

Assembly Bill No. 1658

CHAPTER 1005

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.

[Approved by Governor October 10, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1658, 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 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.

(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 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.

(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.

(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.

(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.

(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.

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

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

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

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

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

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

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

(1) Persons employed by the Department of Financial Institutions designated by the Commissioner of Financial Institutions, provided

that the primary duty of these persons shall be the enforcement of, and investigations relating to, the provisions of law administered by the Commissioner of Financial Institutions.

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

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

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

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

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

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

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

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

218.3. "Electric service provider" means an entity that offers electrical service to residential and small commercial customers, but does not include an electrical corporation, as defined in Section 218, or a public agency that offers electrical service to residential and small commercial customers within its jurisdiction, or within the service territory of a local publicly owned electric utility. "Electric

service provider” includes the unregulated affiliates and subsidiaries of an electrical corporation, as defined in Section 218.

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

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

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

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

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

308.5. Persons employed as investigators and 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 have the authority of peace officers, as specified in paragraph (5) of subdivision (a) of Section 830.11 of the Penal Code, while engaged in exercising the powers granted to or performing the duties imposed upon them in investigating the laws administered by the commission or commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws. All persons herein referred to shall be deemed to be acting within the scope of employment with respect to all acts and matters set forth in this section.

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

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

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

(c) The commission shall, by rule or order, provide for the assignment of personnel to, and the functioning of, the division. The

division may employ experts necessary to carry out its functions. Personnel and resources shall be provided to the division at a level sufficient to ensure that customer and subscriber interests are fairly represented in all significant proceedings.

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

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

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

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

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

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

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

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

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

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

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

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

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



be reduced or waived by the commission in an unforeseen emergency situation.

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

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

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

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

(h) Notwithstanding any other provision of law, amendments, revisions, or modifications by the commission of its Rules of Practice and Procedure after January 1, 1999, shall be submitted to the Office of Administrative Law for prior review in accordance with Sections 11349, 11349.3, 11349.4, 11349.5, 11349.6, and 11350.3 of, and subdivisions (a) and (b) of Section 11349.1 of, the Government Code. If the commission adopts an emergency revision to its Rules of Practice and Procedure based upon a finding that the revision is necessary for the preservation of the public peace, health and safety, or general welfare, this emergency revision shall only be reviewed by the Office of Administrative Law in accordance with subdivisions (b) to (d), inclusive, of Section 11349.6 of the Government Code. The emergency revision shall become effective upon filing with the Secretary of State and shall remain in effect for no more than 120 days. A petition for writ of review pursuant to Section 1756 of a commission decision amending, revising, or modifying its Rules of Practice and Procedure shall not be filed until the regulation has been approved by the Office of Administrative Law, the Governor,

or a court pursuant to Section 11350.3 of the Government Code. If the period for filing the petition for writ of review would otherwise have already commenced under Section 1733 or 1756 at the time of that approval, then the period for filing the petition for writ of review shall continue until 30 days after the date of that approval. Nothing in this subdivision shall require the commission to comply with Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. This subdivision is only intended to provide for the Office of Administrative Law review of procedural commission decisions relating to Commission Rules of Practice and Procedure, and not General Orders, resolutions, or other substantive regulations.

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

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

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

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

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

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

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

(2) Current telephone number.

(3) Current address.

(4) Agent for service of process.



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

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

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

(8) Disclosure of any civil, criminal, or regulatory sanctions or penalties imposed within the 10 years immediately prior to registration, against the company or any owner, partner, officer, or director of the company pursuant to any state or federal consumer protection law or regulation, and of any felony convictions of any kind against the company or any owner, partner, officer, or director of the company. In addition, each electric service provider shall furnish the commission with fingerprints for those owners, partners, officers, and managers of the electric service provider specified by any commission decision applicable to all electric service providers. The commission shall submit completed fingerprint cards to the Department of Justice. Those fingerprints shall be available for use by the Department of Justice and the Department of Justice may transmit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The commission may use information obtained from a national criminal history record check conducted pursuant to this section to determine an electric service provider's eligibility for registration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

service provided by an electric service provider and shall not be expanded to include either an award of any other damages or regulation of the rates or charges of the electric service provider. However, a person or electric service provider that takes a conflict to the commission shall not be precluded from pursuing an appeal of the decision through the courts as provided for in law.

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

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

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

394.25. (a) The commission may enforce the provisions of Sections 2102, 2103, 2104, 2105, 2107, 2108, and 2114 against electric service providers as if those electric service providers were public utilities as defined in these code sections. Notwithstanding the above, nothing in this section grants the commission jurisdiction to regulate electric service providers other than as specifically set forth in this part. Electric service providers shall continue to be subject to the provisions of Sections 2111 and 2112. Upon a finding by the commission's executive director that there is evidence to support a finding that the electric service provider has committed an act constituting grounds for suspension or revocation of registration as set forth in subdivision (b) of Section 394.25, the commission shall notify the electric service provider in writing and notice an expedited hearing on the suspension or revocation of the electric service provider's registration to be held within 30 days of the notification to the electric service provider of the executive director's finding of evidence to support suspension or revocation of registration. The commission shall, within 45 days after holding the hearing, issue a decision on the suspension or revocation of registration, which shall be based on findings of fact and conclusions of law based on the evidence presented at the hearing. The decision shall include the findings of fact and the conclusions of law relied upon.

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The commission may assist electric service providers in developing the notice. The commission may suggest inclusion of additional information it deems necessary for the consumer protection purposes of this section. On at least a semiannual basis, electric service providers shall provide the commission with a copy of the form of notice included in standard service plans made available to residential and small commercial customers 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 to the jurisdiction of the commission, except as otherwise provided in Article 3 (commencing with Section 431) of this chapter and Chapter 6 (commencing with Section 5001) of Division 2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Safety regulation.

(b) The administration of financial responsibility requirements.

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

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

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

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

(b) The commission may adopt rules it considers reasonable and proper for each class of public utility providing for the nature of the showing required to be made in support of proposed rate changes, the form and manner of the presentation of the showing, with or without a hearing, and the procedure to be followed in the consideration thereof. Rules applicable to common carriers may provide for the publication and filing of any proposed rate change together with a written showing in support thereof, giving notice of



the filing and showing in support thereof to the public, granting an opportunity for protests thereto, and to the consideration of, and action on, the showing and any protests filed thereto by the commission, with or without hearing. However, the proposed rate change does not become effective until it has been approved by the commission.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

discriminatory, provided no discrimination will result from such reparation.

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

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

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

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

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

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

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

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

491. Unless the commission otherwise orders, no change shall be made by any public utility in any rate or classification, or in any rule or contract relating to or affecting any rate, classification, or service, or in any privilege or facility, except after 30 days' notice to the commission and to the public. Notice shall be given by filing with the commission and keeping open for public inspection new schedules stating plainly the changes to be made in the schedule or schedules then in force, and the time when the changes will go into effect. The commission, for good cause shown, may allow changes without requiring the 30 days' notice, by an order specifying the changes that may be made on less than 30 days' notice, the time when they shall take effect, and the manner in which they shall be filed and

published. When any change is proposed in any rate or classification, or in any form of contract or agreement or in any rule or contract relating to or affecting any rate, classification, or service, or in any privilege or facility, attention shall be directed to such change on the schedule filed with the commission, by some character to be designated by the commission, immediately preceding or following the item.

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

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

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

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

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

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

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

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

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

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

527. Nothing in this part shall prevent the interchange of free or reduced rate transportation for passenger or express matter between common carriers, their officers, agents, employees, attorneys, physicians and surgeons, and members of their families, where such common carriers are subject in whole or in part to the jurisdiction of the commission or of the federal Surface Transportation Board or where such common carriers, though not in whole or in part subject to the jurisdiction of this commission or of the federal Surface

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

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

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

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

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

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

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

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

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

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

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

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

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

703. The commission may investigate all existing or proposed interstate rates, fares, tolls, charges, and classifications, and all rules

and practices in relation thereto, for or in relation to the transportation of persons or property or the transmission of messages for conversations, where any act in relation thereto takes place within this state and when they are, in the opinion of the commission, in violation of federal law, or in conflict with the rulings, orders, or regulations of the a federal agency, the commission may apply for relief by petition or otherwise to the federal agency that has jurisdiction over the alleged violation or to any court of competent jurisdiction.

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

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

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

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

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

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

730. (a) The commission shall, upon a hearing, determine the kind and character of facilities and the extent of the operation thereof, necessary reasonably and adequately to meet public requirements for service furnished by common carriers between any two or more points, and shall fix and determine the just, reasonable, and sufficient rates for such service. Whenever two or more common carriers are furnishing service in competition with each other, the commission may, after hearing, when necessary for the preservation of adequate service and when public interest demands, prescribe



uniform rates, classifications, rules, and practices to be charged, collected, and observed by all such common carriers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

(b) The commission may from time to time by order or rule, and subject to those terms and conditions as may be prescribed therein, exempt any public utility or class of public utility from this article if

it finds that the application thereof with respect to the public utility or class of public utility is not necessary in the public interest. The commission may establish rules or impose requirements deemed necessary to protect the interest of the customers or subscribers of the public utility or class of public utility exempted under this subdivision. These rules or requirements may include, but are not limited to, notification of a proposed sale or transfer of assets or stock and provision for refunds or credits to customers or subscribers.

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

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

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

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

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

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

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

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

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

(e) The commission shall assess whether there is a problem with customers who fraudulently obtain lifeline telephone service. If the commission determines that there is a problem, it shall recommend and promulgate appropriate solutions. This assessment and the solutions determined by the commission shall not, in and of



themselves, change the procedures developed pursuant to Section 876.

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

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

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

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

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

(3) To ensure cost-effective deployment of technology so as to protect ratepayers' interests and the affordability 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 limited to, rulemakings and investigations which may establish rules affecting an entire industry.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

who are deaf or hearing impaired, as determined and specified by the commission pursuant to subdivision (e). A licensed hearing aid dispenser may certify the need of an individual to participate in the program if that individual has been previously fitted with an amplified device by the dispenser and the dispenser has the individual's hearing records on file prior to certification.

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

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

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

of the equipment and service specified in subdivisions (a), (b), and (c), to recover costs as they are incurred under this section. The surcharge shall be in effect until January 1, 2001. The commission shall require that the programs implemented under this section be identified on subscribers' bills, and shall establish a fund and require separate accounting for each of the programs implemented under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2890. (a) A telephone bill may only contain charges for communications-related goods and services, including, but not limited to, wired and wireless communications service, Internet access, video service, information service, telephone equipment that is connected to a telecommunications network, and cable set top boxes. The commission may permit a billing telephone company to include in the same envelope with a subscriber's telephone bill, a separate bill for noncommunications-related goods and services. The commission may also specify the kinds of noncommunications-related goods and services that may be billed in this manner.

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

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

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

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

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

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



(B) Include, or cause to be included, for each entity that charges for a product or service, information with regard to how to resolve any dispute about that charge, including the name of the party responsible for generating the charge, a toll-free telephone number of the entity responsible for resolving disputes regarding the charge, and a description of the manner in which a dispute regarding the charge may be addressed. Each telephone bill shall include the appropriate telephone numbers of the commissions that a customer may use to register a complaint.

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

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

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

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

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

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

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

(b) When a person or corporation obtains a written order for a product or service, the written order shall be a separate document from any solicitation material. The sole purpose of the document is

to explain the nature and extent of the transaction. Written orders and written solicitation materials shall be unambiguous, legible, and in a minimum 10-point type. Written or oral solicitation materials used to obtain an order for a product or service shall be in the same language as the written order. Written orders may not be used as entry forms for sweepstakes, contests, or any other program that offers prizes or gifts.

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

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

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

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

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

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

(D) Provide a means for expeditiously resolving subscriber disputes over charges for a product or service, the purchase of which was not authorized by the subscriber. In the case of a dispute, there is a rebuttable presumption that an unverified charge for a product

or service was not authorized by the subscriber and that the subscriber is not responsible for that charge. With regard to direct dialed telecommunications services, evidence that a call was dialed is prima facie evidence of authorization. If recurring charges arise from the use of those subscriber-initiated services, the recurring charges are subject to this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4458. (a) The commission shall establish a surcharge to be paid by operators with distribution systems subject to this chapter on propane purchased for distribution to their customers. The surcharge shall be designed to partially recover the commission's costs of the propane safety inspection and enforcement program required by this chapter, and to partially recover the commission's costs of collecting and administering the surcharge. The commission shall collect the surcharge from the operators and deposit it into the Propane Safety Inspection and Enforcement Program Trust Fund, for transfer to the commission's Utilities Reimbursement Account in the General Fund, which shall be used, upon appropriation by the Legislature, for purposes of Chapter 4.1 (commencing with Section 4451) of Division 2 of the Public Utilities Code. The surcharge shall be assessed on a per space or lot basis, shall not exceed twenty-five cents (\$0.25) per month, and shall be collected by the commission on an annual basis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5102. The use of the public highways for the transportation of used household goods and personal effects for compensation is a

business affected with a public interest. It is the purpose of this chapter to preserve for the public the full benefit and use of public highways consistent with the needs of commerce without unnecessary congestion or wear and tear upon such highways; to secure to the people just, reasonable and nondiscriminatory rates for transportation by carriers operating upon the highways; and to secure full and unrestricted flow of traffic by motor carriers over the highways which will adequately meet reasonable public demands by providing for the regulation of rates of all carriers so that adequate and dependable service by all necessary carriers shall be maintained and the full use of the highways preserved to the public.

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

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

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

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

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

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

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

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

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

5135. (a) Before a permit is hereafter issued the commission shall require the applicant to establish ability and reasonable financial



responsibility to initiate the proposed operations. The commission shall require the applicant to establish his or her knowledge and ability to engage in business as a household goods carrier by examination. The examination may be written or oral, or in the form of a demonstration of skill or any combination of these, and any investigation of character, experience and any tests of technical knowledge and manual skill that the commission determines to be appropriate may be employed. In any examination the qualification of the applicant shall be determined by an appraisal made by a member of the commission's staff. An applicant who has been determined to be unqualified may thereafter establish his or her qualifications through a subsequent examination; but no subsequent examination shall be taken prior to 30 days from the date when the applicant was found to be unqualified. If the staff member determines that the applicant is not qualified, then the matter shall be set for hearing and the qualification of the applicant shall be determined by the commission on the basis of evidence of qualifications presented at the hearing, which evidence may include consideration of any written examination of the applicant. If the staff member determines that the applicant is qualified, the commission may issue a permit without hearing, unless the commission determines that a hearing is desirable, in which event the commission may set the application for hearing.

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

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

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

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

(d) The commission shall require each applicant for a permit to submit fingerprints for each owner, partner, officer, and director as a prerequisite to the issuance of a permit to operate as a household goods carrier. The commission shall submit completed fingerprint cards to the Department of Justice. Those fingerprints shall be available for use by the Department of Justice and the Department of Justice may transmit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The commission may use any information obtained from the national

criminal history record check conducted pursuant to this section to determine the applicant's qualification for permit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5331. (a) If any person or corporation is in default in the payment of the license fee prescribed by this chapter for a period of 30 days or more, the commission may suspend or revoke any permit or license of the person or corporation, shall estimate from all available information the gross operating revenue of that person or corporation, shall compute the license fee required by Section 5328,

and shall impose a penalty of 25 percent of the fee for failure, neglect, or refusal to report. In no event shall the amount of the penalty be less than one dollar (\$1). Upon payment of the estimated license fee and the penalty, the permit or license of the agency suspended in accordance with the provisions of this section shall be reinstated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) In determining which railroad sites pose a local safety hazard pursuant to subdivision (d), the commission 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 hazards at railroad sites have been eliminated or sufficiently remediated to warrant removal of the site from the list required under subdivision (d).

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

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

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

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

- (1) San Diego Gas and Electric Company.
- (2) Pacific Gas and Electric Company.
- (3) Southern California Gas Company.
- (4) Southern California Edison Company.

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

- (1) Each municipal corporation, municipal utility district, public utility district, and irrigation district which furnishes electricity.
- (2) The Electric Power Research Institute.
- (3) The Gas Research Institute.
- (4) Representatives of consumer or ratepayer organizations as determined by the commission.

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

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

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

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

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

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

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

(e) The “number of commercial motor vehicles operated by the motor carrier of property” as used in this section means all of the commercial motor vehicles owned, registered to, or leased by the

carrier. For interstate and foreign motor carriers of property the fees set forth in subdivision (a) shall be apportioned based on the percentage of fleet miles traveled in California in intrastate commerce. In the absence of records to establish intrastate fleet miles, the fees set forth in subdivision (a) shall be apportioned on total fleet miles traveled in California.

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

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

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

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

(2) The Department of Motor Vehicles shall grant registration upon the filing of the application pursuant to applicable law and the payment of any applicable fees, 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. 96.5. Section 7232 of the Revenue and Taxation Code is amended to read:

7232. (a) Every motor carrier of property shall annually pay a permit fee to the Department of Motor Vehicles. The fees contained in this section are due and shall be paid by each carrier at the time of application for an initial motor carrier permit, and upon annual renewal, with the Department of Motor Vehicles, pursuant to the Motor Carriers of Property Permit Act, as set forth in Division 14.85

(commencing with Section 34600) of the Vehicle Code. The Department of Motor Vehicles may, upon initial application for a motor carrier permit, assign an expiration date not less than six months, nor more than 18 months, from date of application, and may charge one-twelfth of the annual fee for each month covered by the initial permit. The fee paid by each motor carrier of property shall be based on the number of commercial motor vehicles operated in California by the motor carrier of property.

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

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

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

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



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

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

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

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

(2) The Department of Motor Vehicles shall grant registration upon the filing of the application pursuant to applicable law and the payment of any applicable fees, 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 of the Public Utilities Code, operating any vehicle described in subdivision (a), (b), (e), (f), (g), or (k) of Section 34500 on a public highway has done either of the following: (1) failed to maintain any vehicle used in transportation for compensation 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, revocation, or denial of the motor carrier's operating authority or (2) failed to enroll all drivers in the pull notice system as required by Section 1808.1, the department shall recommend that the Public Utilities Commission deny, suspend, or revoke the carrier's operating authority. 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 the nonpayment of required fees is a consistent failure. The department shall retain a record, by operator, of every recommendation made pursuant to this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 101. Section 96.5 of this bill incorporates amendments to Section 7232 of the Revenue and Taxation Code proposed by both this

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

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

