the scope of their application.

27 (g) A permit may not be issued unless it has been
28 shown that applicant meets one of the following
29 residence requirements: If an individual, applicant shall
30 have resided in the State of California for not less than 90
31 days next preceding the filing of the application. If a
32 partnership, the partner having the largest percentage
33 interest in the partnership shall have resided in the State
34 of California continuously for not less than 90 days next
35 preceding the filing of the application. If a corporation,
36 applicant shall be a domestic corporation or shall have
37 qualified to transact business in the State of California as
38 a foreign corporation at the time of filing the application.



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

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

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

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

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

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

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

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

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

1 5191. (a) The commission shall establish or approve
2 just, reasonable, and nondiscriminatory maximum or
3 minimum or maximum and minimum rates to be charged
4 by household goods carriers for the transportation of used
5 household goods and personal effects and for accessorial
6 service performed in connection therewith.

7 (b) In establishing or approving rates, the commission
8 shall account for the cost of all transportation service
9 performed or to be performed, for any accessorial service
10 performed or to be performed in connection therewith,
11 the value of the commodity transported, and the value of
12 the equipment, facilities, and personnel reasonably
13 necessary to perform the service.

14 (c) The commission shall establish or approve no
15 minimum rate for household goods carriers unless it finds
16 that the rate is at a sufficient level to allow safe operation
17 upon the highways of the state and accounts for the cost
18 of trained drivers and other reasonable expense of
19 operation of household goods carriers.

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

39 SEC. 83. Section 5195 of the Public Utilities Code is
40 repealed.

1 SEC. 84. Section 5259.5 of the Public Utilities Code is
2 amended to read:

3 5259.5. (a) Whenever the commission determines
4 that any household goods carrier or any officer, director,
5 or agent of any household goods carrier has abandoned,
6 or is abandoning stored household goods or property of
7 any shippers under contract with the carrier or carriers,
8 it may commence a proceeding in superior court for the
9 purpose of having the court appoint either a receiver or
10 commission staff to identify the stored items of property,
11 to take possession of the property, and to arrange the
12 return of the property to its owners in accordance with
13 the orders of the court and with regard for the protection
14 of all property rights involved.

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

29 (c) The court may also appoint a receiver to manage
30 the business of the household goods carrier or carriers and
31 return property to its owner or owners upon a showing by
32 the commission satisfactory to the court that the
33 abandonment or threatened abandonment by the carrier
34 jeopardizes property or funds of others in the custody or
35 under the control of the carrier. The court may make any
36 other order that it finds appropriate to protect and
37 preserve those funds or property. Service of the order of
38 the court on a household goods carrier may be
39 accomplished by ~~person~~ *personal* delivery to the person
40 to be served, or by posting a copy of the order at the

1 dwelling house, usual place of abode, usual place of
2 business, or usual residence of the person to be served and
3 thereafter mailing a copy of the order, by first-class mail,
4 postage prepaid, to the location where the order was
5 posted.

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

18 SEC. 85. Section 5326 of the Public Utilities Code is
19 amended to read:

20 5326. An adequate transportation system is essential
21 to the welfare of the state, and an important part of that
22 system is service rendered by household goods carriers.

23 SEC. 86. Section 5328 of the Public Utilities Code is
24 amended to read:

25 5328. (a) On and after the effective date of this
26 article, there is imposed upon every household goods
27 carriers, and every person or corporation, owning or
28 operating motor vehicles in the transportation of
29 property for hire upon the public highways, under the
30 jurisdiction of the commission, a license fee equal to
31 one-tenth of 1 percent of gross operating revenue, which
32 shall be payable to the commission in the manner and at
33 the times provided for the payment of the fee provided
34 in Section 5003.1. For purposes of this section, “gross
35 operating revenue” shall be the gross operating revenue
36 defined in Section 5002.

37 (b) The license fee imposed by this section is in lieu of
38 all city or city and county excise or license taxes of any
39 kind, character, or description whatever, upon the
40 intercity transportation business of any household goods

1 carrier, and every person or corporation owning or
2 operating motor vehicles in the transportation of
3 property for hire upon the public highways, under the
4 jurisdiction of the commission.

5 (c) This section does not prohibit the imposition by
6 any city, or city and county, of any excise or license tax
7 authorized under Division 2 (commencing with Section
8 6001) of the Revenue and Taxation Code.

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

11 5329. On and after the effective date of this article,
12 any person or corporation, subject to the license fee
13 imposed by Section 5328, required to pay any excise or
14 license tax of any kind, character, or description whatever
15 imposed by any city, or city and county, other than an
16 excise or license tax authorized under Division 2
17 (commencing with Section 6001) of the Revenue and
18 Taxation Code, for the privilege of doing any
19 transportation business therein on or after the effective
20 date of this article and on which it pays the license fee
21 imposed by Section 5328, may credit the amount of the tax
22 against the fee imposed by Section 5328.

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

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

38 (b) The commission may grant a reasonable extension
39 of the 30-day period to any person or corporation, upon

1 written application of the person or corporation and
2 showing of the necessity for the extension.

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

7 SEC. 89. Section 5363 is added to the Public Utilities
8 Code, to read:

9 5363. (a) Any provision of the Public Utilities Act
10 (Part 1 (commencing with Section 201) of Division 1) or
11 of this chapter applicable to charter bus transportation
12 that conflicts with the federal Transportation Equity Act
13 for the 21st Century (P.L. 105-178) does not apply to
14 charter bus transportation to the extent of that conflict.
15 If any provision of the Public Utilities Act or of this
16 chapter applicable to charter bus transportation, or the
17 application thereof to any person or circumstance, is
18 invalid as a result of federal preemption, the remainder
19 of the act, or the application of the provision to other
20 persons or circumstances, shall not be affected thereby.

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

29 (2) If a federal court or agency with the jurisdiction to
30 construe Section 14501(a)(1)(C) of Title 49 of the United
31 States Code determines that additional transportation
32 falls within the meaning of the term “charter bus
33 transportation,” as used in that section, the federal
34 construction of that term shall prevail.

35 SEC. 89.2. Section 5371.2 of the Public Utilities Code
36 is amended to read:

37 5371.2. (a) All holders of certificates issued under this
38 section shall operate from a service area to be determined
39 by the commission. In no case shall this area encompass
40 more than a radius of 125 air miles from the home

1 terminal. The home terminal shall be designated by the
2 applicant. This certificate shall be classified as a class B
3 certificate. This section shall not apply to certificates
4 subject to Section 5371.1.

5 (b) The restriction on a service area imposed by
6 subdivision (a) does not apply to the holder of a class B
7 certificate if that person is providing charter bus
8 transportation as defined in subdivision (b) of Section
9 5363.

10 SEC. 89.4. Section 7531.5 of the Public Utilities Code
11 is amended to read:

12 7531.5. Upon receipt by it of an application, filed with
13 either the federal Surface Transportation Board or the
14 Public Utilities Commission, to abandon a line of railroad,
15 the Public Utilities Commission shall forward a copy of
16 the application to the Department of Transportation
17 within 10 days.

18 SEC. 90. Section 7532 of the Public Utilities Code is
19 repealed.

20 SEC. 91. Section 7532.5 of the Public Utilities Code is
21 repealed.

22 SEC. 92. Section 7711 of the Public Utilities Code is
23 amended to read:

24 7711. On or before July 1, 1992, and on or before July
25 1 annually thereafter, the commission shall report to the
26 Legislature on sites on railroad lines in the state it finds
27 to be hazardous. The report shall include, but not be
28 limited to, information on all of the following:

29 (a) A list, prepared pursuant to Section 59019 of the
30 Health and Safety Code, of all commodities transported
31 on railroad lines in the state that could pose a hazard to
32 the public or the environment in the event of a train
33 derailment or other accident.

34 (b) A description of the quantities of commodities
35 identified in subdivision (a) that are transported on
36 railroad lines in the state. The commission shall also
37 describe the locations and routes at, and on, which the
38 commodities specified in subdivision (a) are transported.
39 Railroad corporations shall provide to the commission all
40 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 shall consider the history of accidents at or near the sites. The commission shall not limit its determination to sites at which accidents have already occurred, but shall identify potentially hazardous sites based on the criteria enumerated in subdivision (d) and all other criteria that the commission determines influence railroad safety. The commission shall also consider whether any local safety

1 hazards at railroad sites have been eliminated or
2 sufficiently remediated to warrant removal of the site
3 from the list required under subdivision (d).

4 SEC. 93. Section 7902 of the Public Utilities Code is
5 repealed.

6 SEC. 94. Section 7902.5 of the Public Utilities Code is
7 repealed.

8 SEC. 95. Section 9202 of the Public Utilities Code is
9 amended to read:

10 9202. (a) Commencing on or before March 1, 1985,
11 the State Energy Resources Conservation and
12 Development Commission shall participate in a meeting
13 on an annual basis which shall include representatives
14 from all of the following:

15 (1) San Diego Gas and Electric Company.

16 (2) Pacific Gas and Electric Company.

17 (3) Southern California Gas Company.

18 (4) Southern California Edison Company.

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

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

24 (2) The Electric Power Research Institute.

25 (3) The Gas Research Institute.

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

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

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

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

38 7232. (a) Every motor carrier of property shall
39 annually pay a permit fee to the Department of Motor
40 Vehicles. The fees contained in this section are due and

1 shall be paid by each carrier at the time of application for
2 an initial motor carrier permit, and upon annual renewal,
3 with the Department of Motor Vehicles, pursuant to the
4 Motor Carriers of Property Permit Act, as set forth in
5 Division 14.85 (commencing with Section 34600) of the
6 Vehicle Code. The Department of Motor Vehicles may,
7 upon initial application for a motor carrier permit, assign
8 an expiration date not less than six months, nor more than
9 18 months, from date of application, and may charge
10 one-twelfth of the annual fee for each month covered by
11 the initial permit. The fee paid by each motor carrier of
12 property shall be based on the number of commercial
13 motor vehicles operated in California by the motor
14 carrier of property.

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

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

32 (d) As used in this chapter, “commercial motor
33 vehicle” means any self-propelled vehicle listed in
34 subdivisions (a), (b), (f), (g), and (k) of Section 34500 of
35 the Vehicle Code, any motor truck of two or more axles
36 that is more than 10,000 pounds gross vehicle weight
37 rating, and any other motor vehicle used to transport
38 property for compensation. “Commercial motor vehicle”
39 does not include vehicles operated by household goods
40 carriers, as defined in Section 5109 of the Public Utilities

1 Code, vehicles operated by household goods carriers to
2 transport used office, store, and institution furniture and
3 fixtures under their household goods carrier permit
4 pursuant to Section 5137 of the Public Utilities Code,
5 pickup trucks as defined in Section 471, and two-axle daily
6 rental trucks with gross vehicle weight ratings less than
7 26,001 pounds when operated in noncommercial use.

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

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

23 (g) (1) Fees contained in this chapter shall not apply
24 to a motor carrier of property while engaged solely in
25 interstate or foreign transportation of property by motor
26 vehicle. No motor carrier of property shall engage in any
27 interstate or foreign transportation of property for
28 compensation by motor vehicle on any public highway in
29 this state without first having registered the operation
30 with the Department of Motor Vehicles or with the
31 carrier’s base registration state, if other than California,
32 as determined in accordance with final regulations issued
33 by the Interstate Commerce Commission pursuant to the
34 Intermodal Surface Efficiency Act of 1991 (49 U.S.C. Sec.
35 11506). To register with the Department of Motor
36 Vehicles, carriers specified in this subdivision shall
37 comply with the following:

38 (A) When the operation requires authority from the
39 Interstate Commerce Commission under the Interstate
40 Commerce Act, or authority from another federal

1 regulatory agency, a copy of that authority shall be filed
2 with the initial application for registration. A copy of any
3 additions or amendments to the authority shall be filed
4 with the Department of Motor Vehicles.

5 (B) If the operation does not require authority from
6 the Interstate Commerce Commission under the
7 Interstate Commerce Act, or authority from another
8 federal regulatory agency, an affidavit of that exempt
9 status shall be filed with the application for registration.

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

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

18 *SEC. 96.5. Section 7232 of the Revenue and Taxation*
19 *Code is amended to read:*

20 7232. (a) Every motor carrier of property shall
21 annually pay a permit fee to the Department of Motor
22 Vehicles. The fees contained in this section are due and
23 shall be paid by each carrier at the time of application for
24 an initial motor carrier permit, and upon annual renewal,
25 with the Department of Motor Vehicles, pursuant to the
26 Motor Carriers of Property Permit Act, as set forth in
27 Division 14.85 (commencing with Section 34600) of the
28 Vehicle Code. The Department of Motor Vehicles may,
29 upon initial application for a motor carrier permit, assign
30 an expiration date not less than six months, nor more than
31 18 months, from date of application, and may charge
32 one-twelfth of the annual fee for each month covered by
33 the initial permit. The fee paid by each motor carrier of
34 property shall be based on the number of commercial
35 motor vehicles operated in California by the motor
36 carrier of property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Upon determining that a household goods carrier, or a household goods carrier transporting used office, store, and institution furniture and fixtures under its household goods carrier permit pursuant to Section 5137

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

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

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

36 (2) That the determination may result in a suspension,
37 revocation, or denial of the carrier's motor carrier permit
38 by the Department of Motor Vehicles, suspension,
39 revocation, of the motor carrier's operating authority by
40 the California Public Utilities Commission, or

1 administrative action by the federal Highway
2 Administration Office of Motor Carriers.

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

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

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

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

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

39 (c) (1) As used in this division, except as provided in
40 paragraph (2), a commercial motor vehicle is defined as

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

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

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

20 SEC. 99. *Section 34601 of the Vehicle Code is*
21 *amended to read:*

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

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

39 (c) (1) As used in this division, except as provided in
40 paragraph (2), a ~~commercial motor vehicle is defined as~~

1 “commercial motor vehicle” means any self-propelled
2 vehicle listed in subdivisions (a), (b), (f), (g), and (k) of
3 Section 34500, any motor truck of two or more axles that
4 is more than 10,000 pounds gross vehicle weight rating,
5 and any other motor vehicle used to transport property
6 for compensation.

7 (2) “Commercial motor vehicle” does not include
8 vehicles operated by household goods carriers, as defined
9 in Section 5109 of the Public Utilities Code, *vehicles*
10 *operated by a household goods carrier to transport used*
11 *office, store, and institution furniture and fixtures under*
12 *its household goods carrier permit pursuant to Section*
13 *5137 of the Public Utilities Code*, or pickup trucks as
14 defined in Section 471 ~~and~~, two-axle daily rental trucks
15 with gross vehicle weight ratings less than 26,001 pounds
16 when operated in noncommercial use *or a motor truck*
17 *or two-axle truck tractor, with a gross vehicle weight*
18 *rating of less than 26,001 pounds, used solely to tow a*
19 *camp trailer, trailer coach, fifth-wheel travel trailer, or*
20 *utility trailer. Vehicle combinations described in this*
21 *paragraph are not subject to Sections 27900, 34501.12, and*
22 *34507.5.*

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

27 SEC. 100. Section 34622 of the Vehicle Code is
28 amended to read:

29 34622. This chapter does not apply to any of the
30 following:

31 (a) Vehicles that are exempt from vehicle registration
32 fees.

33 (b) A household goods carrier transporting used
34 office, store, and institution furniture and fixtures under
35 its household goods carrier permit pursuant to Section
36 5137 of the Public Utilities Code.

37 SEC. 101. Section 96.5 of this bill incorporates
38 amendments to Section 7232 of the Revenue and Taxation
39 Code proposed by both this bill and SB 532. It shall only
40 become operative if (1) both bills are enacted and

1 *become effective on or before January 1, 2000, (2) each*
2 *bill amends Section 7232 of the Revenue and Taxation*
3 *Code, and (3) this bill is enacted after SB 532, in which*
4 *case Section 96 of this bill shall not become operative.*

5 *SEC. 102. Section 99 of this bill incorporates*
6 *amendments to Section 34601 of the Vehicle Code*
7 *proposed by both this bill and SB 533. It shall only become*
8 *operative if (1) both bills are enacted and become*
9 *effective on or before January 1, 2000, (2) each bill*
10 *amends Section 34601 of the Vehicle Code, and (3) this*
11 *bill is enacted after SB 533, in which case Section 98 of this*
12 *bill shall not become operative.*

