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**SB-96 State Government.** (2017-2018)

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Date Published: 06/27/2017 09:00 PM

**Senate Bill No. 96**

**CHAPTER 28**

An act to amend Sections 11104, 11106, 11108, and 13324 of, and to repeal Section 11105 of, the Elections Code, to amend Section 68203 of the Government Code, to amend Sections 98.7, 226.4, 1197.1, 1287, 1684, 1725.5, 1742.1, 1770, 1771.1, 1771.3, 1771.4, 1773.3, 1773.6, 1778, 1780, 1811, 1860, 2065, 2675.5, 6310, 6427, 6429, 6431, 6505.5, 7381, and 9060 of, and to add Sections 90.6 and 1174.1 to, the Labor Code, to amend Sections 1012, 1012.1, 1012.2, 1012.3, 1012.4, 1023, 1025, 1030.1, 1031, 1032, 1034, 1035, 1035.05, 1035.1, 1035.2, 1035.3, 1035.4, 1035.5, 1035.6, 1035.7, 1036, 1037, 1038, 1038.1, 1038.5, 1039.3, 1042, 1042.1, 1043, 1044, 1044.5, 1045, 1046, 1050, 1410, 1412, and 1416 of, to add Sections 79.3 and 79.4 to, to repeal Sections 1012.6, 1014, 1015, 1024, 1026, and 1033.2 of, and to repeal and add Sections 1010, 1011, 1033.1, and 1051 of, the Military and Veterans Code, to amend Section 4104 of the Public Contract Code, and to add Chapter 2.8 (commencing with Section 7286.40) to Part 1.7 of Division 2 of the Revenue and Taxation Code, relating to state government, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[ Approved by Governor June 27, 2017. Filed with Secretary of State June 27, 2017. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 96, Committee on Budget and Fiscal Review. State Government.

(1) The California Constitution enables electors to initiate a recall of state officers by gathering sufficient signatures within a 160-day period. Upon certification by the Secretary of State that this requirement has been met, the California Constitution authorizes the Governor to call a recall election within 60 to 80 days or to consolidate it with a regularly scheduled election that is within 180 days of the certification of the signatures. The California Constitution authorizes the Legislature to provide for recall elections, and existing statutes establish a procedural framework for certifying recall petitions and holding recall elections. Existing law requires the Secretary of State, within 10 days of receiving from one or more county elections officials a petition certified to have been signed by the stated number of registered voters, to transmit to each county elections official a certificate showing that fact, and showing the total number of signatures collected by the proponents.

This bill would instead require the Secretary of State to notify a county elections official that a petition received a sufficient number of signatures to initiate a recall election. After this notice has been provided, the bill would provide for a period of 30 business days in which voters who signed the petition may withdraw their signatures. No later than 10 days after that period ends, the bill would require county elections officials to report to the Secretary of State the total number of signatures that were withdrawn, and would require that this process continue until the Secretary of State determines that there is a sufficient number of verified signatures, not including withdrawn signatures, to initiate a recall election. If a sufficient number of verified signatures is ultimately obtained, the bill would require the Department of Finance, in consultation with affected elections officials and the Secretary of State, to estimate the costs of the recall election if it is held as a special election or as part of the next regularly scheduled

election. The bill would prohibit the Secretary of State from certifying the sufficiency of the signatures until the Joint Legislative Budget Committee has had 30 days to review and comment on the Department of Finance's estimate of the costs of the recall election. Following that period, the bill would require the Department of Finance's estimate to be posted on the Secretary of State's Internet Web site, and would authorize the Department of Finance to direct the Controller to remit specified costs of conducting the recall election to affected counties. The bill would appropriate \$5,000,000 for this purpose.

Existing law requires local elections officials to submit signatures gathered by proponents of a recall to the Secretary of State at least every 30 days. Existing law requires that signatures submitted at these intervals or after the deadline for submission of all signatures be verified according to specified procedures, including the use of a random sampling technique, and, as specified, the examination and verification of each signature filed.

This bill would repeal the provisions that allow for the use of random sampling as a method of verifying signatures for a recall petition, thereby requiring the examination and verification of each signature filed.

The bill would state the Legislature's intent that these provisions apply retroactively.

By increasing the duties of local officials, this bill would impose a state-mandated local program.

(2) Existing law authorizes the Legislature to prescribe compensation for judges or courts of record. Existing law specifies the salaries of justices and judges of the Supreme Court, the courts of appeal, and trial courts, and provides for the annual increase of those salaries by the amount that is produced by multiplying the judge's or justice's current salary by the average percentage salary increase for the current fiscal year for California state employees, as provided.

This bill would, beginning on July 1, 2016, include a salary increase occurring on or after July 1 of any fiscal year for California state employees that is made effective July 1 of that fiscal year in the calculation of the average percentage salary increase for that fiscal year, retroactive to July 1 of that fiscal year. The bill would also require the Department of Human Resources to report any retroactive percentage salary increase to the State Controller in a pay letter.

(3) Existing law establishes, within the Labor and Workforce Development Agency, the Department of Industrial Relations, which is under the control of the Director of Industrial Relations, and establishes within the department the Division of Labor Standards Enforcement, which is under the control of the Labor Commissioner. Existing law vests with the Labor Commissioner the authority to receive, investigate, and hear employee complaints regarding the payment of wages and other employment-related issues and authorizes citations to be served personally or by registered mail. Existing law requires the commissioner to determine if a violation has occurred and to notify the complainant and respondent of his or her determination not later than 60 days after filing of the complaint. Existing law requires the commissioner, if he or she determines a violation has occurred, to direct the respondent to cease or desist from the violation and to take action deemed necessary to remedy the violation. Existing law requires the commissioner to bring an action promptly in an appropriate court against the respondent if the respondent does not comply with the order within 10 working days. Existing law authorizes the complainant or respondent to appeal the commissioner's determination to the director within 10 days of notification of the commissioner's determination and requires the director's determination to be the commissioner's determination.

This bill would authorize citations to additionally be served in the same manner for service of a summons and by certified mail with return receipt requested. The bill would require the commissioner to notify a complainant and respondent of his or her determination not later than one year after the filing of a complaint. The bill would instead require the commissioner to bring an action in an appropriate court against the respondent if the respondent does not comply with the order within 30 working days and would provide that the commissioner's action does not accrue until a respondent fails to comply with an order for more than 30 days. The bill would require the commissioner to commence an action within 3 years of its accrual. The bill would authorize a court to determine and assess reasonable attorney's fees incurred by the commissioner in an action in which the commissioner is the prevailing party. The bill would provide that only certain complaints are subject to administrative appeal by the complainant, as specified, and would make determinations by the commissioner for all other complaints final and not subject to administrative appeal. The bill would authorize the commissioner to, among other things, close an investigation if a complainant files an action in court against an employer based on the same or similar facts as a complaint submitted to the commissioner. The bill would, in the case of certain investigations by the field enforcement unit, provide that the date of a written notice by the commissioner to an employer that an investigation has commenced is the date an action has commenced for purposes of any statute of limitations, as specified. The bill would, except as provided, prohibit any employer from introducing as evidence, in an administrative proceeding contesting a citation or writ under certain provisions of law, books, documents, or records that are not provided pursuant to a duly served written request by the commissioner, as specified.

(4) Existing law requires farm labor contractors to be licensed by the commissioner, requires the licensee to deposit a surety bond with the commissioner, and requires a portion of the license fee be deposited into the Farmworker Remedial Account. Existing law requires the Labor Commissioner, upon appropriation by the Legislature, to disburse funds from the Farmworker Remedial Account to persons determined by the commissioner to have been damaged by those licensees if the damage exceeds the

amount of a licensee's bond or surety. Existing law regulates various aspects of the car washing and polishing industry and requires the commissioner to collect certain fees to be deposited in the Car Wash Worker Restitution Fund and disburses moneys in the fund, upon appropriation by the Legislature, to the commissioner to be paid to persons determined by the commissioner to have been damaged by the failure to pay wages and penalties and other damages. Existing law requires persons engaged in the business of garment manufacturing to register with the commissioner and pay an annual registration fee. Existing law requires a portion of that registration fee be deposited into a separate account to be disbursed by the commissioner to persons determined by the commissioner to have been damaged by failure to pay wages and benefits by any garment manufacturer, jobber, contractor, or subcontractor after exhausting a bond, if any.

This bill would provide that disbursement of these funds shall be made pursuant to a claim for recovery in accordance with procedures prescribed by the commissioner and would make other conforming changes. The bill would require the commissioner to disburse funds from the Farmworker Remedial Account to persons determined by the commissioner to have been damaged by a licensee regardless if the damage exceeds the amount of the licensee's bond or if the surety fails to pay the full amount of the licensee's bond. The bill would require the commissioner to disburse funds from the separate account to persons damaged by a manufacturer, jobber, contractor, or subcontractor regardless if the damage exceeds a bond, if any.

(5) Existing law prohibits a person from discharging or in any manner discriminating against an employee because the employee has done certain things, including making a complaint to the division. Existing law provides that any employee who is discharged, threatened with discharge, demoted, suspended, or in any manner discriminated against is entitled to reinstatement and reimbursement for lost wages or benefits and makes it a misdemeanor for an employer to willfully refuse to rehire, promote, or otherwise restore an employee who has been determined to be eligible for rehiring or promotion, as specified.

This bill would additionally prohibit a person from discharging or in any manner discriminating against an employee because the employee, among other things, reported a work-related fatality, injury, or illness. By expanding the scope of an existing crime, this bill would impose a state-mandated local program.

(6) Existing law, for contracts entered into on or after April 1, 2015, requires that a contractor or subcontractor, to be eligible to bid on, be listed on a bid proposal for, or perform work on, any public work, register with the Department of Industrial Relations. This registration requires that the contractor or subcontractor provide certain documentation, including proof of proper licensure and proof of workers' compensation coverage, and pay a \$300 fee and an annual renewal fee.

This bill would apply the above requirement regardless of when the contract for public work was entered. The bill would increase the fee to \$400 and allow a contractor to register or renew for up to 3 years at a time. The bill would also exempt certain projects, as specified. The bill, among other things, would impose various civil penalties, as specified, for each day of work performed in violation of the registration requirement and would require the deposit of those penalties in the State Public Works Enforcement Fund, to be used as specified. The bill would require the Labor Commissioner to issue and serve a stop order prohibiting the use of an unregistered contractor or unregistered subcontractor, as specified. The bill would make the violation of a stop order a misdemeanor. By creating a new crime, the bill would impose a state-mandated local program. The bill would also make various technical, nonsubstantive changes.

(7) Existing law requires the Labor Commissioner to issue a civil wage and penalty assessment to a contractor or subcontractor, or both, if the Labor Commissioner determines, after investigation, that the contractor or subcontractor, or both, violated the laws regulating public works contracts, including the payment of prevailing wages. Existing law permits the affected contractor or subcontractor to obtain review of a civil wage and penalty assessment or a notice of withholding, as specified. Existing law provides that, after 60 days following the service of a civil wage and penalty assessment or notice, the affected contractor, subcontractor, and surety on a bond issued to secure the payment of wages, as provided, become liable for liquidated damages in an amount equal to the amount of unpaid wages and authorizes the Director of Industrial Relations (director) to waive payment of the liquidated damages, as specified.

This bill would delete the director's authorization to waive payment of the liquidated damages.

(8) Existing law creates the State Public Works Enforcement Fund and requires that moneys in the fund be used only for certain purposes, including, among other things, the reasonable costs of administering the registration of contractors and subcontractors, as specified. Existing law authorizes a short-term loan from the Labor and Workforce Development Fund to provide adequate cashflow for those purposes.

This bill would instead authorize a short-term loan from the Labor Enforcement and Compliance Fund for those purposes.

(9) Existing law provides that various requirements are applicable to all public work projects including, among other things, that the call for bids and contract documents specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

This bill would exempt a contractor or subcontractor who is not registered, as specified, and who is performing work on a project for which registration is not required, as specified, from the requirement to furnish certain records but would require the contractor or subcontractor to retain those records for at least 3 years after completion of the work.

(10) Existing law defines the term "public works" for purposes of requirements regarding the payment of prevailing wages, the regulation of working hours, and the securing of workers' compensation for public works projects. Existing law requires an awarding agency to provide notice, containing certain information, to the Department of Industrial Relations of any public works contract subject to the public works requirements, within 5 days of the award, as provided.

This bill, for certain projects, would instead require an awarding agency to provide the above notice within 30 days of the award, except as specified. The bill would also require the notice to include, among other things, the contractor's name and registration number. The bill would require civil penalties be imposed on an awarding agency that fails to provide the notice described above and would authorize the Labor Commissioner to issue a citation for civil penalties to the awarding body that fails to provide the required notice. The bill would make an awarding agency ineligible to receive state funding or financial assistance for one year, as specified, whenever the Labor Commissioner determines that an awarding agency has willfully violated certain requirements. The bill would provide that those penalties be deposited in the State Public Works Enforcement Fund and be used as specified.

(11) The California Occupational Safety and Health Act of 1973 authorizes the Division of Occupational Safety and Health to administer laws and enforce labor standards, orders, or special orders in order to protect the life and safety of employees. Under that law, an employer who violates an occupational safety or health standard, order, or special order or a prohibition against asbestos spraying that is specifically determined not to be of a serious nature may be assessed a civil penalty of up to \$7,000 per violation. Existing law also authorizes a civil penalty of up to \$7,000 for violating any of the occupational posting, recordkeeping, or notice requirements. That law further authorizes the imposition of a civil penalty of not more than \$70,000 per violation upon an employer who willfully or repeatedly violates any of these occupational safety or health standards.

This bill would increase those civil penalty amounts to up to \$12,471 for each violation that is not of a serious nature and each violation of the posting, recordkeeping, or notice requirements, and up to \$124,709, but not less than \$8,908, for each willful or repeated violation of any of these occupational safety or health standards or orders. The bill would also permit those maximum penalty amounts to be increased on January 1, 2018, and each January 1 thereafter based on the percentage in the Consumer Price Index for All Consumers (CPI-U), as specified. The bill would also exempt any regulation issued increasing those penalty amounts based on the CPI-U from the rulemaking provisions of the Administrative Procedure Act, but would require the filing of those regulations with the Office of Administrative Law for publication in the California Code of Regulations.

(12) Existing law imposes specified penalties on persons who own commercial or industrial buildings or structures, employers who engage in or contract for asbestos-related work, and contractors, public agencies, or employees who contract for or begin asbestos-related work without first determining if asbestos-containing material is present. That law imposes both criminal penalties, for knowing or negligent violations and willful violations resulting in death, serious injury or illness, or serious exposure, and civil penalties of no more than \$2,000 for each violation and, not more than \$20,000 for each willful or repeat violation.

This bill would delete the above civil penalties for violation of those asbestos safety provisions.

(13) Existing law establishes prescribed civil penalties for violations of crane safety standards, orders, and special orders. Under existing law, if an employer violates any tower crane standard, order, or special order, and that violation is serious, the employer must be assessed a civil penalty of not less than \$1,000 nor more than \$2,000 for each serious violation.

This bill would delete the \$2,000 maximum on that penalty amount.

(14) Existing law establishes prescribed civil penalties for violations of standards and special orders regulating the use of carcinogens, and specifies that a civil penalty assessed against an employer for a serious violation involving the use of a carcinogen, except in the case of a repeated serious violation, is \$2,000.

This bill would delete that \$2,000 penalty limit amount, and would make related conforming changes to those civil penalty provisions for violations of carcinogen standards and special orders.

(15) Existing law provides for the establishment and operation of veterans' homes at various sites, and provides for an administrator of each home, as specified. Existing law establishes the duties of the Department of Veterans Affairs with regard to the establishment and regulation of veterans' homes.

This bill would revise and recast various provisions relating to veterans' homes, including expanding the definition of the veterans' home system to incorporate multiple home locations, clarifying and authorizing membership for domestic partners, updating and replacing obsolete references and provisions, and making other technical changes. The bill would authorize the department to adopt, amend, or repeal regulations concerning the administration and operation of the Veterans' Home of California, including emergency regulations, as specified. The bill would require the department to take specified actions to ensure that medical or

other facilities under its jurisdiction satisfy all applicable federal and state and local licensing, certification, and other approval requirements. The bill would require the department to develop and maintain clinical policies and procedures for the homes, as prescribed. The bill would require the department to establish a page on its Internet Web site that would include specified information and would include the ability for a person to apply for residency in a home and check his or her application and wait list status.

(16) Existing law authorizes the Department of Veterans Affairs to design, develop, construct, and equip a state-owned and state-operated Southern California Veterans Cemetery, at the site of the former Marine Corps Air Station El Toro.

This bill would instead authorize the department to acquire, study, design, develop, construct, and equip a state-owned and state-operated Southern California Veterans Cemetery at the Bake Parkway site.

(17) Existing law requires all moneys received for the study, design, development, construction, and equipment of the cemetery to be deposited in the Southern California Veterans Cemetery Master Development Fund, and requires all moneys received for the maintenance of the cemetery to be deposited in the Southern California Veterans Cemetery Perpetual Maintenance Fund.

The bill would require all moneys received for the acquisition and study of the cemetery to be deposited in the California Veterans Cemetery Master Development Fund, and would require all moneys received for operation to be deposited in the Southern California Veterans Cemetery Perpetual Maintenance Fund.

(18) Existing law authorizes the cemetery administrator to accept donations for the maintenance, beautification, and repair of the cemetery to be placed in the Southern California Veterans Cemetery Donations Fund, and continuously appropriates moneys in the fund for those purposes.

The bill would also authorize the cemetery administrator to accept donations for the design and construction of the cemetery, or to reimburse the state for these costs, and would require the administrator to deposit those donations into the Southern California Veterans Cemetery Donations Fund. The bill would make donations for the design or construction of the cemetery or for the reimbursement of specified state expenses available upon appropriation of those funds by the Legislature.

(19) Existing law authorizes cities and counties, subject to certain limitations and approval requirements, to levy a transactions and use tax for general or specific purposes, in accordance with the procedures and requirements set forth in the Transactions and Use Tax Law, including a requirement that the combined rate of all taxes that may be imposed in accordance with that law in the county not exceed 2%, and a requirement that the city or county contract with the State Board of Equalization to perform all functions incident to the administration and operation of the ordinance imposing the tax.

This bill would find and declare that the transactions and use tax ordinance approved by the voters of the County of Los Angeles as Measure H on March 7, 2017, was authorized under existing law. The bill would require the board to enter into a contract with the County of Los Angeles to perform all functions incident to the administration and operation of that ordinance. The bill would require the contract to ensure the collection of the tax commences on October 1, 2017.

(20) This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Los Angeles.

(21) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(22) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: yes

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

(a) Pursuant to Section 16 of Article II of the California Constitution, the Legislature is required to provide for the circulation, filing, and certification of petitions, nomination of candidates, and the recall election.

(b) Recall elections are extraordinary elections in which an official may be removed by fewer voters than the number of voters who elected that official.

(c) Before a recall election is held, any and all steps should be employed to ensure the accuracy and validity of the petition process.

(d) It is the Legislature's intent that the changes made by this act in the Elections Code apply retroactively to recalls that are pending at any stage at the time of the act's enactment, and to provide funds to reimburse counties for additional unexpected costs as a result.

**SEC. 2.** Section 11104 of the Elections Code is amended to read:

**11104.** (a) The elections official, 30 days after a recall has been initiated and every 30 days thereafter, or more frequently at the discretion of the elections official, shall report to the Secretary of State all of the following:

(1) The number of signatures submitted on the recall petition sections for the period ending five days previously, excluding Saturdays, Sundays, and holidays.

(2) The cumulative total of all signatures received since the time the recall was initiated and through the period ending five days previously, excluding Saturdays, Sundays, and holidays.

(3) The number of valid signatures, verified pursuant to subdivision (b), submitted during the previous reporting period, and of valid signatures verified during the current reporting period.

(4) The cumulative total of all valid signatures received since the time the recall was initiated and ending five days previously, excluding Saturdays, Sundays, and holidays.

(b) Signatures shall be verified in the same manner set forth in subdivision (b) of Section 9031.

(c) The elections official, at the end of each 30-day period, shall attach to the petition a form provided by the Secretary of State, properly dated, that includes the information required by subdivision (a), and submit a copy of the petition, except as to the signatures appended thereto, to the Secretary of State and file a copy of the form in his or her office.

(d) Notwithstanding subdivisions (a) and (b), and Section 11106, the elections official shall not be required to verify signatures on a recall petition until the signatures submitted equal at least 10 percent of the total signatures required to qualify the recall for the ballot, as determined by the Secretary of State.

**SEC. 3.** Section 11105 of the Elections Code is repealed.

**SEC. 4.** Section 11106 of the Elections Code is amended to read:

**11106.** Immediately after the deadline for submission of all signatures, the elections official shall verify any remaining signatures in the same manner set forth in subdivision (b) of Section 9031. This verification shall apply to all signatures submitted to each county elections official.

**SEC. 5.** Section 11108 of the Elections Code is amended to read:

**11108.** (a) When the Secretary of State has received from one or more county elections officials a petition certified to have been signed by a sufficient number of registered to initiate a recall election, he or she shall, within 10 days, notify each county elections official of that fact.

(b) Notwithstanding any other law, any voter who has signed a recall petition under this chapter shall have his or her signature withdrawn from the petition upon the voter filing a written request that includes the voter's name, residence address, and signature with the elections official within thirty business days of the Secretary of State's notice provided by subdivision (a).

(c) No later than ten business days after the withdrawal period provided by subdivision (b), the elections officials shall report to the Secretary of State the total number of signatures that have been withdrawn pursuant to subdivision (b). The Secretary of State shall promptly make a second preliminary determination of whether the petitions have been signed by the sufficient number of registered voters to initiate a recall election. If the petitions have not been signed by a sufficient number of registered voters, the Secretary of State shall notify the county elections officials to continue to verify signatures pursuant to Section 11104. The Secretary of State and elections officials shall continue to make the notifications and reports required by this section until such time as the Secretary of State determines that there is a sufficient number of verified signatures, not including withdrawn signatures, to initiate a recall election.

(d) Upon receipt of the notification from the Secretary of State required in subdivision (c) that there is a sufficient number of verified signatures, not including withdrawn signatures, to initiate a recall election, the Department of Finance shall, in consultation with the affected elections officials and the Secretary of State, estimate the costs of the recall election, including

expenses for verifying signatures, printing ballots and voter information guides, and operating polling places. The Department shall estimate the costs that would be incurred if (1) the recall election is held as a special election and (2) the recall election is consolidated with the next regularly scheduled election pursuant to subdivision (b) of Section 15 of Article II of the California Constitution. The Department of Finance shall submit the estimate to the Governor, the Secretary of State, and the Chairperson of the Joint Legislative Budget Committee.

(e) Notwithstanding any other law, the Secretary of State shall not certify the sufficiency of the signatures under Section 11109 until the Joint Legislative Budget Committee has had 30 days to review and comment on the estimate submitted by the Department of Finance pursuant to subdivision (d).

(f) The Secretary of State shall publish a copy of the estimate submitted by the Department of Finance on the Secretary of State's public Internet Web site no later than 21 business days after the time for the Joint Legislative Budget Committee to review the estimate has expired.

(g) After the time for the Joint Legislative Budget Committee to review the estimate has expired, the Director of Finance, or his or her designee, shall direct the Controller to remit to the elections official from those funds designated for that purpose in any budget act or other measure an amount that takes into consideration the amount of funds available for the purpose, the number of elections officials expected to conduct state recall elections held in that fiscal year, the Department of Finance's estimates of the costs of each elections official to conduct each state recall election, and the amount reasonably necessary to conduct such recall election.

**SEC. 6.** Section 11324 of the Elections Code is amended to read:

**11324.** (a) The official responsible for preparing the ballot shall, at least 10 days before the recall election, mail a voter information guide to each registered voter of the electoral jurisdiction of the officer sought to be recalled.

(b) In the case of a recall of a state officer, the official responsible for preparing the voter information guide pursuant to subdivision (a) shall include in the voter information guide the report of estimated costs of the recall prepared by the Department of Finance pursuant to subdivision (d) of Section 11108.

**SEC. 7.** Section 68203 of the Government Code is amended to read:

**68203.** (a) On July 1, 1980, and on July 1 of each year thereafter, the salary of each justice and judge named in Sections 68200 to 68202, inclusive, and 68203.1 shall be increased by the amount that is produced by multiplying the then current salary of each justice or judge by the average percentage salary increase for the current fiscal year for California state employees; provided, that in any fiscal year in which the Legislature places a dollar limitation on salary increases for state employees the same limitation shall apply to judges in the same manner applicable to state employees in comparable wage categories.

(b) (1) For the purposes of this section, average percentage salary increases for California state employees shall be those increases as reported by the Department of Human Resources to the State Controller in a pay letter.

(2) For purposes of this section the average percentage salary increase for the current fiscal year for California state employees shall be reduced by the average percentage salary decrease resulting from the furlough or enrollment in a personal leave program of California state employees in that current fiscal year, as determined by the Department of Human Resources, in consultation with the Department of Finance.

(3) If the reduction required pursuant to paragraph (2) results in a percentage that is equal to or less than zero, the salary of each justice and judge named in Sections 68200 to 68202, inclusive, and 68203.1 shall not be increased.

(4) Persons working for the California State University system, the judicial branch, or the Legislature are not considered California state employees for purposes of this subdivision.

(c) For purposes of this section, beginning on July 1, 2016, a salary increase occurring on or after July 1 of any fiscal year for California state employees that is made effective on July 1 of that fiscal year shall be included in the calculation of the average percentage salary increase for that fiscal year, retroactive to July 1 of that fiscal year. The Department of Human Resources shall report any retroactive average percentage salary increase to the State Controller in a pay letter.

(d) The salary increase for judges and justices made on July 1, 1980, for the 1980–81 fiscal year, shall in no case exceed 5 percent.

(e) On January 1, 2001, the salary of the justices and judges named in Sections 68200 to 68202, inclusive, shall be increased by the amount that is produced by multiplying the salary of each justice and judge as of December 31, 2000, by  $8\frac{1}{2}$  percent.

(f) On January 1, 2007, the salary of the justices and judges identified in Sections 68200 to 68202, inclusive, and 68203.1 shall also be increased by the amount that is produced by multiplying the salary of each justice and judge as of December 31, 2006, by 8.5 percent.

(g) Notwithstanding Article 2 (commencing with Section 3287) of Chapter 1 of Title 2 of Part 1 of Division 4 of the Civil Code, Chapter 5 (commencing with Section 685.010) of Division 1 of Title 9 of Part 2 of the Code of Civil Procedure, any other law, or any court judgment that has not been finally determined upon appeal as of the date this subdivision is enacted, any award of interest on an order to pay unpaid salary or judicial retiree benefits pursuant to this section shall not exceed the rate of interest accrued on moneys in the Pooled Money Investment Account.

**SEC. 8.** Section 90.6 is added to the Labor Code, to read:

**90.6.** (a) In the case of an investigation by the field enforcement unit, the date of a written notice by the Labor Commissioner to an employer, or other person or entity that may be liable under a provision of this code, that an investigation has commenced shall be deemed the date an action has commenced for purposes of any statute of limitations applicable to determining the period of time for which wages, penalties, damages, or other amounts may be assessed by the Labor Commissioner, which will then be tolled for a period of 12 months. After expiration of the 12-month period, the time under the applicable statute of limitations will resume running. The notice provided by the Labor Commissioner pursuant to this section shall identify the employer or other person or entity subject to investigation, the time period covered by the investigation, and a reference to this section that shall constitute notice of the potential claims under the identified investigation.

(b) Subdivision (a) shall apply to the following:

- (1) Sections 558 and 1197.1.
- (2) Unpaid minimum and overtime wages under Sections 510, 1194, and 1197.
- (3) Any applicable wage order of the Industrial Welfare Commission.
- (4) Any applicable local minimum wage or overtime law.
- (5) Wages exceeding minimum wages subject to determination under Section 1195.5.
- (6) Penalty wages for late payment under Section 203.
- (7) Liquidated damages under Section 1194.2.
- (8) Itemized wage statements under Section 226.
- (9) Compensation for rest and recovery periods and nonproductive time for piece rate employees under Section 226.2.
- (10) Meal, rest, and recovery periods under Section 226.7.
- (11) Claims under Section 2810.3.
- (12) Expense reimbursements under Section 2802.

**SEC. 9.** Section 98.7 of the Labor Code is amended to read:

**98.7.** (a) Any person who believes that he or she has been discharged or otherwise discriminated against in violation of any law under the jurisdiction of the Labor Commissioner may file a complaint with the division within six months after the occurrence of the violation. The six-month period may be extended for good cause. The complaint shall be investigated by a discrimination complaint investigator in accordance with this section. The Labor Commissioner shall establish procedures for the investigation of discrimination complaints. A summary of the procedures shall be provided to each complainant and respondent at the time of initial contact. The Labor Commissioner shall inform complainants charging a violation of Section 6310 or 6311, at the time of initial contact, of his or her right to file a separate, concurrent complaint with the United States Department of Labor within 30 days after the occurrence of the violation.

(b) Each complaint of unlawful discharge or discrimination shall be assigned to a discrimination complaint investigator who shall prepare and submit a report to the Labor Commissioner based on an investigation of the complaint. The Labor Commissioner or his or her designee shall receive and review the reports. The investigation shall include, where appropriate, interviews with the complainant, respondent, and any witnesses who may have information concerning the alleged violation, and a review of any documents that may be relevant to the disposition of the complaint. The identity of a witness shall remain confidential unless the identification of the witness becomes necessary to proceed with the investigation or to prosecute an action to enforce a determination. The investigation report submitted to the Labor Commissioner or designee shall include the statements and



documents obtained in the investigation, and the findings of the investigator concerning whether a violation occurred. The Labor Commissioner may hold an investigative hearing whenever the Labor Commissioner determines that a hearing is necessary to fully establish the facts. In the hearing the complainant and respondent shall have the opportunity to present evidence. The Labor Commissioner shall issue, serve, and enforce any necessary subpoenas. If a complainant files an action in court against an employer based on the same or similar facts as a complaint made under this section, the Labor Commissioner may, at his or her discretion, close the investigation. If a complainant has already challenged his or her discipline or discharge through the State Personnel Board, or other internal governmental procedure, or through a collective bargaining agreement grievance procedure that incorporates antiretaliation provisions under this code, the Labor Commissioner may reject the complaint.

(c) If the Labor Commissioner determines a violation has occurred, he or she shall notify the complainant and respondent and direct the respondent to cease and desist from any violation and take any action deemed necessary to remedy the violation, including, where appropriate, rehiring or reinstatement, reimbursement of lost wages and interest thereon, payment of penalties, payment of reasonable attorney's fees associated with any hearing held by the Labor Commissioner in investigating the complaint, and the posting of notices to employees. If the respondent does not comply with the order within 30 days following notification of the Labor Commissioner's determination, the Labor Commissioner shall bring an action promptly in an appropriate court against the respondent. An action by the Labor Commissioner seeking injunctive relief, reimbursement of lost wages and interest thereon, payment of penalties, and any other appropriate relief, shall not accrue until a respondent fails to comply with the order for more than 30 days following notification of the commissioner's determination. The Labor Commissioner shall commence an action within three years of its accrual, regardless of whether the commissioner seeks penalties in the action. If the Labor Commissioner fails to bring an action in court promptly, the complainant may bring an action against the Labor Commissioner in any appropriate court for a writ of mandate to compel the Labor Commissioner to bring an action in court against the respondent. If the complainant prevails in his or her action for a writ, the court shall award the complainant court costs and reasonable attorney's fees, notwithstanding any other law. Regardless of any delay in bringing an action in court, the Labor Commissioner shall not be divested of jurisdiction. In any action, the court may permit the claimant to intervene as a party plaintiff to the action and shall have jurisdiction, for cause shown, to restrain the violation and to order all appropriate relief. Appropriate relief includes, but is not limited to, rehiring or reinstatement of the complainant, reimbursement of lost wages and interest thereon, and any other compensation or equitable relief as is appropriate under the circumstances of the case. The Labor Commissioner shall petition the court for appropriate temporary relief or restraining order unless he or she determines good cause exists for not doing so. If the Labor Commissioner is a prevailing party in an enforcement action pursuant to this section, the court shall determine the reasonable attorney's fees incurred by the Labor Commissioner in prosecuting the enforcement action and assess that amount as a cost upon the employer. An employer who willfully refuses to comply with an order of a court pursuant to this section to hire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for such relief, or who refuses to comply with an order to post a notice to employees or otherwise cease and desist from the violation shall, in addition to any other penalties available, be subject to a penalty of one hundred dollars (\$100) per day for each day the employer continues to be in noncompliance with the court order, up to a maximum of twenty thousand dollars (\$20,000). Any penalty pursuant to this section shall be paid to the affected employee.

(d) (1) If the Labor Commissioner determines no violation has occurred, he or she shall notify the complainant and respondent and shall dismiss the complaint. The Labor Commissioner may direct the complainant to pay reasonable attorney's fees associated with any hearing held by the Labor Commissioner if the Labor Commissioner finds the complaint was frivolous, unreasonable, groundless, and was brought in bad faith. The complainant may, after notification of the Labor Commissioner's determination to dismiss a complaint, bring an action in an appropriate court, which shall have jurisdiction to determine whether a violation occurred, and if so, to restrain the violation and order all appropriate relief to remedy the violation. Appropriate relief includes, but is not limited to, rehiring or reinstatement of the complainant, reimbursement of lost wages and interest thereon, and other compensation or equitable relief as is appropriate under the circumstances of the case. When dismissing a complaint, the Labor Commissioner shall advise the complainant of his or her right to bring an action in an appropriate court if he or she disagrees with the determination of the Labor Commissioner, and in the case of an alleged violation of Section 6310 or 6311, to file a complaint against the state program with the United States Department of Labor. Any time limitation for a complainant to bring an action in court shall be tolled from the time of filing the complaint with the division until the issuance of the Labor Commissioner's determination.

(2) The filing of a timely complaint against the state program with the United States Department of Labor shall stay the Labor Commissioner's dismissal of the division complaint until the United States Secretary of Labor makes a determination regarding the alleged violation. Within 15 days of receipt of that determination, the Labor Commissioner shall notify the parties whether he or she will reopen the complaint filed with the division or whether he or she will reaffirm the dismissal.

(e) The Labor Commissioner shall notify the complainant and respondent of his or her determination under subdivision (c) or paragraph (1) of subdivision (d), not later than one year after the filing of the complaint. Determinations by the Labor Commissioner under subdivision (c) or (d) shall be final and not subject to administrative appeal except for cases arising under Sections 6310 and 6311, which may be appealed by the complainant to the Director of Industrial Relations pursuant to an appeal

process, including time limitations, that is consistent with the mandates of the United States Department of Labor. The appeal from a determination for cases arising under Sections 6310 and 6311 shall set forth specifically and in full detail the grounds upon which the complainant considers the Labor Commissioner's determination to be unjust or unlawful, and every issue to be considered by the director. The director may consider any issue relating to the initial determination and may modify, affirm, or reverse the Labor Commissioner's determination. The director's determination shall be the determination of the Labor Commissioner for cases arising under Sections 6310 and 6311 that are appealed to the director. The director shall notify the complainant and respondent of his or her determination within 10 days of receipt of the appeal.

(f) The rights and remedies provided by this section do not preclude an employee from pursuing any other rights and remedies under any other law.

(g) In the enforcement of this section, there is no requirement that an individual exhaust administrative remedies or procedures.

**SEC. 10.** Section 226.4 of the Labor Code is amended to read:

**226.4.** If, upon inspection or investigation, the Labor Commissioner determines that an employer is in violation of subdivision (a) of Section 226, the Labor Commissioner may issue a citation to the person in violation. The citation may be served personally, in the same manner as provided for service of a summons as described in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure, by certified mail with return receipt requested, or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. Each citation shall be in writing and shall describe the nature of the violation, including reference to the statutory provision alleged to have been violated.

**SEC. 11.** Section 1174.1 is added to the Labor Code, to read:

**1174.1.** (a) Any employer, or other person or entity, who may be liable for a violation of any provision of this code shall be precluded from introducing as evidence, in an administrative proceeding contesting a citation or writ proceeding under Section 558 or 1197.1, books, documents, or records, as specified in subdivision (b), that are not provided pursuant to a duly served written request by the Labor Commissioner under this section within the time the Labor Commissioner requests those books, documents, or records be produced, pursuant to either of the following:

(1) When the Labor Commissioner provides for no less than 15 days to respond, subject to the exceptions under subdivision (c), (d), (e), or (g).

(2) When the Labor Commissioner provides for less than 15 days to respond, subject to the exceptions under subdivision (c) or (e), if the Labor Commissioner, in his or her discretion, determines that circumstances exist that make it necessary to require a shorter period of production for the Labor Commissioner to conduct a complete investigation. In this instance, a statement indicating that determination of necessity shall be included with the written request from the Labor Commissioner.

(b) The books, documents, or records to which this section applies are payroll, time, and employment records that are required to be maintained at the place of employment or at a central location within the state by the employer, including, but not limited to, under Sections 226, 247.5, 1174, 2052, and 2673, and Section 6 or 7 ("Records") of any order of the Industrial Welfare Commission.

(c) Subdivision (a) shall not apply in the event that the person or entity subject to the written request by the Labor Commissioner for the production of books, documents, or records opposes such a request in court, prior to the issuance of any citation under Section 558 or 1197.1, and a court determines that the books, documents, or records are not required to be produced.

(d) Paragraph (1) of subdivision (a) shall not apply to the failure to produce any books, documents, or records within the time requested by the Labor Commissioner if such failure is due to an inadvertent error, provided that such error is corrected and the books, documents, or records are produced to the Labor Commissioner no later than 20 days from the date originally requested. For purposes of this section, "inadvertent error" means any clerical mistake causing an unintended delay in production of the requested books, documents, or records.

(e) The Labor Commissioner shall take into consideration a reasonable request from the person or entity subject to subdivision (a) for an extension on the time for production of books, documents, or records. The commissioner shall determine the reasonableness of the request and may consider, among other things, the location of the books, documents, or records and the volume of production. The Labor Commissioner, in his or her discretion, may admit and consider books, documents, or records that are produced beyond the time limits provided for in this section upon a finding that both of the following conditions are satisfied:

(1) The person or entity cooperated with the underlying investigation and substantially complied with the request within the time limit prescribed.

(2) The person or entity made good faith efforts to comply with the request, including discovery of the late-produced books, documents, or records.

(f) Service of a written request for books, documents, or records on a corporation or limited liability company shall be in the same manner as provided for service of a summons as described in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure.

(g) For purposes of paragraph (1) of subdivision (a) and notwithstanding subdivision (e), a person or entity that provides a timely good faith response to the Labor Commissioner that additional time is needed to gather requested books, documents, or records, shall be provided an automatic extension of 15 days.

**SEC. 12.** Section 1197.1 of the Labor Code is amended to read:

**1197.1.** (a) Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows:

(1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

(2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

(3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee.

(b) If, upon inspection or investigation, the Labor Commissioner determines that a person has paid or caused to be paid a wage less than the minimum under applicable law, the Labor Commissioner may issue a citation to the person in violation. The citation may be served personally, in the same manner as provided for service of a summons as described in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure, by certified mail with return receipt requested, or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. Each citation shall be in writing and shall describe the nature of the violation, including reference to the statutory provision alleged to have been violated. The Labor Commissioner shall promptly take all appropriate action, in accordance with this section, to enforce the citation and to recover the civil penalty assessed, wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203 in connection with the citation.

(c) (1) If a person desires to contest a citation or the proposed assessment of a civil penalty, wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203 therefor, the person shall, within 15 business days after service of the citation, notify the office of the Labor Commissioner that appears on the citation of his or her appeal by a request for an informal hearing. The Labor Commissioner or his or her deputy or agent shall, within 30 days, hold a hearing at the conclusion of which the citation or proposed assessment of a civil penalty, wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203 shall be affirmed, modified, or dismissed.

(2) The decision of the Labor Commissioner shall consist of a notice of findings, findings, and an order, all of which shall be served on all parties to the hearing within 15 days after the hearing by regular first-class mail at the last known address of the party on file with the Labor Commissioner. Service shall be completed pursuant to Section 1013 of the Code of Civil Procedure. Any amount found due by the Labor Commissioner as a result of a hearing shall become due and payable 45 days after notice of the findings and written findings and order have been mailed to the party assessed. A writ of mandate may be taken from this finding to the appropriate superior court. The party shall pay any judgment and costs ultimately rendered by the court against the party for the assessment. The writ shall be taken within 45 days of service of the notice of findings, findings, and order thereon.

(3) As a condition to filing a petition for a writ of mandate, the petitioner seeking the writ shall first post a bond with the Labor Commissioner equal to the total amount of any minimum wages, liquidated damages, and overtime compensation that are due and owing as determined pursuant to subdivision (b) of Section 558, as specified in the citation being challenged. The bond amount shall not include amounts for penalties. The bond shall be issued by a surety duly authorized to do business in this state, shall be issued in favor of unpaid employees, and shall ensure that the petitioner makes payments as set forth in this paragraph. If a decision is entered which affirms or modifies the amounts for minimum wages, liquidated damages, or overtime compensation, the petitioner shall pay the amounts owed for the specified items included in a clerk's judgment entered under

subdivision (f) based on the decision, or pursuant to a court judgment in a writ of mandate proceeding under paragraph (2). If the request for a writ is withdrawn or dismissed without entry of judgment, the petitioner shall pay the amounts owed for the specified items pursuant to the citation, or the administrative decision if a pending writ of mandate is dismissed prior to a court decision, unless the parties have executed a settlement agreement for payment of some other amount. In the case of a settlement agreement, the petitioner shall pay the amount he or she is obligated to pay under the terms of the settlement.

(4) If the employer fails to pay the amount of minimum wages, liquidated damages, or overtime compensation owed within 10 days of the entry of judgment, dismissal or withdrawal of writ, or the execution of a settlement agreement, a portion of the undertaking, described in paragraph (3), equal to the amount owed, or the entire undertaking if the amount owed exceeds the undertaking, shall be forfeited to the employee.

(d) A person to whom a citation has been issued shall, in lieu of contesting a citation pursuant to this section, transmit to the office of the Labor Commissioner designated on the citation the amount specified for the violation within 15 business days after issuance of the citation.

(e) When no petition objecting to a citation or the proposed assessment of a civil penalty, wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203 is filed, a certified copy of the citation or proposed civil penalty, wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203 may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the person assessed has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the citation or proposed assessment of a civil penalty, wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203.

(f) When findings and the order thereon are made affirming or modifying a citation or proposed assessment of a civil penalty, wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203 after hearing, a certified copy of these findings and the order entered thereon may be entered by the Labor Commissioner in the office of the clerk of the superior court in any county in which the person assessed has property or in which the person assessed has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the state against the person assessed in the amount shown on the certified order.

(g) A judgment entered pursuant to this section shall bear the same rate of interest and shall have the same effect as other judgments and be given the same preference allowed by the law on other judgments rendered for claims for taxes. The clerk shall make no charge for the service provided by this section to be performed by him or her.

(h) In a jurisdiction where a local entity has the legal authority to issue a citation against an employer for a violation of any applicable local minimum wage law, the Labor Commissioner, pursuant to a request from the local entity, may issue a citation against an employer for a violation of any applicable local minimum wage law if the local entity has not cited the employer for the same violation. If the Labor Commissioner issues a citation, the local entity shall not cite the employer for the same violation.

(i) The civil penalties provided for in this section are in addition to any other penalty provided by law.

(j) This section shall not apply to any order of the commission relating to household occupations.

(k) This section does not change the applicability of local minimum wage laws to any entity.

**SEC. 13.** Section 1287 of the Labor Code is amended to read:

**1287.** If upon inspection or investigation the director determines that a person is in violation of any statutory provision or rule or regulation relating to the employment of minors, he or she may issue a citation to the person in violation. The citation may be served personally, in the same manner as provided for service of a summons as described in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure, by certified mail with return receipt requested, or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. Each citation shall be in writing and shall describe the nature of the violation, including reference to the statutory provisions, rule, or regulation alleged to have been violated.

**SEC. 14.** Section 1684 of the Labor Code is amended to read:

**1684.** (a) The Labor Commissioner shall not issue to any person a license to act as a farm labor contractor, nor shall the Labor Commissioner renew that license, until all of the following conditions are satisfied:

(1) The person has executed a written application in a form prescribed by the Labor Commissioner, subscribed and sworn to by the person, and containing all of the following:

(A) A statement by the person of all facts required by the Labor Commissioner concerning the applicant's character, competency, responsibility, and the manner and method by which the person proposes to conduct operations as a farm labor contractor if the license is issued.

(B) The names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates, or profit sharers, in the proposed operation as a farm labor contractor, together with the amount of their respective interests.

(C) A declaration consenting to the designation by a court of the Labor Commissioner as an agent available to accept service of summons in any action against the licensee if the licensee has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service.

(D) The names and addresses of all persons who in the previous calendar year performed any services described in subdivision (b) of Section 1682 within the scope of his or her employment by the licensee on whose behalf he or she was acting, unless the person was employed as an independent contractor.

(2) The Labor Commissioner, after investigation, is satisfied as to the character, competency, and responsibility of the person.

(3) (A) The person has deposited with the Labor Commissioner a surety bond in an amount based on the size of the person's annual payroll for all employees, as follows:

(i) For payrolls up to five hundred thousand dollars (\$500,000), a twenty-five-thousand-dollar (\$25,000) bond.

(ii) For payrolls of five hundred thousand dollars (\$500,000) to two million dollars (\$2,000,000), a fifty-thousand-dollar (\$50,000) bond.

(iii) For payrolls greater than two million dollars (\$2,000,000), a seventy-five-thousand-dollar (\$75,000) bond.

(B) For purposes of this paragraph, the Labor Commissioner shall require documentation of the size of the person's annual payroll, which may include, but is not limited to, information provided by the person to the Employment Development Department, the Franchise Tax Board, the Division of Workers' Compensation, the insurer providing the licensee's workers' compensation insurance, or the Internal Revenue Service.

(C) If the contractor has been the subject of a final judgment in a year in an amount equal to or greater than the amount of the bond required, he or she shall be required to deposit an additional bond within 60 days.

(D) All bonds required under this chapter shall be payable to the people of the State of California and shall be conditioned upon the farm labor contractor's compliance with all the terms and provisions of this chapter and subdivisions (j) and (k) of Section 12940 of, and Sections 12950 and 12950.1 of, the Government Code, and payment of all damages occasioned to any person by failure to do so, or by any violation of this chapter or of subdivision (j) or (k) of Section 12940 of, or of Section 12950 or 12950.1 of, the Government Code, or any violation of Title VII of the Civil Rights Act of 1964 (Public Law 88-352), or false statements or misrepresentations made in the procurement of the license. The bond shall also be payable for interest on wages and for any damages arising from violation of orders of the Industrial Welfare Commission, and for any other monetary relief awarded to an agricultural worker as a result of a violation of this code or of subdivision (j) or (k) of Section 12940 of, or Section 12950 or 12950.1 of, the Government Code, or any violation of Title VII of the Civil Rights Act of 1964 (Public Law 88-352).

(4) The person has paid to the Labor Commissioner a license fee of five hundred dollars (\$500) plus a filing fee of ten dollars (\$10). However, when a timely application for renewal is filed, the ten-dollar (\$10) filing fee is not required. The license fee shall increase by one hundred dollars (\$100), to six hundred dollars (\$600), on January 1, 2015. The amount attributable to this increase shall be expended by the Labor Commissioner to fund the Farm Labor Contractor Enforcement Unit and the Farm Labor Contractor License Verification Unit. The Labor Commissioner shall deposit one hundred fifty dollars (\$150) of each licensee's annual license fee into the Farmworker Remedial Account. Funds from this account shall be disbursed by the Labor Commissioner only to persons determined by the Labor Commissioner to have been damaged by any licensee or to persons determined by the Labor Commissioner to have been damaged by an unlicensed farm labor contractor.

(A) In making these determinations, the Labor Commissioner shall disburse funds from the Farmworker Remedial Account to satisfy claims against farm labor contractors or unlicensed farm labor contractors, which shall include unpaid wages, interest on wages, and any damages or other monetary relief arising from the violation of orders of the Industrial Welfare Commission or from a violation of this code, including statutory penalties recoverable by an employee determined to be due to an agricultural worker and for all damages arising from any violation of subdivision (j) or (k) of Section 12940 of, or of Section 12950 or 12950.1 of, the Government Code, or any violation of Title VII of the Civil Rights Act of 1964 (Public Law 88-352).

(B) Any disbursement shall be made pursuant to a claim for recovery from the account in accordance with procedures prescribed by the Labor Commissioner.

(C) Any disbursed funds subsequently recovered from a liable party by the Labor Commissioner pursuant to Section 1693, or otherwise, shall be returned to the Farmworker Remedial Account.

(5) The person has taken a written examination that demonstrates an essential degree of knowledge of the current laws and administrative regulations concerning farm labor contractors as the Labor Commissioner deems necessary for the safety and protection of farmers, farmworkers, and the public, including the identification and prevention of sexual harassment in the workplace. To successfully complete the examinations, the person must correctly answer at least 85 percent of the questions posed. The examination period shall not exceed four hours. The examination may only be taken a maximum of three times in a calendar year. The examinations shall include a demonstration of knowledge of the current laws and regulations regarding wages, hours, and working conditions, penalties, employee housing and transportation, collective bargaining, field sanitation, and safe work practices related to pesticide use, including all of the following subjects:

(A) Field reentry regulations.

(B) Worker pesticide safety training.

(C) Employer responsibility for safe working conditions.

(D) Symptoms and appropriate treatment of pesticide poisoning.

(6) The person has registered as a farm labor contractor pursuant to the federal Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. Sec. 1801 et seq.), when registration is required pursuant to federal law, and that information is provided by the person to the Labor Commissioner.

(7) Each of the person's employees has registered as a farm labor contractor employee pursuant to the federal Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. Sec. 1801 et seq.) if that registration is required pursuant to federal law, and that information is provided by the person to the Labor Commissioner.

(8) (A) The person has executed a written statement, that has been provided to the Labor Commissioner, attesting that the person's supervisory employees, including any supervisor, crewleader, mayordomo, foreperson, or other employee whose duties include the supervision, direction, or control of agricultural employees, have been trained at least once for at least two hours each calendar year in the prevention of sexual harassment in the workplace, and that all new nonsupervisory employees, including agricultural employees, have been trained at the time of hire, and that all nonsupervisory employees, including agricultural employees, have been trained at least once every two years in identifying, preventing, and reporting sexual harassment in the workplace.

(B) Sexual harassment prevention training shall consist of training administered by a licensee or appropriate designee of the licensee.

(C) Sexual harassment prevention training shall include, at a minimum, components of the following as consistent with Section 12950 of the Government Code:

(i) The illegality of sexual harassment.

(ii) The definition of sexual harassment under applicable state and federal law.

(iii) A description of sexual harassment, utilizing examples.

(iv) The internal complaint process of the employer available to the employee.

(v) The legal remedies and complaint process available through the Department of Fair Employment and Housing.

(vi) Directions for how to contact the Department of Fair Employment and Housing.

(vii) The protection against retaliation provided under current law.

(D) The trainer may use the text of the Department of Fair Employment and Housing's pamphlet DFEH-185, "Sexual Harassment" as a guide to training, or may use other written material or other training resources covering the information required in subparagraph (C).

(E) At the conclusion of the training, the trainer shall provide the employee with a copy of the Department of Fair Employment and Housing's pamphlet DFEH-185, and a record of the training on a form provided by the Labor Commissioner that includes the name of the trainer and the date of the training.

(F) The licensee shall keep a record with the names of all employees who have received sexual harassment training for a period of three years.

(b) The Labor Commissioner shall consult with the Director of Pesticide Regulation, the Department of the California Highway Patrol, the Department of Housing and Community Development, the Employment Development Department, the Department of Fair Employment and Housing, the Department of Food and Agriculture, the Department of Motor Vehicles, and the Division of Occupational Safety and Health in preparing the examination required by paragraph (5) of subdivision (a) and the appropriate educational materials pertaining to the matters included in the examination, and may charge a fee of not more than two hundred dollars (\$200) to cover the cost of administration of the examination.

(c) The person shall also enroll and participate in at least nine hours of relevant educational classes each year. The classes shall include at least one hour of sexual harassment prevention training. The classes shall be chosen from a list of approved classes prepared by the Labor Commissioner, in consultation with the persons and entities listed in subdivision (b) and county agricultural commissioners.

(d) The Labor Commissioner may renew a license without requiring the applicant for renewal to take the examination specified in paragraph (5) of subdivision (a) if the Labor Commissioner finds that the applicant meets all of the following criteria:

(1) Has satisfactorily completed the examination during the immediately preceding two years.

(2) Has not during the preceding year been found to be in violation of any applicable laws or regulations including, but not limited to, Division 7 (commencing with Section 12501) of the Food and Agricultural Code, subdivisions (j) and (k) of Section 12940 of, and Section 12950 or 12950.1 of, the Government Code, Part 1 (commencing with Section 17000) of Division 13 of the Health and Safety Code, Division 2 (commencing with Section 200), Division 4 (commencing with Section 3200), and Division 5 (commencing with Section 6300) of this code, and Chapter 1 (commencing with Section 12500) of Division 6 of the Vehicle Code.

(3) Has, for each year since the license was obtained, enrolled and participated in at least eight hours of relevant, educational classes, chosen from a list of approved classes prepared by the Labor Commissioner.

(4) Has complied with all other requirements of this section.

**SEC. 15.** Section 1725.5 of the Labor Code is amended to read:

**1725.5.** A contractor shall be registered pursuant to this section to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any public work contract that is subject to the requirements of this chapter. For the purposes of this section, "contractor" includes a subcontractor as defined by Section 1722.1.

(a) To qualify for registration under this section, a contractor shall do all of the following:

(1) (A) Register with the Department of Industrial Relations in the manner prescribed by the department and pay an initial nonrefundable application fee of four hundred dollars (\$400) to qualify for registration under this section and an annual renewal fee on or before July 1 of each year thereafter. The annual renewal fee shall be in a uniform amount set by the Director of Industrial Relations, and the initial registration and renewal fees may be adjusted no more than annually by the director to support the costs specified in Section 1771.3.

(B) Beginning June 1, 2019, a contractor may register or renew according to this subdivision in annual increments up to three years from the date of registration. Contractors who wish to do so will be required to prepay the applicable nonrefundable application or renewal fees to qualify for the number of years for which they wish to preregister.

(2) Provide evidence, disclosures, or releases as are necessary to establish all of the following:

(A) Workers' compensation coverage that meets the requirements of Division 4 (commencing with Section 3200) and includes sufficient coverage for any worker whom the contractor employs to perform work that is subject to prevailing wage requirements other than a contractor who is separately registered under this section. Coverage may be evidenced by a current and valid certificate of workers' compensation insurance or certification of self-insurance required under Section 7125 of the Business and Professions Code.

(B) If applicable, the contractor is licensed in accordance with Chapter 9 (commencing with Section 7000) of the Business and Professions Code.

(C) The contractor does not have any delinquent liability to an employee or the state for any assessment of back wages or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award. However, for purposes of this

paragraph, the contractor shall not be disqualified for any judgment, order, or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.

(D) The contractor is not currently debarred under Section 1777.1 or under any other federal or state law providing for the debarment of contractors from public works.

(E) The contractor has not bid on a public works contract, been listed in a bid proposal, or engaged in the performance of a contract for public works without being lawfully registered in accordance with this section, within the preceding 12 months or since the effective date of the requirements set forth in subdivision (e), whichever is earlier. If a contractor is found to be in violation of the requirements of this paragraph, the period of disqualification shall be waived if both of the following are true:

(i) The contractor has not previously been found to be in violation of the requirements of this paragraph within the preceding 12 months.

(ii) The contractor pays an additional nonrefundable penalty registration fee of two thousand dollars (\$2,000).

(b) Fees received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(c) A contractor who fails to pay the renewal fee required under paragraph (1) of subdivision (a) on or before the expiration of any prior period of registration shall be prohibited from bidding on or engaging in the performance of any contract for public work until once again registered pursuant to this section. If the failure to pay the renewal fee was inadvertent, the contractor may renew its registration retroactively by paying an additional nonrefundable penalty renewal fee equal to the amount of the renewal fee within 90 days of the due date of the renewal fee.

(d) If, after a body awarding a contract accepts the contractor's bid or awards the contract, the work covered by the bid or contract is determined to be a public work to which Section 1771 applies, either as the result of a determination by the director pursuant to Section 1773.5 or a court decision, the requirements of this section shall not apply, subject to the following requirements:

(1) The body that awarded the contract failed, in the bid specification or in the contract documents, to identify as a public work that portion of the work that the determination or decision subsequently classifies as a public work.

(2) Within 20 days following service of notice on the awarding body of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or a decision by a court that the contract was for public work as defined in this chapter, the contractor and any subcontractors are registered under this section or are replaced by a contractor or subcontractors who are registered under this section.

(3) The requirements of this section shall apply prospectively only to any subsequent bid, bid proposal, contract, or work performed after the awarding body is served with notice of the determination or decision referred to in paragraph (2).

(e) The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, to any contract for public work, as defined in this chapter, executed on or after April 1, 2015, and to any work performed under a contract for public work on or after January 1, 2018, regardless of when the contract for public work was executed.

(f) This section does not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.

**SEC. 16.** Section 1742.1 of the Labor Code is amended to read:

**1742.1.** (a) After 60 days following the service of a civil wage and penalty assessment under Section 1741 or a notice of withholding under subdivision (a) of Section 1771.6, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment or notice shall be liable for liquidated damages in an amount equal to the wages, or portion thereof, that still remain unpaid. If the assessment or notice subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. Any liquidated damages shall be distributed to the employee along with the unpaid wages. Section 203.5 shall not apply to claims for prevailing wages under this chapter.

(b) Notwithstanding subdivision (a), there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the assessment or notice, for the department to hold in escrow pending administrative and judicial review. The department shall release the funds in escrow, plus any interest earned, to the persons and entities that are found to be entitled to those funds, within 30 days following either of the specified events occurring:



(1) The conclusion of all administrative and judicial review.

(2) The department receives written notice from the Labor Commissioner or his or her designee of a settlement or other final disposition of an assessment issued pursuant to Section 1741 or from the authorized representative of the awarding body of a settlement or other final disposition of a notice issued pursuant to Section 1771.6.

(c) The Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of a civil wage and penalty assessment under Section 1741, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment without the need for formal proceedings. The awarding body shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of a notice of withholding under subdivision (a) of Section 1771.6, afford the contractor or subcontractor the opportunity to meet with the designee of the awarding body to attempt to settle a dispute regarding the notice without the need for formal proceedings. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking administrative review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. No writing prepared for the purpose of, in the course of, or pursuant to, the settlement meeting, other than a final settlement agreement, is admissible or subject to discovery in any administrative or civil proceeding. The assessment or notice shall advise the contractor or subcontractor of the opportunity to request a settlement meeting.

**SEC. 17.** Section 1770 of the Labor Code is amended to read:

**1770.** The Director of the Department of Industrial Relations shall determine the general prevailing rate of per diem wages in accordance with the standards set forth in Section 1773, and the director's determination in the matter shall be final except as provided in Section 1773.4. Nothing in this article, however, shall prohibit the payment of more than the general prevailing rate of wages to any worker employed on public work. This chapter does not permit any overtime work in violation of Article 3.

**SEC. 18.** Section 1771.1 of the Labor Code is amended to read:

**1771.1.** (a) A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

(b) Notice of the requirement described in subdivision (a) shall be included in all bid invitations and public works contracts, and a bid shall not be accepted nor any contract or subcontract entered into without proof of the contractor or subcontractor's current registration to perform public work pursuant to Section 1725.5.

(c) An inadvertent error in listing a subcontractor who is not registered pursuant to Section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:

(1) The subcontractor is registered prior to the bid opening.

(2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(3) The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code.

(d) Failure by a subcontractor to be registered to perform public work as required by subdivision (a) shall be grounds under Section 4107 of the Public Contract Code for the contractor, with the consent of the awarding authority, to substitute a subcontractor who is registered to perform public work pursuant to Section 1725.5 in place of the unregistered subcontractor.

(e) The department shall maintain on its Internet Web site a list of contractors who are currently registered to perform public work pursuant to Section 1725.5.

(f) A contract entered into with any contractor or subcontractor in violation of subdivision (a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of Section 1725.5 or this section.

(g) If the Labor Commissioner or his or her designee determines that a contractor or subcontractor engaged in the performance of any public work contract without having been registered in accordance with this section, the contractor or subcontractor shall forfeit, as a civil penalty to the state, one hundred dollars (\$100) for each day of work performed in violation of the registration

requirement, not to exceed an aggregate penalty of eight thousand dollars (\$8,000) in addition to any penalty registration fee assessed pursuant to clause (ii) of subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(h) (1) In addition to, or in lieu of, any other penalty or sanction authorized pursuant to this chapter, a higher tiered public works contractor or subcontractor who is found to have entered into a subcontract with an unregistered lower tier subcontractor to perform any public work in violation of the requirements of Section 1725.5 or this section shall be subject to forfeiture, as a civil penalty to the state, of one hundred dollars (\$100) for each day the unregistered lower tier subcontractor performs work in violation of the registration requirement, not to exceed an aggregate penalty of ten thousand dollars (\$10,000).

(2) The Labor Commissioner shall use the same standards specified in subparagraph (A) of paragraph (2) of subdivision (a) of Section 1775 when determining the severity of the violation and what penalty to assess, and may waive the penalty for a first time violation that was unintentional and did not hinder the Labor Commissioner's ability to monitor and enforce compliance with the requirements of this chapter.

(3) A higher tiered public works contractor or subcontractor shall not be liable for penalties assessed pursuant to paragraph (1) if the lower tier subcontractor's performance is in violation of the requirements of Section 1725.5 due to the revocation of a previously approved registration.

(4) A subcontractor shall not be liable for any penalties assessed against a higher tiered public works contractor or subcontractor pursuant to paragraph (1). A higher tiered public works contractor or subcontractor may not require a lower tiered subcontractor to indemnify or otherwise be liable for any penalties pursuant to paragraph (1).

(i) The Labor Commissioner or his or her designee shall issue a civil wage and penalty assessment, in accordance with the provisions of Section 1741, upon determination of penalties pursuant to subdivision (g) and subparagraph (B) of paragraph (1) of subdivision (h). Review of a civil wage and penalty assessment issued under this subdivision may be requested in accordance with the provisions of Section 1742. The regulations of the Director of Industrial Relations, which govern proceedings for review of civil wage and penalty assessments and the withholding of contract payments under Article 1 (commencing with Section 1720) and Article 2 (commencing with Section 1770), shall apply.

(j) (1) Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of the requirements of Section 1725.5 or this section, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor or the unregistered subcontractor on all public works until the unregistered contractor or unregistered subcontractor is registered. The stop order shall not apply to work by registered contractors or subcontractors on the public work.

(2) A stop order may be personally served upon the contractor or subcontractor by either of the following methods:

(A) Manual delivery of the order to the contractor or subcontractor personally.

(B) Leaving signed copies of the order with the person who is apparently in charge at the site of the public work and by thereafter mailing copies of the order by first class mail, postage prepaid to the contractor or subcontractor at the address on file with either of the following:

(i) The Contractors' State License Board.

(ii) The Secretary of State.

(3) The stop order shall be effective immediately upon service and shall be subject to appeal by the party contracting with the unregistered contractor or subcontractor, by the unregistered contractor or subcontractor, or both. The appeal, hearing, and any further review of the hearing decision shall be governed by the procedures, time limits, and other requirements specified in subdivision (a) of Section 238.1.

(k) Failure of a contractor or subcontractor, owner, director, officer, or managing agent of the contractor or subcontractor to observe a stop order issued and served upon him or her pursuant to subdivision (j) is guilty of a misdemeanor punishable by imprisonment in county jail not exceeding 60 days or by a fine not exceeding ten thousand dollars (\$10,000), or both.

(l) This section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work entered into on or after April 1, 2015. This section shall also apply to the performance of any public work, as defined in this chapter, on or after January 1, 2018, regardless of when the contract for public work was entered.

(m) Penalties received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(n) This section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.

**SEC. 19.** Section 1771.3 of the Labor Code is amended to read:

**1771.3.** (a) The State Public Works Enforcement Fund is hereby created as a special fund in the State Treasury to be available upon appropriation of the Legislature. All registration fees collected pursuant to Section 1725.5 and any other moneys as are designated by statute or order shall be deposited in the fund for the purposes specified in subdivision (b).

(b) Moneys in the State Public Works Enforcement Fund shall be used only for the following purposes:

(1) The reasonable costs of administering the registration of contractors and subcontractors to perform public work pursuant to Section 1725.5.

(2) The costs and obligations associated with the administration and enforcement of the requirements of this chapter by the Department of Industrial Relations.

(3) The monitoring and enforcement of any requirement of this code by the Labor Commissioner on a public works project or in connection with the performance of public work as defined pursuant to this chapter.

(c) The annual contractor registration renewal fee specified in subdivision (a) of Section 1725.5, and any adjusted application or renewal fee, shall be set in amounts that are sufficient to support the annual appropriation approved by the Legislature for the State Public Works Enforcement Fund and not result in a fund balance greater than 25 percent of the appropriation. Any year-end balance in the fund greater than 25 percent of the appropriation shall be applied as a credit when determining any fee adjustments for the subsequent fiscal year.

(d) To provide adequate cashflow for the purposes specified in subdivision (b), the Director of Finance, with the concurrence of the Secretary of the Labor and Workforce Development Agency, may approve a short-term loan each fiscal year from the Labor Enforcement and Compliance Fund to the State Public Works Enforcement Fund.

(1) The maximum amount of the annual loan allowable may be up to, but shall not exceed 50 percent of the appropriation authority of the State Public Works Enforcement Fund in the same year in which the loan was made.

(2) For the purposes of this section, a "short-term loan" is a transfer that is made subject to both of the following conditions:

(A) Any amount loaned is to be repaid in full during the same fiscal year in which the loan was made, except that repayment may be delayed until a date not more than 30 days after the date of enactment of the annual Budget Act for the subsequent fiscal year.

(B) Loans shall be repaid whenever the funds are needed to meet cash expenditure needs in the loaning fund or account.

**SEC. 20.** Section 1771.4 of the Labor Code is amended to read:

**1771.4.** (a) All of the following are applicable to all public works projects that are otherwise subject to the requirements of this chapter:

(1) The call for bids and contract documents shall specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

(2) The awarding body shall post or require the prime contractor to post job site notices, as prescribed by regulation.

(3) Each contractor and subcontractor shall furnish the records specified in Section 1776 directly to the Labor Commissioner, in the following manner:

(A) At least monthly or more frequently if specified in the contract with the awarding body.

(B) In a format prescribed by the Labor Commissioner.

(4) If the contractor or subcontractor is not registered pursuant to Section 1725.5 and is performing work on a project for which registration is not required because of subdivision (f) of Section 1725.5, the unregistered contractor or subcontractor is not required to furnish the records specified in Section 1776 directly to the Labor Commissioner but shall retain the records specified in Section 1776 for at least three years after completion of the work.

(5) The department shall undertake those activities it deems necessary to monitor and enforce compliance with prevailing wage requirements.

(b) The Labor Commissioner may exempt a public works project from compliance with all or part of the requirements of subdivision (a) if either of the following occurs:

(1) The awarding body has enforced an approved labor compliance program, as defined in Section 1771.5, on all public works projects under its authority, except those deemed exempt pursuant to subdivision (a) of Section 1771.5, continuously since December 31, 2011.

(2) The awarding body has entered into a collective bargaining agreement that binds all contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.

(c) The requirements of paragraph (1) of subdivision (a) shall only apply to contracts for public works projects awarded on or after January 1, 2015.

(d) The requirements of paragraph (3) of subdivision (a) shall apply to all contracts for public work, whether new or ongoing, on or after January 1, 2016.

**SEC. 21.** Section 1773.3 of the Labor Code is amended to read:

**1773.3.** (a) (1) An awarding agency shall provide notice to the Department of Industrial Relations of any public works contract subject to the requirements of this chapter, within 30 days of the award, but in no event later than the first day in which a contractor has workers employed upon the public work.

(2) The notice shall be transmitted electronically in a format specified by the department and shall include the name and registration number issued by the Department of Industrial Relations pursuant to Section 1725.5 of the contractor, the name and registration number issued by the Department of Industrial Relations pursuant to Section 1725.5 of any subcontractor listed on the successful bid, the bid and contract award dates, the contract amount, the estimated start and completion dates, job site location, and any additional information the department specifies that aids in the administration and enforcement of this chapter.

(b) In lieu of responding to any specific request for contract award information, the department may make the information provided by awarding bodies pursuant to this section available for public review on its Internet Web site.

(c) (1) An awarding agency that fails to provide the notice required by subdivision (a) or that enters into a contract with or permits an unregistered contractor or subcontractor to engage in the performance of any public work in violation of the requirements of Section 1771.1, shall, in addition to any other sanction or penalty authorized by law, be subject to a civil penalty of one hundred dollars (\$100) for each day in violation of either requirement, not to exceed an aggregate penalty of ten thousand dollars (\$10,000) for each project.

(2) The Labor Commissioner shall use the same standards specified in subparagraph (A) of paragraph (2) of subdivision (a) of Section 1775 when determining the severity of the violation and what penalty to assess, and may waive the penalty for a first time violation that was unintentional and did not hinder the Labor Commissioner's ability to monitor and enforce compliance with the requirements of this chapter.

(d) An awarding agency shall withhold final payment due to the contractor until at least 30 days after all of the required information in paragraph (2) of subdivision (a) has been submitted, including, but not limited to, providing a complete list of all subcontractors. If an awarding agency makes a final payment to a contractor after that time and an unregistered contractor or subcontractor is found to have worked on the project, the awarding agency shall be subject to a civil penalty assessed by the Labor Commissioner of one hundred dollars (\$100) for each full calendar day of noncompliance, for a period of up to 100 days, for each unregistered contractor or subcontractor.

(e) The Labor Commissioner may issue a citation for civil penalties to the awarding body pursuant to subdivisions (c) and (d). The citation shall be served pursuant to Section 1013 of the Code of Civil Procedure by first-class and certified mail.

(f) Whenever the Labor Commissioner determines that an awarding agency has willfully violated the requirements of this section or chapter with respect to two or more public works contracts or projects in any 12-month period, the awarding agency shall be ineligible to receive state funding or financial assistance for any construction project undertaken by or on behalf of the awarding agency for one year, as defined by subdivision (d) of Section 1782. The debarment procedures adopted by the Labor Commissioner pursuant to Section 1777.1 shall apply to any determination made under this subdivision.

(g) A contractor or subcontractor shall not be liable for any penalties assessed against an awarding agency pursuant to this section. An awarding agency may not require a contractor or subcontractor to indemnify or otherwise be liable for any penalties assessed against an awarding agency pursuant to this section.

(h) Penalties received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(i) This section shall apply only if the public works contract is for a project of greater than twenty-five thousand dollars (\$25,000) when the project is for construction, alteration, demolition, installation, or repair work or if the public works contract is for a project of greater than fifteen thousand dollars (\$15,000) when the project is for maintenance work.

**SEC. 22.** Section 1773.6 of the Labor Code is amended to read:

**1773.6.** If during any quarterly period the Director of Industrial Relations shall determine that there has been a change in any prevailing rate of per diem wages in any locality he or she shall make such change available to the awarding body and his or her determination shall be final. Such determination by the Director of Industrial Relations shall not be effective as to any contract for which the notice to bidders has been published.

**SEC. 23.** Section 1778 of the Labor Code is amended to read:

**1778.** Every person, who individually or as a representative of an awarding or public body or officer, or as a contractor or subcontractor doing public work, or agent or officer thereof, who takes, receives, or conspires with another to take or receive, for his or her own use or the use of any other person any portion of the wages of any worker or working subcontractor, in connection with services rendered upon any public work is guilty of a felony.

**SEC. 24.** Section 1780 of the Labor Code is amended to read:

**1780.** Any person acting on behalf of the State or any political subdivision, or any contractor or subcontractor or agent or representative thereof, doing any public work who places any order for the employment of a worker on public work where the filling of the order for employment involves the charging of a fee, or the receiving of a valuable consideration from any applicant for employment is guilty of a misdemeanor.

**SEC. 25.** Section 1811 of the Labor Code is amended to read:

**1811.** The time of service of any worker employed upon public work is limited and restricted to eight hours during any one calendar day, and 40 hours during any one calendar week, except as hereinafter provided for under Section 1815.

**SEC. 26.** Section 1860 of the Labor Code is amended to read:

**1860.** The awarding body shall cause to be inserted in every public works contract a clause providing that, in accordance with the provisions of Section 3700, every contractor will be required to secure the payment of compensation to his or her employees.

**SEC. 27.** Section 2065 of the Labor Code is amended to read:

**2065.** (a) The Car Wash Worker Restitution Fund is established in the State Treasury.

(1) The following moneys shall be deposited into this fund:

(A) The annual fee required pursuant to subdivision (b) of Section 2059.

(B) Fifty percent of the fines collected pursuant to Section 2064.

(C) Pursuant to subdivision (b) of Section 2059, an amount equal to 20 percent of the initial registration fee required pursuant to subdivision (a) of Section 2059.

(2) Upon appropriation by the Legislature, the moneys in the fund shall be disbursed by the commissioner only to persons determined by the commissioner to have been damaged by the failure to pay wages and penalties and other damages by any employer.

(A) In making this determination, the Labor Commissioner shall disburse amounts from the fund to ensure the payment of wages, interest, and any damages or other monetary relief arising from the violation of orders of the Industrial Welfare Commission or from a violation of this code, including statutory penalties recoverable by an employee, determined to be due to a car wash worker as a result of a violation of this code by a registered or unregistered car wash business.

(B) Any disbursement shall be made pursuant to a claim for recovery from the fund in accordance with procedures prescribed by the Labor Commissioner.

(C) Any disbursed funds subsequently recovered by the Labor Commissioner from a liable party pursuant to an assignment of the claim to the commissioner for recovery of due amounts, including recovery from a surety under a bond pursuant to Section 2055, or which are otherwise recovered by the Labor Commissioner from a liable party, shall be returned to the fund.

(b) The Car Wash Worker Fund is established in the State Treasury.

(1) The following moneys shall be deposited into this fund:

(A) Fifty percent of the fines collected pursuant to Section 2064.

(B) The initial registration fee required pursuant to subdivision (a) of Section 2059, less the amount specified in subparagraph (C) of paragraph (1) of subdivision (a).

(2) Upon appropriation by the Legislature, the moneys in this fund shall be applied to all direct and indirect costs incurred by the commissioner in administering this part and all direct and indirect costs of enforcement and investigation of the car washing and polishing industry.

(c) The Department of Industrial Relations may establish by regulation those procedures necessary to carry out this section.

**SEC. 28.** Section 2675.5 of the Labor Code is amended to read:

**2675.5.** (a) The commissioner shall deposit seventy-five dollars (\$75) of each registrant's annual registration fee, required pursuant to paragraph (5) of subdivision (a) of Section 2675, into one separate account. Funds from the separate account shall be disbursed by the commissioner only to persons determined by the commissioner to have been damaged by the failure to pay wages and benefits by any garment manufacturer, jobber, contractor, or subcontractor.

(1) In making these determinations, the Labor Commissioner shall disburse amounts from the fund to ensure the payment of wages and benefits, interest, and any damages or other monetary relief arising from the violation of orders of the Industrial Welfare Commission or from a violation of this code, including statutory penalties recoverable by an employee, determined to be due to a garment worker by a registered or unregistered garment business.

(2) A disbursement shall be made pursuant to a claim for recovery from the fund in accordance with procedures prescribed by the Labor Commissioner.

(3) Any disbursed funds subsequently recovered by the Labor Commissioner, pursuant to an assignment of the claim to the commissioner for recovery, including recovery from a surety under a bond pursuant to Section 2675.5, or otherwise recovered by the Labor Commissioner from a liable party, shall be returned to the separate account.

(b) The remainder of each registrant's annual registration fee not deposited into the special account pursuant to subdivision (a) shall be deposited in a subaccount and applied to costs incurred by the commissioner in administering the provisions of Section 2673.1, Section 2675, and this section, upon appropriation by the Legislature.

**SEC. 29.** Section 6310 of the Labor Code is amended to read:

**6310.** (a) No person shall discharge or in any manner discriminate against any employee because the employee has done any of the following:

(1) Made any oral or written complaint to the division, other governmental agencies having statutory responsibility for or assisting the division with reference to employee safety or health, his or her employer, or his or her representative.

(2) Instituted or caused to be instituted any proceeding under or relating to his or her rights or has testified or is about to testify in the proceeding or because of the exercise by the employee on behalf of himself, herself, or others of any rights afforded him or her.

(3) Participated in an occupational health and safety committee established pursuant to Section 6401.7.

(4) Reported a work-related fatality, injury, or illness, requested access to occupational injury or illness reports and records that are made or maintained pursuant to Subchapter 1 (commencing with Section 14000) of Chapter 1 of Division 1 of Title 8 of the California Code of Regulations, or exercised any other rights protected by the federal Occupational Safety and Health Act (29 U.S.C. Sec. 651 et seq.), except in cases where the employee alleges he or she has been retaliated against because he or she has filed or made known his or her intention to file a workers' compensation claim pursuant to Section 132a, which is under the exclusive jurisdiction of the Workers' Compensation Appeals Board.

(b) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because the employee has made a bona fide oral or written complaint to the division, other governmental agencies having statutory responsibility for or assisting the division with reference to employee safety or health, his or her employer, or his or her representative, of unsafe working conditions, or work practices, in his or her employment or place of employment, or has participated in an employer-employee occupational health and safety committee, shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer. Any employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for rehiring or promotion by a grievance procedure, arbitration, or hearing authorized by law, is guilty of a misdemeanor.

(c) An employer, or a person acting on behalf of the employer, shall not retaliate against an employee because the employee is a family member of a person who has, or is perceived to have, engaged in any acts protected by this section.

(d) For purposes of this section, "employer" or "a person acting on behalf of the employer" includes, but is not limited to, a client employer as defined in paragraph (1) of subdivision (a) of Section 2810.3 and an employer listed in subdivision (b) of Section 6400.

**SEC. 30.** Section 6427 of the Labor Code is amended to read:

**6427.** (a) Any employer who violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, and the violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to twelve thousand four hundred seventy-one dollars (\$12,471) for each violation.

(b) Commencing on January 1, 2018, and each January 1 thereafter, the maximum penalty amount specified in this section shall be increased based on the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), not seasonally adjusted, for the month of October immediately preceding the date of the adjustment, as compared to the prior year's October CPI-U. Any regulation issued pursuant to this section increasing penalty amounts based on the annual increase in the CPI-U shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), except that the regulation shall be filed with the Office of Administrative Law for publication in the California Code of Regulations. Any penalty shall be calculated using the penalty amounts in effect during the calendar year in which the citation was issued.

**SEC. 31.** Section 6429 of the Labor Code is amended to read:

**6429.** (a) (1) Any employer who willfully or repeatedly violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, may be assessed a civil penalty of not more than one hundred twenty-four thousand seven hundred nine dollars (\$124,709) for each violation, but in no case less than eight thousand nine hundred eight dollars (\$8,908) for each willful violation.

(2) Commencing on January 1, 2018, and each January 1 thereafter, the penalty amounts specified in this section shall be increased based on the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), not seasonally adjusted, for the month of October immediately preceding the date of the adjustment, as compared to the prior year's October CPI-U. Any regulation issued pursuant to this section increasing penalty amounts based on the annual increase in the CPI-U shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), except that the regulation shall be filed with the Office of Administrative Law for publication in the California Code of Regulations. Any penalty shall be calculated using the penalty amounts in effect during the calendar year in which the citation was issued.

(b) Any employer who repeatedly violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, shall not receive any adjustment of a penalty assessed pursuant to this section on the basis of the regulations promulgated pursuant to subdivision (c) of Section 6319 pertaining to the good faith of the employer or the history of previous violations of the employer.

(c) The division shall preserve and maintain records of its investigations and inspections and citations for a period of not less than seven years.

**SEC. 32.** Section 6431 of the Labor Code is amended to read:

**6431.** (a) Any employer who violates any of the posting or recordkeeping requirements as prescribed by regulations adopted pursuant to Sections 6408 and 6410, or who fails to post any notice required by Section 3550, shall be assessed a civil penalty of up to twelve thousand four hundred seventy-one dollars (\$12,471) for each violation.

(b) Commencing on January 1, 2018, and each January 1 thereafter, the maximum penalty amount specified in this section shall be increased based on the percentage increase in the Consumer Price Index for All Urban Consumers (CPI-U), not seasonally adjusted, for the month of October immediately preceding the date of the adjustment, as compared to the prior year's October CPI-U. Any regulation issued pursuant to this section increasing maximum penalty amounts based on the annual increase in the CPI-U shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), except that the regulation shall be filed with the Office of Administrative Law for publication in the California Code of Regulations. Any penalty shall be calculated using the penalty amounts in effect during the calendar year in which the citation was issued.

**SEC. 33.** Section 6505.5 of the Labor Code is amended to read:

**6505.5.** (a) The division may, upon good cause shown, and after notice to the employer or contractor by the division and an opportunity to be heard, revoke or suspend any registration issued to the employer or contractor to do asbestos-related work until certain specified written conditions are met.

(b) Any person who owns a commercial or industrial building or structure, any employer who engages in or contracts for asbestos-related work, any contractor, public agency, or any employee acting for any of the foregoing, who, contracts for, or who begins, asbestos-related work in any commercial or industrial building or structure built prior to 1978 without first determining if asbestos-containing material is present, and thereby fails to comply with the applicable laws and regulations, is subject to one of the following penalties:

(1) For a knowing or negligent violation, a fine of not more than five thousand dollars (\$5,000) or imprisonment in the county jail for not more than six months, or both the fine and imprisonment.

(2) For a willful violation which results in death, serious injury or illness, or serious exposure, a fine of not more than ten thousand dollars (\$10,000) or imprisonment in the county jail for not more than one year, or both the fine and imprisonment. A second or subsequent conviction under this paragraph may be punishable by a fine of not more than twenty thousand dollars (\$20,000) or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

(c) It is a defense to an action for violation of this section if the owner, contractor, employer, public agency, or agent thereof, proves, by a preponderance of the evidence, that he or she made a reasonable effort to determine whether asbestos was present.

**SEC. 34.** Section 7381 of the Labor Code is amended to read:

**7381.** (a) Notwithstanding Sections 6319 and 6425, if serious injury or death is caused by any serious or willful repeated violation of a crane standard, order, or special order, or by any failure to correct a serious violation of a crane standard, order, or special order within the time specified for its correction, the employer shall be assessed a civil penalty in an amount equal to double the maximum penalty allowable for each violation contributing to the injury or death.

(b) Notwithstanding any provision of this division, any employer who violates any tower crane standard, order, or special order, if that violation is a serious violation, shall be assessed a civil penalty of not less than one thousand dollars (\$1,000) for each serious violation. The penalty shall not be reduced for any of the reasons listed in Section 6319.

**SEC. 35.** Section 9060 of the Labor Code is amended to read:

**9060.** The civil penalties prescribed by Chapter 4 (commencing with Section 6423) of Part 1 shall be applicable to violations of standards and special orders regulating the use of carcinogens, except as modified by the following:

(a) A civil penalty assessed against an employer because of failure to report, as required by standards specified in Section 9030, shall be not less than five hundred dollars (\$500).

(b) A civil penalty assessed pursuant to Section 6429 for repeated violations of standards or special orders specified in subdivision (a) shall be not less than five thousand dollars (\$5,000).

(c) A civil penalty assessed pursuant to Section 6429 for repeated serious violations shall be not less than ten thousand dollars (\$10,000).

The maximum limitations on civil penalties specified in Chapter 4 (commencing with Section 6423) of Part 1 shall be applicable to civil penalties for which the minimum amount is prescribed by subdivision (a), (b), or (c). Nothing in this section shall supersede any provision of law prescribing criminal offenses or penalties.



**SEC. 36.** It is the intent of the Legislature that any increased revenues resulting from the changes made by this act in the Military and Veterans Code other than in Sections 1410, 1412, and 1416 of that code, especially increased revenues due to increases in federal participation, remain in the CalVet budget. The funds should be used to expand supportive services to other veterans and their families, including transition services, housing assistance, health services, mental health services, small business assistance, and employment services and job training.

**SEC. 37.** Section 79.3 is added to the Military and Veterans Code, to read:

**79.3.** (a) Notwithstanding any other law, the department may adopt, amend, or repeal regulations concerning the administration and operation of the Veterans' Home of California. Except as otherwise provided, these regulations shall be adopted pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(b) The department may adopt, amend, and repeal emergency regulations concerning the administration and operation of the Veterans' Home of California in compliance with Section 11346.1 of the Government Code. However, if special circumstances, as defined in subdivision (c), are present, then those regulations shall not be subject to the requirements regarding findings of emergency in paragraph (2) of subdivision (b) of Section 11346.1 of the Government Code. The emergency regulations adopted pursuant to this subdivision shall remain in effect for one year, or until the effective date of regulations adopted pursuant to subdivision (a), whichever is earlier.

(c) Special circumstances shall be deemed to exist if the Secretary of Veterans Affairs states in writing to the Office of Administrative Law and the Department of Finance that the adoption, amendment, or repeal is necessary for one or more of the following reasons:

- (1) The possible loss or delay in the receipt of federal, state, or local funding.
- (2) The need to maintain licensing or certification by a state or federal agency for any Veterans' Home of California facility or program.
- (3) The need to protect against a serious and immediate threat to the health or safety of residents or staff in one or more of the facilities of the Veterans' Home of California.
- (4) The urgent need to comply immediately with recommendations of the Department of Finance or the California State Auditor.

**SEC. 38.** Section 79.4 is added to the Military and Veterans Code, to read:

**79.4.** (a) The department shall do all of the following concerning the operation and administration of the veterans' homes:

(1) Take the necessary steps to ensure that all medical or other facilities under its jurisdiction satisfy all applicable federal and state and local licensing, certification, and other approval requirements, including, but not limited to, the requirements of the United States Department of Veterans Affairs, the federal Centers for Medicare and Medicaid Services, the State Department of Public Health, the State Department of Social Services, and the California State Board of Pharmacy, including preparation of plans of correction as required.

(2) Develop and maintain clinical policies and procedures, including all of the following:

(A) Community standards for best clinical practices, including, but not limited to, practices recommended by the federal Centers for Disease Control and Prevention and the federal Centers for Medicare and Medicaid Services.

(B) The appropriate clinical standard of practice.

(C) Adopt fire and life safety policies and procedures consistent with the requirements of the State Fire Marshal and other applicable regulatory and licensing agencies.

(D) Adopt earthquake and environmental protection policies and procedures.

(b) The department may adopt regulations to implement this section. The adoption, amendment, or repeal of a regulation authorized by this section is hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

**SEC. 39.** Section 1010 of the Military and Veterans Code is repealed.

**SEC. 40.** Section 1010 is added to the Military and Veterans Code, to read:

**1010.** As used in this chapter:

(a) "Home" means any facility operated by the department for the provision of long-term care, assisted living, adult day health, independent living, or other health care services to eligible veterans. The Veterans' Home of California system is comprised of the following subsidiary home locations:

- (1) The Veterans' Home of California, Yountville, in Napa County.
- (2) The Veterans' Home of California, Barstow, in San Bernardino County.
- (3) The Veterans' Home of California, Chula Vista, in San Diego County.
- (4) The Veterans' Home of California, West Los Angeles, in Los Angeles County.
- (5) The Veterans' Home of California, Lancaster, in Los Angeles County.
- (6) The Veterans' Home of California, Ventura, in Ventura County.
- (7) The Veterans' Home of California, Fresno, in Fresno County.
- (8) The Veterans' Home of California, Redding, in Shasta County.

(b) "Administrator" means the senior executive appointed to operate a home.

(c) "Department" means the Department of Veterans Affairs.

(d) "Member" means a veteran or nonveteran spouse or domestic partner who has been admitted to residency at a veterans' home.

(e) "Secretary" means the Secretary of Veterans Affairs.

(f) "Veteran" means a person who is eligible for benefits under this chapter.

**SEC. 41.** Section 1011 of the Military and Veterans Code is repealed.

**SEC. 42.** Section 1011 is added to the Military and Veterans Code, to read:

**1011.** (a) There is in the department a Veterans' Home of California system, as defined in subdivision (a) of Section 1010.

(b) There shall be an administrator for each home or homesite in that system, who shall be recommended by the Secretary of Veterans Affairs and appointed by the Governor, and shall be located at that home or homesite. The salary for each administrator shall be subject to the approval of the Department of Human Resources.

**SEC. 43.** Section 1012 of the Military and Veterans Code is amended to read:

**1012.** (a) Except as provided in Section 1012.4, veterans' homes are for aged or disabled persons who served in the Armed Forces of the United States of America who were discharged or released from active duty under conditions other than dishonorable, who are eligible for health care benefits, hospitalization or domiciliary care in a veterans' facility in accordance with the rules and regulations of the United States Department of Veterans Affairs, and who are bona fide residents of this state at the time of application; and for the spouses or domestic partners of these persons if all of the following conditions, as are applicable, are satisfied:

- (1) Space is available.
- (2) Joint residency will be in the best interests of the home member, as determined by the administrator.
- (3) The spouse or domestic partner is a bona fide resident of this state at the time of application for admission to the home and either is married to, and has resided with, the veteran applicant for at least one year, or is the widow or widower of a recipient of the Medal of Honor or a former prisoner of war (POW).
- (4) The home member and spouse or domestic partner agree to pay the fees and charges for joint residency, or for a widow or widower, for the residency, that the department may establish.

(b) (1) Veterans who qualify for benefits under this chapter due to service during a time of war shall be given priority over veterans who qualify due to service during a time of peace.

(2) Veterans who qualify for benefits under this chapter who are recipients of the Medal of Honor or who were prisoners of war (POWs) shall be given priority over all other qualified veterans, regardless of the level of care required.

(3) Veterans who qualify for benefits under this chapter who have been rated by the United States Department of Veterans Affairs as being 70 percent or greater service-connected disabled may be given priority over other veterans.

(4) The secretary may establish needs-based criteria for admission to the homes, and any veteran meeting those criteria may be given priority over veterans who do not qualify for prioritization under paragraph (2) or (3) and can afford to provide for their own care elsewhere.

(5) Paragraphs (3) and (4) shall not apply to veterans who, as of January 1, 2018, are on a wait list awaiting admission to a veterans' home.

(c) A member spouse or domestic partner may continue residence after the veteran's death so long as they continue to pay all applicable fees.

(d) The property of the home shall be used for this purpose.

**SEC. 44.** Section 1012.1 of the Military and Veterans Code is amended to read:

**1012.1.** (a) Prior to the admission of a veteran, spouse, or domestic partner as a member of a home, and at any time during which a veteran, spouse, or domestic partner is a member of a home, the department may investigate an applicant's or member's financial status or personal background to determine the applicant's or member's income, assets, and suitability for residence at a home to ensure that the veteran is unable to pay for necessary hospital or domiciliary care outside of the home. The department may contract with any other state, federal, or private agency to conduct the investigation in its behalf.

(b) Providing false financial and other information by an applicant or member or nonpayment of fees may be grounds for financial penalties or denial of admission to, or discharge from, a home.

**SEC. 45.** Section 1012.2 of the Military and Veterans Code is amended to read:

**1012.2.** (a) (1) Notwithstanding any other law, any member of the home who is receiving an aid and attendance allowance from the United States Department of Veterans Affairs for his or her own care shall pay to the home an amount equal to that allowance in all levels of care excluding domiciliary.

(2) Paragraph (1) shall not apply to a member of a home who is in intermediate care or skilled nursing care and has a disability that has been rated by the United States Department of Veterans Affairs as being 70 percent or more service-connected, as determined under Part 4 of Title 38 of the Code of Federal Regulations.

(b) One hundred percent of the moneys received by a home under this section shall be placed to the credit of the home and shall augment the current appropriation for the support of the home.

**SEC. 46.** Section 1012.3 of the Military and Veterans Code is amended to read:

**1012.3.** (a) Members of a home, including members who are nonveteran spouses or domestic partners, shall pay fees as determined by the department to cover room and board and other expenses defined in regulations, except that the total of the individual member's fees for any fiscal year shall not be greater than as set forth in the following schedule:

(1) Forty-seven and one-half percent of the member's annual income for domiciliary care.

(2) Fifty-five percent of the member's annual income for residential care for the elderly or assisted living.

(3) Sixty-five percent of the member's annual income for intermediate care.

(4) Seventy percent of the member's annual income for skilled nursing care.

(b) Subdivision (a) shall not apply to a member of a home who is in intermediate care or skilled nursing care and has a disability that has been rated by the United States Department of Veterans Affairs as being 70 percent or more service-connected, as determined under Part 4 of Title 38 of the Code of Federal Regulations and whose related payments made under Section 51.41 of Title 38 of the Code of Federal Regulations are considered by the United States Department of Veterans Affairs as payment in full for the member's care.

(c) Subdivision (a) shall not apply to penalties for late fee payment.

(d) Failure to pay the required fees may be cause for the administrator to refer the member to collections or dismiss the member from the home.

**SEC. 47.** Section 1012.4 of the Military and Veterans Code is amended to read:

**1012.4.** Notwithstanding Section 1012, the department may arrange by contract or any other form of agreement with the United States Department of Veterans Affairs to do all of the following:

(a) Authorize veterans, collateral dependents, and other beneficiaries authorized by the United States Department of Veterans Affairs, who are not members of a Veterans' Home of California, to receive outpatient medical services at that home.

(b) Establish rates for reimbursement from the federal government to the State of California for outpatient services rendered by a Veterans' Home of California to veterans who are authorized under subdivision (a).

(c) Establish and charge fees for outpatient services rendered by a Veterans' Home of California.

(d) The outpatient services and reimbursement procedures authorized under subdivisions (a), (b), and (c) may be established for any veterans' home established by the department.

**SEC. 48.** Section 1012.6 of the Military and Veterans Code is repealed.

**SEC. 49.** Section 1014 of the Military and Veterans Code is repealed.

**SEC. 50.** Section 1015 of the Military and Veterans Code is repealed.

**SEC. 51.** Section 1023 of the Military and Veterans Code is amended to read:

**1023.** (a) The department may sue and be sued in any of the courts of this state. All property held by the department for a home shall be held in trust for the state and for the use and benefit of the home. The department shall manage the homes and administer their affairs, and, subject to the direction of the secretary, adopt rules and regulations for the government of the homes in conformity, as nearly as possible, to the rules and regulations of the United States Department of Veterans Affairs for their facilities.

(b) The Director of General Services may lease or let any real property held by the department for a home, and not needed for any direct or immediate purpose of the home, to any entity or person upon terms and conditions determined to be in the best interests of the home. In any leasing or letting, primary consideration shall be given to the use of real property for agricultural purposes, and except as provided in Section 1048, all moneys received in connection therewith shall be deposited in the General Fund to the credit of, and shall augment the current appropriation for the support of, the home.

**SEC. 52.** Section 1024 of the Military and Veterans Code is repealed.

**SEC. 53.** Section 1025 of the Military and Veterans Code is amended to read:

**1025.** The home shall be open at any time to the inspection of the Secretary of the United States Department of Veterans Affairs or his or her authorized representative.

**SEC. 54.** Section 1026 of the Military and Veterans Code is repealed.

**SEC. 55.** Section 1030.1 of the Military and Veterans Code is amended to read:

**1030.1.** The department may enter into contracts with the United States or any agency thereof, any governmental agency, any person, or any corporation for the performance of services or manufacture of articles by disabled members of the homes. The proceeds of a contract described in this section, less the actual operating expenses, shall be paid to the individual disabled veterans who perform the services or labor.

**SEC. 56.** Section 1031 of the Military and Veterans Code is amended to read:

**1031.** All moneys received by the state from the United States for the use of a home shall be placed to the credit of and shall augment the current appropriation for the support of the home.

**SEC. 57.** Section 1032 of the Military and Veterans Code is amended to read:

**1032.** The department shall fix a schedule of wages for members who are employed at a home, subject to the approval of the Director of Finance.

**SEC. 58.** Section 1033.1 of the Military and Veterans Code is repealed.

**SEC. 59.** Section 1033.1 is added to the Military and Veterans Code, to read:

**1033.1.** (a) The department may pay the premiums on behalf of its members who are required to participate in eligible coverage, including medical assistance provisions contained in Title XVIII and Title XIX of the federal Social Security Act, from funds appropriated for the support of a home.

(b) The department may pay for copayments and deductibles for members receiving care under the limitations of the veterans' home medical program and under the direction of the veterans' home physician. Medical expenditures in excess of the premiums, copayments, and deductibles are the responsibility of the member.

(c) When entering a home and while residing in a home, a member is required to obtain and maintain basic medical insurance policies that are in accordance with all applicable state and federal laws and regulations.

**SEC. 60.** Section 1033.2 of the Military and Veterans Code is repealed.

**SEC. 61.** Section 1034 of the Military and Veterans Code is amended to read:

**1034.** Except money received from this state for disbursement, all moneys received by a home, or by an officer of a home, including pension and other moneys belonging to members and other trust moneys, shall be immediately paid to the administrator of the home. On or before the tenth day of each month the administrator of each home shall forward to the State Treasurer all moneys in his or her possession, except pension and other moneys belonging to members, trust moneys, donations made to each home, and the emergency fund, hereinafter mentioned, together with a statement of the sources from which the moneys have been received. The moneys shall be deposited by the State Treasurer to the credit of the General Fund; provided, however, that abatements of support expenditures shall be credited to the support appropriation current at the time of collection.

**SEC. 62.** Section 1035 of the Military and Veterans Code is amended to read:

**1035.** (a) (1) All moneys and other personal property of any member held by a home, or by its authority, or left by the member upon the premises of a home, shall, upon the death of the member, be held by the home in trust to be paid or delivered by the home upon proof determined to be proper to the administrator, directly and without probate, to the heirs of the member, except that the administrator may disburse funds of any deceased member for payment of funeral expenses or any obligation owed to any home, including the cost of any care rendered by a home in excess of the fees paid by the member to the home. Any funds of the deceased member representing the cost of care rendered by a home in excess of the fees paid by the member to the home shall be paid to the Morale, Welfare, and Recreation Fund.

(2) This subdivision applies only to veterans, spouses, and domestic partners becoming members of a home on or after January 1, 1984.

(b) (1) All moneys and other personal property of any member held by a home, or by its authority, or left by the member upon the premises of a home, shall, upon the death of the member, be held by the home in trust to be paid or delivered by the home upon proof determined to be proper to the administrator, directly and without probate, to the spouse, domestic partner, children, grandchildren, or father or mother of the member, except that the administrator may disburse funds of any deceased member for payment of funeral expenses or any obligation owed to any home.

(2) This subdivision applies only to veterans, spouses, and domestic partners who have become members of a home prior to January 1, 1984.

**SEC. 63.** Section 1035.05 of the Military and Veterans Code is amended to read:

**1035.05.** (a) (1) All moneys and other personal property of any member other than that described in Section 1035 shall, upon the death of the member, first be paid to the administrator for payment of funeral expenses or any obligation owed to any home remaining unpaid after the disbursement required by Section 1035 is completed; and second, in the absence of an heir or heirs or a will, pass and descend to and become the property of the state for credit to the Morale, Welfare, and Recreation Fund. If the total value of that property in the state over and above any amounts due the veteran for services in the Armed Forces of the United States or from any other employment does not exceed fifteen thousand dollars (\$15,000), the home may, without procuring letters of administration, collect any money due the decedent, receive the property of the decedent, and have any evidences of interest, indebtedness, or right transferred to it upon furnishing the person, representative, corporation, official, or

body owning the money, having custody of the property, or acting as registrar or transfer agent of the evidence of that interest, indebtedness, or right, with an affidavit showing the right of the home to receive the money or property or to have the evidences transferred. The receipt of the home shall constitute sufficient acquittance for any payment of money or delivery of property made pursuant to this section and shall fully discharge that person, representative, corporation, officer, or body from any further liability with reference thereto, without the necessity of inquiring into the truth of any of the facts stated in the affidavit. However, that payment or transfer does not preclude administration when necessary to enforce payment of the decedent's debts, and the administrator may, upon proof determined to be sufficient, pay the debts directly and without administration.

(2) This subdivision applies only to veterans, spouses, and domestic partners becoming members of a home on or after January 1, 1984.

(b) (1) All moneys and other personal property of any member other than that described in Section 1035 shall, upon the death of the member, in the absence of a spouse, domestic partner, children, grandchildren, or father or mother, pass and descend to and become the property of the state for credit to the Morale, Welfare, and Recreation Fund. If the total value of that property in the State of California over and above any amounts due the veteran for services in the Armed Forces of the United States or from any other employment does not exceed fifteen thousand dollars (\$15,000), the home may, without procuring letters of administration or awaiting probate of any will, collect any money due the decedent, receive the property of the decedent and have any evidences of interest, indebtedness, or right transferred to it upon furnishing the person, representative, corporation, official, or body owning the money, having custody of that property, or acting as registrar or transfer agent of the evidence of that interest, indebtedness, or right, with an affidavit showing the right of the home to receive that money or property or to have those evidences transferred. The receipt of the home shall constitute sufficient acquittance for any payment of money or delivery of property made pursuant to this section and shall fully discharge the person, representative, corporation, officer, or body from any further liability with reference thereto, without the necessity of inquiring into the truth of any of the facts stated in the affidavit. However, the payment or transfer does not preclude administration when necessary to enforce payment of the decedent's debts, and the administrator may, upon proof determined to be sufficient, pay those debts directly and without administration.

(2) This subdivision shall apply only to veterans, spouses, and domestic partners who have become members of a home prior to January 1, 1984.

(c) For the purpose of application to this section of the provisions of the Probate Code governing distribution of property, the home shall be deemed to be a beneficiary of the decedent.

**SEC. 64.** Section 1035.1 of the Military and Veterans Code is amended to read:

**1035.1.** (a) (1) A will executed by a member who was a member of a home at the time of death, whether executed prior or subsequent to January 1, 1984, which purports to leave any part of the member's estate to an officer or employee of a home, unless that officer or employee would be eligible to take by intestate succession under the probate laws of this state, is void as to that provision.

(2) This subdivision shall apply only to veterans, spouses, and domestic partners becoming members of a home on or after January 1, 1984.

(b) (1) A will heretofore or hereafter executed by a member, whether executed before or after admission to a home, shall not be valid as to any provision therein contained which purports to dispose, either directly or indirectly, of moneys or personal property to other than the spouse, domestic partner, children, grandchildren, or father or mother of the member. This section does not apply to any veteran, spouse, or domestic partner who is not a member of a home at the time of death.

(2) This subdivision shall apply only to veterans, spouses, or domestic partners who became members of a home prior to January 1, 1984.

**SEC. 65.** Section 1035.2 of the Military and Veterans Code is amended to read:

**1035.2.** Any personal property held by a home pursuant to Section 1035 that the administrator determines to be of no substantial monetary value may be immediately delivered to any heir, devisee, or legatee under a will of the deceased member, or to any other interested person who makes application therefor, or if unclaimed within one year, may be destroyed or used, as the administrator directs, for the benefit of the home or its members.

**SEC. 66.** Section 1035.3 of the Military and Veterans Code is amended to read:

**1035.3.** (a) (1) If no will or heir is discovered within two years after the death of the member, any moneys not exceeding fifteen thousand dollars (\$15,000) held by a home pursuant to Section 1035 and not paid or otherwise delivered to the heir or heirs or

pursuant to the will of the deceased member, or otherwise disbursed by the administrator pursuant to Section 1035, shall be paid to the Morale, Welfare, and Recreation Fund.

(2) If no will or heir is discovered within five years after the death of the member, any moneys exceeding fifteen thousand dollars (\$15,000) held by a home pursuant to Section 1035 and not paid or otherwise delivered to the heir or heirs or pursuant to the will of the deceased member, or otherwise disbursed by the administrator pursuant to Section 1035, shall be paid to the Morale, Welfare, and Recreation Fund.

(3) This subdivision applies only to veterans, spouses, and domestic partners becoming members of a home on or after January 1, 1984.

(b) (1) If no spouse, domestic partner, child, grandchild, or father or mother is discovered within two years after the death of the member, any moneys not exceeding fifteen thousand dollars (\$15,000) held by a home pursuant to Section 1035 and not paid or otherwise delivered to the spouse, domestic partner, children, grandchildren, or father or mother, or otherwise disbursed by the administrator pursuant to Section 1035, shall be paid to the Morale, Welfare, and Recreation Fund.

(2) If no spouse, domestic partner, child, grandchild, or father or mother is discovered within five years after the death of the member, any moneys exceeding fifteen thousand dollars (\$15,000) held by a home pursuant to Section 1035 and not paid or otherwise delivered to the spouse, domestic partner, children, grandchildren, or father or mother, or otherwise disbursed by the administrator pursuant to Section 1035, shall be paid to the Morale, Welfare, and Recreation Fund.

(3) This subdivision applies only to veterans, spouses, and domestic partners who have become members of a home prior to January 1, 1984.

**SEC. 67.** Section 1035.4 of the Military and Veterans Code is amended to read:

**1035.4.** (a) All personal property held or received by a home pursuant to Section 1035, other than moneys or property described in Section 1035.2, which is unclaimed by, or not otherwise delivered to, the heir or heirs or pursuant to the will of a deceased member within one year after death, may be sold by the administrator by public auction or private sale. The sale shall take place at a public place in the home, and notice of the sale shall be posted in that place at least 10 days previous to the date of the sale. The proceeds of the sale shall be credited to the Morale, Welfare, and Recreation Fund.

This subdivision applies only to veterans, spouses, and domestic partners becoming members of a home on or after January 1, 1984.

(b) All personal property held or received by a home pursuant to Section 1035, other than moneys or property described in Section 1035.2, which is unclaimed by, or not otherwise delivered to, the spouse, domestic partner, children, grandchildren, or father or mother of a deceased member within one year after death, may be sold by the administrator by public auction or private sale. The sale shall take place at a public place in the home, and notice of the sale shall be posted in that place at least 10 days previous to the date of the sale. The proceeds of the sale shall be credited to the Morale, Welfare, and Recreation Fund.

This subdivision applies only to veterans, spouses, and domestic partners who have become members of a home prior to January 1, 1984.

**SEC. 68.** Section 1035.5 of the Military and Veterans Code is amended to read:

**1035.5.** (a) The administrator shall provide to the heirs or devisees of every deceased member who became a member of a home on or after January 1, 1984, a statement or accounting of all charges made against the member's money or personal property under Sections 1035 to 1035.4, inclusive.

(b) Every veteran applying for membership in a home on or after January 1, 1984, shall be furnished a written explanation of the limitations and restrictions on the right to dispose of money and personal property contained in Sections 1035 to 1035.4, inclusive.

**SEC. 69.** Section 1035.6 of the Military and Veterans Code is amended to read:

**1035.6.** (a) The administrator shall provide each member of a home with a quarterly statement or accounting of all charges for the costs of care rendered to the member in excess of the member fee, as defined in subdivision (b). The quarterly statement or accounting of charges shall include, in plain, straightforward language, avoiding technical terms as much as possible and using a coherent and easily readable style, all of the following:

(1) A statement that the charges for the excess costs of care are provided to the member for informational purposes only.

(2) A statement that, if the member is a resident of a home at the time of death, the home may use his or her money or personal property that is in possession of the home or outside the home for payment of unreimbursed costs of care.

(3) A statement that advises the member to seek counsel from a legal expert to protect his or her assets.

(b) "Costs of care in excess of the member fee" means all costs that are not covered by the member contribution fee, including, but not limited to, the unreimbursed costs of medical or dental services rendered to the member, either by a home or under contract with a home. The Department of Veterans Affairs shall promulgate regulations specifying the costs that are in excess of the member contribution fee and constitute the unreimbursed costs of care.

(c) The quarterly statement or accounting described in subdivision (a) and any notice relating to quarterly statements posted in a home shall be in 14-point font or larger.

**SEC. 70.** Section 1035.7 of the Military and Veterans Code is amended to read:

**1035.7.** (a) Upon admission to a home, the administrator of each home shall provide written notice to the member informing him or her of costs of care that may be incurred in excess of the member contribution fee. The notification shall:

(1) Include an explanation of circumstances under which the member may incur costs that are in excess of the contribution fee.

(2) Specifically indicate that these excess costs of care are costs in addition to, or above and beyond, the member contribution fee.

(3) Provide examples of "excess costs of care that are frequently incurred by members."

(4) Inform the member that he or she will receive a quarterly accounting statement of the total excess costs of care, but that the statement is provided for informational purposes only.

(5) Inform the member that, if he or she is a resident of a home at the time of death, the home may disburse his or her moneys or personal property for payment of unreimbursed excess costs of care.

(6) Include a statement advising the member to seek counsel from a legal expert to protect his or her assets.

(7) Include the terms and conditions upon which the member fees and costs can be changed.

(b) The notification shall require the signature of the member that acknowledges that he or she has read and understands the notification.

(c) The notification shall be written in plain, straightforward language, avoiding technical terms as much as possible, and using a coherent and easily readable style.

(d) A copy of the notification, containing all the information specified in subdivision (a) and titled in large font "NOTICE TO RESIDENTS," shall be conspicuously posted in each home by the administrator of the home.

**SEC. 71.** Section 1036 of the Military and Veterans Code is amended to read:

**1036.** The members may voluntarily deposit money with a home, which the home shall receive and keep without charge as a trust fund.

**SEC. 72.** Section 1037 of the Military and Veterans Code is amended to read:

**1037.** The money belonging to a member and voluntarily deposited with a home may be withdrawn, in whole or in part, at the will of the member.

**SEC. 73.** Section 1038 of the Military and Veterans Code is amended to read:

**1038.** All money deposited with a home for a member shall be paid to him or her on demand, upon his or her discharge or voluntary departure from the home. If the money is not so demanded at the time of his or her discharge or departure or within a period of two years thereafter, if the amount does not exceed five thousand dollars (\$5,000), or within a period of five years thereafter, if the amount exceeds five thousand dollars (\$5,000) either by the member, or, in the event of the member's death after his or her discharge or departure, by the member's heirs, devisees, legatees, or qualified executor or administrator of his or her estate, the money shall be paid to the Morale, Welfare, and Recreation Fund.

**SEC. 74.** Section 1038.1 of the Military and Veterans Code is amended to read:



**1038.1.** All personal property other than money left at a home by a member at the time of his or her discharge or voluntary departure therefrom, unclaimed within a period of one year, either by the member or, in the event of his or her decease after his or her discharge or departure, by his or her heirs, devisees, legatees, or qualified executor or administrator of his or her estate, shall be sold in the manner described in Section 1035.4 and the proceeds paid to the Morale, Welfare, and Recreation Fund.

**SEC. 75.** Section 1038.5 of the Military and Veterans Code is amended to read:

**1038.5.** Any money deposited with a home by a member shall be credited with interest in compliance with applicable federal law and regulation, and shall be paid to the member or to his or her heirs, devisees, legatees, or the qualified executor or the administrator of his or her estate pursuant to Section 1037 or Section 1038.

**SEC. 76.** Section 1039.3 of the Military and Veterans Code is amended to read:

**1039.3.** The administrator, subject to the approval of the secretary, may accept cash donations or other gifts to be used for the welfare of the members. Cash shall be paid into trust funds as the administrator may establish, and shall be expended for promoting the welfare of the members and for the purpose designated by the donor.

**SEC. 77.** Section 1042 of the Military and Veterans Code is amended to read:

**1042.** All accrued interest on money turned over to the administrator and retained by him or her under this chapter shall be accounted for by the home and deposited to the credit of the Morale, Welfare, and Recreation Fund and used for the common benefit of members.

**SEC. 78.** Section 1042.1 of the Military and Veterans Code is amended to read:

**1042.1.** If any check is drawn upon any trust fund of a home, except checks drawn by members of the home on their own accounts, and remains unclaimed, or is not cashed, for a period of one year, it shall be canceled and the amount of the check shall be turned over to the administrator and be deposited to the credit of the Morale, Welfare, and Recreation Fund and used for the common benefit of the members of the homes.

**SEC. 79.** Section 1043 of the Military and Veterans Code is amended to read:

**1043.** With the exception of officers and employees and their families, no person shall be admitted to reside in a home who is not eligible under Section 1012.

**SEC. 80.** Section 1044 of the Military and Veterans Code is amended to read:

**1044.** The secretary may adopt rules and regulations governing the admission of applicants and may prescribe the conditions upon which they may enter and remain with a home.

**SEC. 81.** Section 1044.5 of the Military and Veterans Code is amended to read:

**1044.5.** (a) A member of a home has the right to complain and otherwise exercise the freedom of expression and assembly guaranteed by the Sections 2 and 3 of Article I of the California Constitution and the First Amendment to the United States Constitution. The administrator of the home shall inform each member in writing at the time of admission of the right to complain to the administrator about home accommodations and services. A notice of the right to complain shall be posted in the home. The administrator shall also inform each member of the right to complain to the board or to the Secretary of Veterans Affairs. Each member of a home shall be encouraged and assisted, throughout the period of stay in the home, to understand and exercise the rights of freedom of expression and assembly as a member and as a citizen. To this end, the member may voice grievances and recommend changes in policies and services to home staff, other members, and outside representatives of the member's choice, free from restraint, interference, coercion, discrimination, or reprisal, including retaliatory eviction.

(b) An administrator may not retaliate against any member who exercises the right to voice grievances by evicting the member. There shall be a rebuttable presumption that any eviction within 45 days of the exercise by a member of the right to voice grievances is retaliatory. This presumption does not apply in favor of a member who has failed to pay maintenance fees unless the member pays the overdue fees.

**SEC. 82.** Section 1045 of the Military and Veterans Code is amended to read:

**1045.** This chapter does not prevent the state from transferring the property and management of a home to the United States for a home of similar character.

**SEC. 83.** Section 1046 of the Military and Veterans Code is amended to read:

**1046.** (a) If it appears necessary or proper that a guardian or conservator of the estate of a member be appointed, the court, in its discretion, upon application of the administrator, or officer designated by the administrator, may appoint a home as guardian or conservator of the member's estate and cause letters of guardianship or conservatorship of the estate to be issued to the home.

(b) For the purposes of this chapter, a home is a corporation and, acting through an officer designated by the administrator, may act as guardian or conservator of estates, assignee, receiver, depository, or trustee under appointment of any court or by authority of any law of this state and may transact business in that capacity in the same manner as an individual, and for this purpose may sue and be sued in any court of this state.

(c) A home shall be appointed as guardian, conservator, assignee, receiver, depository, or trustee without bond. The home shall receive reasonable fees for its expenses for filing fees and attorneys' fees. The fees paid to the home may be used as a trust account from which may be drawn expenses for filing fees and attorneys' fees in all estates it undertakes to administer. Whenever the balance remaining in the trust account exceeds a sum determined to be necessary by the administrator for the payment of the filing fees and attorneys' fees incurred in the various estates, the excess shall be paid annually into the Morale, Welfare, and Recreation Fund.

(d) When acting as guardian or conservator of a member, a home may deposit the funds of the estate in the special deposit fund of the home, and may invest and reinvest the funds in securities which are legal investments for savings banks in this state.

**SEC. 84.** Section 1050 of the Military and Veterans Code is amended to read:

**1050.** Veterans' Home Allied Councils, which are established pursuant to the constitution of the Allied Council, Veterans' Home of California, for each home, and which are composed of members of each home, are hereby recognized as established advisory bodies to the administrator of each home. Each Veterans' Home Allied Council may also represent members who reside at the home for which the council was established in matters before the Legislature. In the course of providing that representation, each council shall comply with the following requirements:

(a) The council's representation shall be approved by a majority of the voting members of the council.

(b) The council shall not engage in any campaign or endorse public candidates in connection with that representation.

(c) The council's actions shall be in accordance with its constitution, bylaws, and policies and procedures.

**SEC. 85.** Section 1051 of the Military and Veterans Code is repealed.

**SEC. 86.** Section 1051 is added to the Military and Veterans Code, to read:

**1051.** (a) On or before January 1, 2019, the department shall create a transparent admissions and waiting list process for admission to the homes.

(b) On or before January 1, 2019, the department shall create a page on its Internet Web site that does all of the following:

(1) Explains the application and waiting list process developed in subdivision (a), including an explanation of the process, laws, and regulations pertaining to admission, the wait list, and continuum of care.

(2) Allows online submission of applications.

(3) Provides a reasonable level of information to applicants about the projected wait time at each home for various levels of care, enhancing applicant's ability to make long-term care planning decisions.

(4) Allows an applicant to check his or her current wait list status and overall application status.

**SEC. 87.** Section 1410 of the Military and Veterans Code is amended to read:

**1410.** (a) (1) The department, in voluntary cooperation with local government entities in the County of Orange pursuant to Section 1412, shall acquire, study, design, develop, construct, and equip a state-owned and state-operated Southern California Veterans Cemetery, which shall be located at the 125 acres known as the Bake Parkway site.

(2) The department shall oversee and coordinate the acquisition, study, design, development, and construction of the cemetery.

(3) For purposes of this chapter, "department" means the Department of Veterans Affairs.

(b) (1) Subject to the eligibility requirements described in Section 2402 of Title 38 of the United States Code, as amended from time to time, honorably discharged veterans, their spouses, and eligible dependent children are eligible for interment in the cemetery. The department shall establish a fee to be charged for interment of veteran spouses and eligible dependent children. The amount of the fee shall not exceed the reasonable costs to the department for interment in the cemetery.

(2) Subject to Section 1418, for the purposes of this subdivision, the department shall adopt regulations to specify the eligibility requirements for interment in the cemetery.

(3) All fees received pursuant to paragraph (1) shall be deposited in the Southern California Veterans Cemetery Perpetual Maintenance Fund created pursuant to Section 1412.

**SEC. 88.** Section 1412 of the Military and Veterans Code is amended to read:

**1412.** (a) For the purposes of Section 1410, all local government entities in the County of Orange may join together for the purpose of cooperating with the department in the design, development, construction, and equipment of the cemetery.

(b) All moneys received for the acquisition, study, design, development, construction, and equipment of the cemetery shall be deposited in the Southern California Veterans Cemetery Master Development Fund, which is hereby created in the State Treasury. Expenditure of those moneys shall be subject to appropriation by the Legislature in the annual Budget Act. Moneys appropriated by the Legislature for these purposes shall also be deposited in the fund.

(c) (1) Except as otherwise provided in Section 1416, all moneys received for the operation and maintenance of the cemetery, including moneys received pursuant to subdivision (b) of Section 1410, shall be deposited in the Southern California Veterans Cemetery Perpetual Maintenance Fund, which is hereby created in the State Treasury. Expenditure of those moneys shall be subject to appropriation by the Legislature in the annual Budget Act.

(2) It is the intent of the Legislature to appropriate funds in the annual Budget Act to fund annual cemetery operations and maintenance and to enact any additional legislation that may be necessary to set dollar limits on funding for those operations and that maintenance.

**SEC. 89.** Section 1416 of the Military and Veterans Code is amended to read:

**1416.** (a) Notwithstanding Section 11005 of the Government Code, the cemetery administrator, subject to the approval of the secretary, may accept donations of personal property, including cash or other gifts, to be used for the preliminary or conceptual design, construction, maintenance, beautification, and repair of the cemetery, or to reimburse the state for expenditures made by the state for these purposes.

(b) Cash donations made pursuant to subdivision (a) shall be deposited into the Southern California Veterans Cemetery Donations Fund, which is hereby created.

(1) Except as provided in paragraph (2) and notwithstanding Section 13340 of the Government Code, moneys in the fund are continuously appropriated to the department for the maintenance, beautification, and repair of the cemetery or, subject to the approval of the secretary, for a specified cemetery maintenance or beautification project designated by the donor.

(2) Moneys deposited into the fund for the purpose of preliminary or conceptual design or for construction of the cemetery, or to reimburse the state for expenditures made by the state for the purposes described in subdivision (a), shall be made available only upon appropriation by the Legislature.

**SEC. 90.** Section 4104 of the Public Contract Code is amended to read:

**4104.** Any officer, department, board, or commission taking bids for the construction of any public work or improvement shall provide in the specifications prepared for the work or improvement or in the general conditions under which bids will be received for the doing of the work incident to the public work or improvement that any person making a bid or offer to perform the work, shall, in his or her bid or offer, set forth:

(a) (1) The name, the location of the place of business, the California contractor license number, and public works contractor registration number issued pursuant to Section 1725.5 of the Labor Code of each subcontractor who will perform work or labor or render service to the prime contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or, in the case of bids or offers for the construction of streets or highways, including

bridges, in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater.

(2) An inadvertent error in listing the California contractor license number or public works contractor registration number provided pursuant to paragraph (1) shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive if the corrected contractor's license number is submitted to the public entity by the prime contractor within 24 hours after the bid opening and provided the corrected contractor's license number corresponds to the submitted name and location for that subcontractor.

(3) (A) Subject to subparagraph (B), any information requested by the officer, department, board, or commission concerning any subcontractor who the prime contractor is required to list under this subdivision, other than the subcontractor's name, location of business, the California contractor license number, and the public works contractor registration number, may be submitted by the prime contractor up to 24 hours after the deadline established by the officer, department, board, or commission for receipt of bids by prime contractors.

(B) A state or local agency may implement subparagraph (A) at its option.

(b) The portion of the work that will be done by each subcontractor under this act. The prime contractor shall list only one subcontractor for each portion as is defined by the prime contractor in his or her bid.

**SEC. 91.** The Legislature finds and declares all of the following:

(a) Existing law authorizes the board of supervisors of any county to levy, increase, or extend a transactions and use tax throughout the entire county or within the unincorporated area of the county, as applicable, for specific purposes.

(b) Existing law does not preclude that transactions and use tax from including an exemption that prevents the tax, or a portion of the tax, from being collected in certain areas of the county when collection of the tax in those areas would cause the combined rate of transactions and use taxes to exceed the rate limit set forth in Section 7251.1 of the Revenue and Taxation Code.

(c) On March 7, 2017, the voters of the County of Los Angeles approved Measure H, which imposes a transactions and use tax at a rate of 0.25 percent for the support of countywide programs and services to prevent and combat homelessness within the incorporated and unincorporated areas of the county.

(d) Measure H was a transactions and use tax ordinance approved by a two-thirds vote of all members of the Board of Supervisors of the County of Los Angeles.

(e) Measure H expressly provides that the County of Los Angeles and the State Board of Equalization are to enter into a contract that ensures that the county tax will be administered in such a way that the aggregate tax will not exceed, and no person subject to the tax will pay more than, the rate limitation specified in Section 7251.1 of the Revenue and Taxation Code in any district and that the transactions and use tax revenues of any district within the county will not be decreased as a result of the countywide increase.

**SEC. 92.** Chapter 2.8 (commencing with Section 7286.40) is added to Part 1.7 of Division 2 of the Revenue and Taxation Code, to read:

#### **CHAPTER 2.8. Los Angeles County Transactions and Use Tax to Prevent and Combat Homelessness**

**7286.40.** (a) The Legislature finds and declares that the transactions and use tax proposed to, and approved by, the voters of the County of Los Angeles on the March 7, 2017, ballot as Measure H was valid and authorized under Section 7285.5 and conforms to Part 1.6 (commencing with Section 7251), and continues to be valid and authorized. This subdivision is declarative of, and clarifies, existing law.

(b) Pursuant to subdivision (a), the board shall enter into a contract with the County of Los Angeles to perform all functions incident to the administration and operation of the transactions and use tax ordinance described in subdivision (a) and shall collect the tax in all districts within the county where the aggregate tax is 0.25 percent or more below the limitation specified in Section 7251.1. The contract with the county shall comply with Section 7270, and shall ensure the collection of the tax commences on October 1, 2017.

**SEC. 93.** (a) The sum of five million dollars (\$5,000,000) is hereby appropriated from the General Fund to the Department of Finance for allocation to counties to pay for the costs of state recall elections, including expenses for verifying signatures, printing ballots and voter information guides, and operating polling places, in accordance with Section 11108 of the Elections Code.

(b) Any funds under subdivision (a) that are not allocated by June 30, 2018, shall revert on July 1, 2018, to the General Fund.

**SEC. 94.** The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique fiscal pressures being experienced in the County of Los Angeles in providing programs and services to prevent and combat homelessness.

**SEC. 95.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

**SEC. 96.** This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.