Golden Gate University School of Law
GGU Law Digital Commons

California Agencies | California Documents

1998

Legislative Digest 1998

California Department of Consumer Affairs

Follow this and additional works at: http://digitalcommons.law.ggu.edu/caldocs_agencies

Part of the Legislation Commons

Recommended Citation
California Department of Consumer Affairs, "Legislative Digest 1998" (1998). *California Agencies.* Paper 238.
http://digitalcommons.law.ggu.edu/caldocs_agencies/238

This Committee Report is brought to you for free and open access by the California Documents at GGU Law Digital Commons. It has been accepted for inclusion in California Agencies by an authorized administrator of GGU Law Digital Commons. For more information, please contact jfischer@ggu.edu.

STATE DEPOSITORY
LAW LIBRARY
JAN 08 1999
GOLDEN GATE UNIVERSITY

LEGISLATIVE DIGEST 1998

Pete Wilson, Governor

CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS

KFC
375
.A6
C65
1998

KFC
315
.A6
C65

STATE DEPOSITORY
LAW LIBRARY
JAN 08 1999
GOLDEN GATE UNIVERSITY

LEGISLATIVE DIGEST 1998

State and Consumer Services Agency
Anne Sheehan
Secretary

Department of Consumer Affairs
Ron Joseph
Acting Director

Division of Legislative and Regulatory Review
Ray Saatjian
Deputy Director

Curt Augustine
Assistant Deputy Director

Steve Trumbly
Assistant Deputy Director

Staff

Pamela Myczek, **Office Manager**

Gale Boetius
Elita Lin Burmas
Sandi DeMello
Jan Kelley
Rena Kimball
Tara Powers
Robert Puleo
Erin Renfree
Liz Salinas
Norma Solorio
Dennis Weber
Tiffany Wetzel

400 R Street
Sacramento, California 95814
(916) 327-5196

Forward

The 1998 Legislative Digest contains summaries of legislation of significance to the Department of Consumer Affairs, its licensees, and consumers throughout the state. This Digest contains legislation for the second year of the 1997-1998 legislative session. While the text is edited to provide accurate and current information about each legislative proposal, readers should obtain copies of specific bills or consult relevant codes when relying on cited material.

You may obtain copies of bills by contacting your local legislator.

The Digest is organized to help you readily identify a specific bill by any of several methods: bill number, subject matter or category, or chapter number if the bill was passed by the Legislature and signed by the Governor.

The Digest presents the bills, generally, within three major categories - Consumer Protection, Occupational Regulation, and state agencies. Each category contains one or more subcategories. Because of the nature of the issues addressed in a particular bill, you may find it referenced in more than one category or subcategory.

Bills which failed in committees or were "dropped" by their authors are included only for information purposes and future reference, inasmuch as the Department expects that some of these bills may be re-introduced in the 1999-2000 session. The Governor's veto message is included for each bill that was vetoed. Unless otherwise indicated, chaptered bills become effective on January 1, 1999.

Part I is organized alphabetically, by a one-line subject heading, within each subcategory. The subject heading refers you to the bill number, and indicates the disposition of the bill at the close of the 1998 legislative year.

Part II is organized numerically, by assembly or senate bill number, under each subcategory. Part II contains a short summary of each bill and its disposition at the end of the 1998 legislative year.

Part III is an Appendix containing a Bill Number Index and a Chaptered Bill Index. Each index specifies all pages in the Digest that reference the particular bill. The Appendix also includes a Department of Consumer Affairs Directory that identifies all occupations licensed or regulated by a particular board or bureau within the Department.

For brevity, most entries are cross-referenced wherever appropriate. The Department of Consumer Affairs has used abbreviations throughout the Digest text to reference various California Codes. You will find a key to the abbreviations inside the back cover.

Throughout the Digest text, the Department of Consumer Affairs has used a bold typeface for sections of bill summaries that are mandates for the Department and its boards and bureaus.

DEPARTMENT OF CONSUMER AFFAIRS
1998 LEGISLATIVE DIGEST

CONTENTS

I. TABLE OF BILLS — PAGE

A. CONSUMER PROTECTION i
B. OCCUPATIONAL REGULATION viii
Boards, Bureaus and Programs
C. STATE AGENCIES xvi

II. BILL SUMMARIES

1 A. CONSUMER PROTECTION
1. Business and Sales 1
2. Court System and Conflict Resolution 11
3. Credit and Financial Institutions 40
4. Health and Safety 42
5. Landlord – Tenant 71
6. Local Government 73
7. Mobilehomes 73
8. Proposed Regulatory Programs 73
9. Privacy 73
10. Products and Services 74
11. Telecommunications 81
12. Utilities 91
13. Miscellaneous 92

B. OCCUPATIONAL REGULATION (Boards, Bureaus and Programs)
1. Accountancy 107
2. Acupuncture Committee 110
3. Arbitration Review Program 112
4. Architectural Examiners 116
5. Athletic Commission 116
6. Automotive Repair 117
7. Barbering and Cosmetology 127
8. Behavioral Sciences 129
9. Cemetery/Funeral Programs. 131
10. Contractors 135
11. Court Reporters 142
12. Dental Examiners 145
13. Dental Auxiliaries 148
14. Electronic and Appliance Repair 149
15. Professional Engineers and Land Surveyors 150

II. BILL SUMMARIES (Con't)

PAGE

B. OCCUPATIONAL REGULATION (cont.)

16. Geologists and Geophysicists 151
17. Guide Dogs for the Blind 151
18. Hearing Aid Dispensers 151
19. Home Furnishings and Thermal Insulation 153
20. Landscape Architects 153
21. Medical Board 154
22. Nursing Home Administrators 165
23. Optometry 165
24. Pharmacy 166
25. Physical Therapy 171
26. Physician Assistant 171
27. Podiatric Medicine 172
28. Private Postsecondary and Vocational Education 173
29. Psychology 175
30. Registered Nursing 176
31. Respiratory Care 180
32. Security and Investigative Services 183
33. Speech-Language Pathology and Audiology 187
34. Structural Pest Control 188
35. Veterinary Medicine and Animal Health Technicians 189
36. Vocational Nurse and Psychiatric Technician 191

C. STATE AGENCIES

1. DCA - General 193
2. State Agencies - General 196

III. APPENDIX

A. Bill Number Index 217
B. Chaptered Bill Index 221
C. DCA Directory of Occupations and Professions 223
D. Key to Abbreviations of California Code 227

TABLE OF BILLS

1. TABLE OF BILLS

A. CONSUMER PROTECTION

(1) Business and Sales

Title	Bill #	Disposition	Page #
Advertising: Electronic Mail	AB 1676	Chaptered	2
Advertising: Telephonic Sellers	AB 1629	Chaptered	2
Biometric Identifiers	AB 2265	Failed	4
Biometric Identifiers: Financial Institutions	SB 1622	Failed	8
Charitable Fundraising	AB 1810	Chaptered	3
Collectibles	SB 2024	Chaptered	10
Contest Advertising	SB 1780	Chaptered	10
Donated Property	SB 1836	Chaptered	10
Health Studio Contracts: Refund of Dues	AB 2618	Dropped	5
Internet Service Providers	AB 2640	Dropped	5
Internet Use	SB 597	Chaptered	6
Motor Vehicle Leases	AB 225	Dropped	2
Pawnbrokers	AB 2088	Chaptered	4
Pawnbrokers: Compensation	SB 1685	Vetoed	9
Personal Information	SB 1374	Chaptered	7
Personal Information: Unlawful Use	AB 50	Failed	1
Rental Cars: Rental Car Damage Act	SB 1411	Failed	7
Secretary of State: Business Registry	AB 61	Dropped	1
Self-Service Storage Facilities: Containers	SB 1086	Chaptered	7
Seller Assisted Marketing Plans	AB 1830	Chaptered	3
Sellers of Travel: Travel Consumer Restitution Plan	SB 2175	Chaptered	11
Swap Meets: Gun Shows or Events	AB 2504	Dropped	5
Swap Meets: Reporting Requirements: Exemption for Gun Shows	SB 1414	Failed	8
Sweepstakes Solicitation	SB 1476	Chaptered	8
Telephonic Marketing	AB 1872	Chaptered	4
Unfair Practices	AB 2511	Dropped	5
Warranties: Motor Vehicle	SB 289	Failed	6

(2) Court System and Conflict Resolution

Title	Bill #	Disposition	Page #
Arbitration: Attorneys	AB 2086	Chaptered	23
Attorneys Fees: Prevailing Public Entities	AB 1912	Failed	22
Attorneys: Estate Planning Services	AB 2239	Failed	23
California State Bar	AB 1798	Failed	21
Civil Actions	AB 804	Failed	13
Civil Actions	AB 1094	Chaptered	14
Civil Actions: Attorney's Fees	AB 2071	Failed	23
Civil Actions: Nonsuits: Reconsideration	SB 1556	Chaptered	31
Civil Actions: Exemplary Damages	AB 1371	Failed	15
Civil Procedure: Sanctions	SB 1511	Chaptered	31
Civil Rights: Alteration of Buildings: Small Claims Actions	AB 2702	Chaptered	26
Commission of Inquiry into Paparazzi Behavior	SB 1378	Failed	29

Commission on Judicial Performance: Investigations: Judicial Service After Retirement	SB 1623	Vetoed	32
Contractors: Works of Improvement	AB 2280	Vetoed	24
Court Proceedings: Disqualification of Judges	AB 1199	Chaptered	15
Courts: Unification	SB 2139	Chaptered	37
Criminal Procedure: Discovery	SB 1927	Chaptered	36
Criminal Procedure: Pleading	AB 565	Failed	12
Criminal Restitution: Disclosure of Financial Information	SB 1768	Chaptered	34
Damages	SB 262	Chaptered	27
Depositions	SB 2145	Chaptered	39
Depositions: Computer-Assisted Transcription	AB 2150	Chaptered	23
Discovery	AB 918	Failed	14
Discovery Sanctions	AB 919	Failed	14
Electronic Recording	AB 128	Failed	11
Escheat	SB 2115	Failed	37
Estates and Trusts: Protective Proceedings	AB 2069	Chaptered	22
Expert Witness Testimony	AB 737	Failed	13
False Claims Actions	SB 778	Dropped	28
Family Law Information Centers	AB 2207	Chaptered	23
Governmental Liability: Attorney's Fees	AB 1462	Failed	16
Guardians, Conservators, and Administrators: Accounting and Compensation	SB 1487	Chaptered	30
Injured Consumers' Bill of Legal Rights	SB 2214	Failed	39
Interpretation of Contracts: European Currency	AB 185	Chaptered	12
Invasion of Privacy: Paparazzi	SB 1379	Failed	29
Juries: Construction Defects	AB 2269	Failed	24
Jury Service	AB 886	Failed	14
Jury Trials	SCA 3	Dropped	39
Law Schools: Unaccredited	AB 2557	Vetoed	25
Lawyers: Financial Services	AB 1716	Vetoed	21
Legal Document Assistants	SB 1418	Chaptered	30
Legal Services: State	SB 213	Vetoed	26
Liability	SB 1536	Failed	31
Liability	SB 232	Dropped	27
Liability: Breach of Trust or Duty	SB 1841	Chaptered	35
Liability: Computer Failures	AB 1934	Failed	22
Mediation	SB 19	Chaptered	26
Proceedings Involving Minors: Interpreters	AB 1884	Chaptered	22
Public Employee Liability	SB 1876	Vetoed	36
Publication: Liability to Crime Victims	AB 1500	Failed	16
Religious Freedom Protection Act	AB 1617	Vetoed	17
Self-Help Legal Services	SB 709	Dropped	28
Small Claims Court: Jurisdiction	AB 771	Chaptered	13
Stalking: Cyberstalking	SB 1796	Chaptered	34
State Bar	AB 1669	Failed	20
State Bar	AB 1374	Chaptered	16
State Bar of California	SB 1371	Failed	29
State Bar of California: Law Students' Examination	SB 845	Chaptered	28
State Bar of California: Unaccredited Law Schools	SB 1459	Failed	30
State Public Defender	AB 1471	Failed	16
Summary Judgment	AB 1324	Failed	15

Summary Judgment	AB 843	Failed	13
Superior and Municipal Courts	SB 1825	Chaptered	35
Testimony: Closed-Circuit Television	AB 635	Chaptered	12
Trial Courts: Interpreters	SB 1340	Dropped	28
Victims of Crime: Photographs: Civil Liability	AB 1323	Failed	15
Works of Improvement: Mechanic's Liens	AB 2445	Failed	25

(3) Credit and Financial Institutions

Consumer Credit	SB 930	Failed	41
Consumer Credit Reporting	AB 1947	Failed	40
Consumer Credit: Credit Cards	AB 2642	Failed	41
Credit Card Issuers: Marketing Information	AB 1435	Dropped	40
Credit or Debit Cards: Cardholder Liability	AB 1638	Failed	40
Finance Lender Law	AB 2039	Chaptered	41
Finance Lenders: Delinquency Fees	SB 1512	Chaptered	42
Investigative Consumer Reporting	SB 1454	Chaptered	42
Personal Information: Credit Transactions	SB 346	Dropped	41

(4) Health and Safety

Abortion	AB 2542	Dropped	54
Abortion: Anesthesia	AB 1758	Failed	51
Abortion: Parental Consent: Minors	ACA 38	Failed	58
Air Pollution: Heavy Duty Vehicles: Smokemeter Certifications	SB 1636	Dropped	66
Air Pollution: Heavy-Duty Vehicles	SB 1275	Failed	63
Air Pollution: Motor Vehicle Inspection and Maintenance	SB 1366	Dropped	64
Air Pollution: Motor Vehicle Inspection and Maintenance	SB 1358	Failed	64
Air Pollution: Motor Vehicle Inspection and Maintenance	SB 2185	Chaptered	71
Air Pollution: Sales, Use, Income, Bank and Corporation Taxes	AB 1914	Failed	52
Air Pollution: Transported Pollutants	AB 1437	Dropped	50
Air Pollution: Vehicles: Retirement	SB 1725	Failed	68
Auto Body Repair: Shop Certification	SB 322	Failed	59
Automotive Repair	AB 1523	Dropped	51
Automotive Repair Act: Terminology	SB 2181	Dropped	70
Breast Biopsies	SB 1722	Dropped	67
Child Day Care Facilities: Administering Inhaled Medication	SB 1663	Chaptered	66
Cigarette Fire Safety	AB 2200	Failed	52
Clinical Laboratory Technology	AB 1431	Dropped	49
Clinical Laboratory Technology: Unlicensed Personnel	SB 666	Dropped	60
Construction Site Safety	SB 996	Dropped	61
Consumer Affairs: Bureau of Automotive Repair: Motor Vehicle Owners' Rights Advocate	AB 183	Vetoed	43
Controlled Substances: Iodine: Red Phosphorous	SB 1539	Chaptered	65
Controlled Substances: Prescriptions	AB 2693	Chaptered	55
Controlled Substances: Retail Distributors	SB 1691	Vetoed	67
Domestic Violence: Reports	AB 714	Dropped	45
Emissions Standards	SB 1726	Failed	68
Fire Prevention: State Fire Marshall: Standards for Electricians	AB 1434	Dropped	50
Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	56

Health Care	SB 998	Chaptered	51
Health Care	AB 332	Vetoed	44
Health Care Coverage	AB 1181	Chaptered	47
Health Care Coverage: Board of Managed Health Care	SB 406	Vetoed	59
Health Care Coverage: Clinical Practice Guidelines	AB 589	Failed	45
Health Care Practitioners: Identification: Mental Health: Involuntary Commitments	AB 1439	Chaptered	50
Health Care Practitioners: Managed Care Organizations	AB 434	Vetoed	44
Health Care Service Plans	AB 1344	Failed	49
Health Care Service Plans: Administration	AB 2556	Vetoed	55
Health Care Service Plans: Compensation Arrangements	AB 1333	Failed	49
Health Care Service Plans: Consumer Bill of Rights	AB 224	Failed	43
Health Care: Payment of Claims	SB 1255	Chaptered	62
Health Coverage: Providers: Advertising	SB 1951	Chaptered	70
Hemodialysis: Technician Training	SB 1331	Chaptered	63
Hereditary Disorders: Genetic Counselors	SB 1800	Chaptered	69
HIV: Treatment	AB 818	Vetoed	46
Human Cloning	AB 1251	Dropped	48
Income and Bank Corporation Taxes: Credit: Motor Vehicle Inspection Program	AB 2311	Failed	52
Ketamine: Unauthorized Possession	AB 1731	Chaptered	51
Medi-Cal: Managed Care	AB 823	Chaptered	46
Medicine: Regulation	AB 162	Chaptered	42
Motor Vehicle Inspection and Maintenance Program	AB 2789	Vetoed	57
Motor Vehicle Inspection and Maintenance Program	AB 2552	Failed	54
Motor Vehicles	SB 1754	Chaptered	68
Motor Vehicles: Smog Check Program	AB 2795	Failed	57
Natural Death Act: Durable Powers of Attorney for Health	SB 1084	Dropped	62
Negligence: Health Care: Noneconomic Damages	AB 1220	Dropped	48
Occupational Safety & Health: Bloodborne Pathogen Standard	AB 1208	Chaptered	47
Partial-Birth Abortion: Ban	AB 2389	Failed	53
Partial-Birth Abortion: Ban	SB 1822	Failed	69
Perfusionists	AB 2496	Dropped	53
Renewable Energy Purchases: Customer Credits	SB 977	Chaptered	61
Specialized Health Care Service Plans: Mental Health: Transfers	SB 1292	Vetoed	63
State Air Resources Board: Department of Consumer Affairs	SB 1423	Failed	65
Transportation: Air Quality Public Officials	SB 2077	Failed	70
Vehicle Inspection and Maintenance	SCA 20	Failed	71
Vehicle Inspection and Maintenance	SB 61	Failed	58
Vehicle: Smog Impact Fee	SB 40	Failed	58
Vehicles: Leaking Fluid Inspection Program: Los Angeles County	AB 834	Dropped	47
Vehicles: Smog Impact Fee: Exemption	SB 201	Failed	59
Water Contamination: Liability: Motor Vehicle Fuel Additives	SB 1926	Failed	69

(5) Landlord - Tenant

Public Utilities: Services to Tenant	SB 2166	Chaptered	72
Real Property Disclosure: Registered Sex Offenders	SB 1989	Chaptered	72
Residential Real Property: Trespass: Rent Skimming	AB 583	Chaptered	71
Tenancies: Unclaimed Personal Property	AB 630	Failed	72

(6) Local Government

Public Records	SB 134	Dropped	73

(7) Mobilehomes

No Bills for 1997 Session

(8) Proposed Regulatory Programs

Cigarette Fire Safety	AB 2200	Failed	73

(9) Privacy

Privacy: Electronic Tracking Devices	SB 1667	Chaptered	73

(10) Products and Services

Appliance and Electronic Service Contracts	SB 2075	Chaptered	79
Contractor: Arbitration of Disputes	SB 1792	Chaptered	78
Contractors State License Law: Home Solicitation Contracts	SB 185	Failed	77
Contractors: Small Operations	SB 2217	Chaptered	80
Contracts	AB 2301	Chaptered	76
Liability: Construction Defects	AB 746	Dropped	74
Motor Vehicle: Reacquisition Agreements	SB 1773	Dropped	78
Motor Vehicles: Reacquisition Agreements	AB 2410	Chaptered	76
Private Patrol Operators	SB 2044	Chaptered	79
Sales and Use Taxes: Internet	AJR 20	Failed	76
Security Services: Hospital Guards	SB 587	Dropped	78
Telephone Services	AB 1096	Chaptered	74
Warranties: Motor Vehicle	SB 289	Failed	77
Warranties: Motor Vehicle Manufacturers	AB 2277	Dropped	75
Warranties: Motor Vehicle Manufacturers	AB 1848	Chaptered	75

(11) Telecommunications

Advertising: Prepaid Calling Cards and Services	AB 1994	Chaptered	87
Cable Television: Consumer Contracts	AB 1893	Failed	85
California Internet Tax Freedom Act	AB 1614	Chaptered	85
California Public Records Act: Unlisted Access Numbers	AB 487	Chaptered	81
Cellular Telephones Resellers	AB 906	Dropped	82
Contracts: Telephone Directory Advertising	AB 1517	Dropped	84
Emergency Telephone Systems	AB 911	Chaptered	82

Public Utilities: Telecommunication Services: Household Goods Carriers	AB 1977	Chaptered	86
Public Utilities Commission: Telecommunications: Deregulation	AB 1973	Chaptered	86
Public Utilities: Telecommunication Services	AB 1161	Vetoed	83
Public Utilities: Telecommunications	AB 647	Dropped	82
Public Utilities: Telecommunications Services	AB 1299	Dropped	84
Public Utilities: Telecommunications Services	SB 1148	Failed	91
Public Utilities: Telecommunications Services	SB 439	Dropped	90
Public Utilities: Telecommunications: Truth in Billing	AB 2142	Chaptered	87
Public Utilities: Telephones	SB 378	Chaptered	89
Public Utilities: Telephones	SB 405	Chaptered	89
Residential Telephone Wiring	AB 1156	Failed	83
Telecommunications: Access to Operations Support System	AB 2662	Failed	88
Telecommunications: Area Codes	AB 2716	Chaptered	88
Telecommunications: Customer Privacy	SB 1070	Vetoed	90
Telecommunications: Telephone Cards	AB 1424	Chaptered	84
Telecommunications: Telephone Service and Telephone Solicitation	AB 2134	Chaptered	87
Telephone Corporations: Services	AB 2695	Chaptered	88
Telephone Directories	SB 961	Dropped	90
Telephone Services	AB 284	Chaptered	81
Telephones: Billing Practices	AB 580	Failed	81

(12) Utilities

Electric and Gas Service: Master-Meter Customers	SB 524	Dropped	92
Public Utilities: Consumer Education on Deregulation	AB 2728	Failed	91
Renewable Energy Resources: Funding	SB 606	Dropped	92

(13) Miscellaneous

Administrative Regulations: Adverse Job Creation Impact	AB 1235	Failed	94
Arrest Warrants: Electronic Mail	SB 1970	Chaptered	105
Bail Enforcement Agents	AB 2733	Vetoed	99
Contractors: Retention Proceeds	AB 2534	Vetoed	97
Crime Prevention: Peace Officer Training	SB 1442	Chaptered	102
Damages: Medical Malpractice	AB 2553	Dropped	98
Firearms Manufacture: Use-Limitation Devices	SB 1550	Vetoed	102
Governmental Tort Liability: Peace Officers	AB 1865	Chaptered	95
Interior Design	SB 1471	Chaptered	102
Leaf Blowers	SB 14	Dropped	100
Leafblowers	SB 1651	Failed	104
Legal Entities: Partnerships and Limited Liability Companies	AB 1703	Chaptered	95
Limited Liability Companies	AB 2245	Dropped	96
Mental Health: Disclosure of Records: Law Enforcement	AB 302	Chaptered	92

Motor Vehicle Service Contracts	AB 1876	Failed	96
Peace Officers	SB 1417	Chaptered	101
Peace Officers: Disability: Retirement	AB 436	Failed	93
Peace Officers: Personnel Files: Complaints	AB 1016	Chaptered	94
Peace Officers: School Security Officers: Training	SB 1626	Chaptered	103
Peace Officers: Warrantless Arrests	AB 247	Chaptered	92
Physio-Technology and Health Fitness	SB 891	Dropped	101
Pilots: Bays of San Francisco, San Pablo and Suisun	SB 700	Dropped	100
Public Employees: Public Safety	AB 1236	Failed	94
Public Safety Officers	AB 2293	Chaptered	96
Public Safety Officers	AB 1958	Failed	96
Public Safety Officers: Interrogation	SB 546	Failed	100
Public Safety Officers: Procedural Bill of Rights	SB 2215	Chaptered	106
Reports to the Legislature: Internet Access	SB 2119	Failed	105
Service Contracts	AB 2704	Chaptered	99
Solid Waste: Tires: Tire Recovery Programs	AB 375	Failed	93
Unemployment Compensation Disability Insurance	AB 2558	Chaptered	98
Vessels	SB 1767	Chaptered	104
Works of Improvement	AB 2627	Chaptered	98

1. TABLE OF BILLS

B. OCCUPATIONAL REGULATIONS
Boards, Bureaus and Programs

(1) Board of Accountancy

Accountancy: Education: Examination: Claims Against	AB 2771	Chaptered	107
Accountancy: Volunteer Services	AB 508	Chaptered	107
Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	107
Professions and Vocations	SB 2239	Chaptered	108
Public Accountancy: Commissions	SB 1289	Chaptered	108

(2) Acupuncture Committee

Acupuncture	SB 863	Dropped	111
Licensed Acupuncturists: Professional Corporations	AB 2120	Chaptered	111
Regulatory Boards and Committees	SB 1980	Chaptered	111
Sales & Use Taxes: Partial Exemptions: Acupuncturists	AB 410	Dropped	111
Workers' Compensation: Acupuncturists	AB 204	Chaptered	110

(3) Arbitration Review Program

Motor Vehicle: Reacquisition Agreements	SB 1773	Dropped	116
Motor Vehicles: Reacquisition Agreements	AB 2410	Chaptered	113
Professions and Vocations	AB 2802	Chaptered	113
Warranties: Motor Vehicle	SB 289	Failed	115
Warranties: Motor Vehicle Manufacturers	AB 2277	Dropped	112
Warranties: Motor Vehicle Manufacturers	AB 1848	Chaptered	112

(4) Board of Architectural Examiners

Limited Liability Companies and Limited Liability Partnerships: Architecture	AB 469	Chaptered	116

(5) Athletic Commission

Professions and Vocations	AB 2802	Chaptered	116

(6) Bureau of Automotive Repair

1998-1999 Budget	AB 1656	Chaptered	118
Air Pollution: Heavy Duty Vehicles: Smokemeter Certifications	SB 1636	Dropped	124
Air Pollution: Heavy-Duty Vehicles	SB 1275	Failed	122

Air Pollution: Motor Vehicle Inspection and Maintenance	SB 2185	Chaptered	127
Air Pollution: Motor Vehicle Inspection and Maintenance	SB 1366	Dropped	123
Air Pollution: Motor Vehicle Inspection and Maintenance	SB 1358	Failed	123
Air Pollution: Sales, Use, Income, Bank and Corporation Taxes	AB 1914	Failed	119
Air Pollution: Transported Pollutants	AB 1437	Dropped	117
Air Pollution: Vehicles: Retirement	SB 1725	Failed	124
Air Pollution: Vehicular Emissions: Particulate Matter	SB 1343	Dropped	123
Air Quality: Heavy-Duty Vehicles	SB 1096	Dropped	122
Auto Body Repair: Shop Certification	SB 322	Failed	122
Automotive Repair	AB 1523	Dropped	118
Automotive Repair Act: Terminology	SB 2181	Dropped	126
Consumer Affairs: Bureau of Automotive Repair: Motor Vehicle Owners' Rights Advocate	AB 183	Vetoed	117
Emissions Standards	SB 1726	Failed	125
Income and Bank Corporation Taxes: Credit: Motor Vehicle Inspection Program	AB 2311	Failed	119
Motor Vehicle Inspection and Maintenance Program	AB 2552	Failed	119
Motor Vehicle Inspection and Maintenance Program	AB 2789	Vetoed	120
Motor Vehicles	SB 1754	Chaptered	125
Motor Vehicles: Smog Check Program	AB 2795	Failed	120
Professions and Vocations	AB 2802	Chaptered	121
Professions: Licensing: Military Service	SB 1959	Chaptered	126
State Air Resources Board: Department of Consumer Affairs	SB 1423	Failed	124
Transportation: Air Quality Public Officials	SB 2077	Failed	126
Vehicle Inspection and Maintenance	SB 61	Failed	121
Vehicle Inspection and Maintenance	SCA 20	Failed	127
Vehicle: Smog Impact Fee	SB 40	Failed	121
Vehicles: Leaking Fluid Inspection Program: Los Angeles County	AB 834	Dropped	117
Vehicles: Smog Impact Fee: Exemption	SB 201	Failed	122
Water Contamination: Liability: Motor Vehicle Fuel Additives	SB 1926	Failed	125

(7) Barbering and Cosmetology Program

1998-1999 Budget	AB 1656	Chaptered	127
Barbering and Cosmetology: State Board	SB 184	Vetoed	128
Corrections	SB 149	Chaptered	128
Professions and Vocations	SB 2239	Chaptered	129
Professions and Vocations	AB 2802	Chaptered	127
Professions: Licensing: Military Service	SB 1959	Chaptered	128

(8) Board of Behavioral Sciences

Behavior Analysis	SB 958	Dropped	130
Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	130
Healing Arts: Boards	SB 1983	Chaptered	131

Healing Arts: Social Workers	SB 288	Failed	130
Health Care Practitioners: Identification: Mental Health: Involuntary Commitments	AB 1439	Chaptered	129
Hypnotherapists: Hypnotherapist Registration Act	AB 276	Dropped	129
Licensed Marriage, Family and Child Counselors: Name Change	AB 1449	Chaptered	129
Vocations: Marriage, Family and Child Counselors	AB 2508	Dropped	130

(9) Cemetery Program/Funeral Directors and Embalmers Program

Cemetery and Funeral Fraud	AB 1709	Chaptered	133
Cremated Remains	AB 1314	Chaptered	131
Cremated Remains	AB 1705	Chaptered	132
Human Remains: Disposition	SB 1360	Chaptered	133
Nonendowment Care Cemeteries: Abandonment	AB 1560	Chaptered	131
Professions and Vocations	AB 2802	Chaptered	133
Professions and Vocations	SB 2239	Chaptered	134
Public Cemetery Districts: Cremated Remains: Placement	SB 1498	Chaptered	133
Veterans Cemeteries	SB 2078	Vetoed	134

(10) Contractors' State License Board

Construction Site Safety	SB 996	Dropped	141
Contracting	SB 704	Dropped	140
Contractor: Arbitration of Disputes	SB 1792	Chaptered	142
Contractors State License Law: Home Solicitation Contracts	SB 185	Failed	139
Contractors: Application Requirements	AB 1678	Failed	136
Contractors: Retention Proceeds	AB 2534	Vetoed	137
Contractors: Small Operations	SB 2217	Chaptered	142
Contractors: Works of Improvement	AB 2280	Vetoed	136
Contracts	AB 2301	Chaptered	137
Fire Prevention: State Fire Marshall: Standards for Electricians	AB 1434	Dropped	135
Housing: Construction Liability	SB 339	Failed	140
Liability Insurance: Construction Defects	AB 1309	Dropped	135
Liability: Construction Defects	AB 746	Dropped	135
Local Agency Contractors: Eligibility	SB 994	Dropped	141
Works of Improvement	AB 2627	Chaptered	138
Works of Improvement: Mechanic's Liens	AB 2445	Dropped	137

(11) Court Reporters Board

Civil Actions	AB 1094	Chaptered	144
Court Reporters and Fees	SB 1074	Failed	144
Court Reporters: Fees	AB 398	Dropped	143

Depositions	SB 2145	Chaptered	145
Depositions: Computer-Assisted Transcription	AB 2150	Chaptered	144
Electronic Recording	AB 128	Failed	142
Regulatory Boards and Committees	SB 1980	Chaptered	145
Shorthand Reporters	AB 2279	Dropped	144
Telecommunications Devices: Deaf or Hearing Impaired Individuals	AB 1051	Chaptered	143

(12) Board of Dental Examiners

Dentistry: Oral Conscious Sedation	AB 2006	Chaptered	146
Healing Arts	SB 557	Vetoed	147
Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	147
Medi-Cal Reimbursement: Disciplined Licensees	AB 2387	Chaptered	146
Outpatient Settings: General Anesthesia	AB 745	Chaptered	145
Professions and Vocations	SB 2239	Chaptered	148

(13) Committee on Dental Auxiliaries

Dental Hygienists	AB 2063	Chaptered	148
Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	148
Professions and Vocations	SB 2239	Chaptered	149

(14) Bureau of Electronic and Appliance Repair

Appliance and Electronic Service Contracts	SB 2075	Chaptered	149

(15) Board of Registration for Professional Engineers and Land Surveyors

Professional Engineers	AB 969	Chaptered	150
Professional Engineers: Registration	SB 2069	Failed	150
Professions and Vocations	SB 2239	Chaptered	150

(16) Board of Registration for Geologists and Geophysicists

State Board of Registration for Geologists and Geophysicists	SB 1984	Chaptered	151

(17) Board of Guide Dogs for the Blind

Professions and Vocations	AB 2802	Chaptered	151

(18) Hearing Aid Dispensers Examining Committee

Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	152
Hearing Aid Dispensers	AB 2658	Failed	151
Professional License Fees	SB 1930	Vetoed	152
Professions and Vocations	AB 2802	Chaptered	152
Speech and Hearing Sciences Board of California	SB 1982	Failed	153

(19) Bureau of Home Furnishings and Thermal Insulation

Cigarette Fire Safety	AB 2200	Failed	153

(20) Landscape Architects Program

No Bills for the 1998 Season

(21) Medical Board of California

Controlled Substances: Prescriptions	AB 2693	Chaptered	159
Controlled Substances: Reporting Requirements: Physicians	AB 1819	Chaptered	156
Healing Arts	SB 557	Vetoed	161
Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	160
Health Care	SB 998	Chaptered	162
Health Care	AB 2305	Chaptered	157
Health Care Service Plans	AB 1344	Failed	156
Human Cloning	AB 1251	Dropped	156
Local Fiscal Relief: Property Tax Revenue Allocation	SB 1032	Vetoed	162
Medi-Cal Reimbursement: Disciplined Licensees	AB 2387	Chaptered	157
Medi-Cal: Managed Care	AB 823	Chaptered	155
Medical Boards: Sunset Review	SB 1981	Chaptered	164
Medicine: Accusations	AB 2719	Chaptered	160
Medicine: Disclosure of Settlements	SB 385	Dropped	161
Medicine: Pain Management	SB 1140	Chaptered	163
Medicine: Physicians & Surgeons	AB 274	Dropped	154
Medicine: Physicians and Surgeons	SB 324	Vetoed	160
Outpatient Settings: General Anesthesia	AB 745	Chaptered	154
Partial-Birth Abortion: Ban	AB 2389	Failed	158
Perfusionists	AB 2496	Dropped	159
Physician Assistants	SB 1429	Dropped	164
Physicians and Surgeons	AB 1079	Dropped	155

Professions and Vocations	SB 2239	Chaptered	165

(22) Board of Nursing Home Administrators

Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	165

(23) Board of Optometry

Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	166
Local Fiscal Relief: Property Tax Revenue Allocation	SB 1032	Vetoed	166
Optometry	AB 404	Failed	165
Prescription Lenses: Spectacles	AB 255	Chaptered	165
Regulatory Boards and Committees	SB 1980	Chaptered	166

(24) Board of Pharmacy

Board of Pharmacy: Medication Error Rate: Study	AB 1889	Vetoed	167
Controlled Substances: Prescriptions	AB 2693	Chaptered	168
Fertility Drugs	SB 2073	Failed	170
Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	169
Healing Arts: Dispensing Drugs	AB 2687	Chaptered	168
Marijuana	AB 610	Failed	166
Pharmacy: Automated Drug Delivery Systems	SB 1606	Chaptered	169
Pharmacy: Home Health Agencies: Adjusting Drug Regimen	SB 440	Chaptered	169
Professions and Vocations	SB 2239	Chaptered	170

(25) Physical Therapy Board of California

Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	171
Physical Therapy Month	ACR 145	Chaptered	171
Professions and Vocations	AB 2802	Chaptered	171
Regulatory Boards and Committees	SB 1980	Chaptered	171

(26) Physician Assistant Examining Committee

Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	171
Medical Boards: Sunset Review	SB 1981	Chaptered	172
Physician Assistants	SB 1429	Chaptered	171
Professions and Vocations	SB 2239	Chaptered	172
Workers' Compensation: Nurse Practitioners and Physician	SB 1940	Chaptered	171

(27) Board of Podiatric Medicine

Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	172
Medical Boards: Sunset Review	SB 1981	Chaptered	172
Podiatric Medicine	AB 2507	Chaptered	172

(28) Private Postsecondary and Vocational Education Program

1998-1999 Budget	AB 1656	Chaptered	173
Law Schools: Unaccredited	AB 2557	Vetoed	174
Postsecondary Education	AB 2529	Failed	174
Private Postsecondary Education	AB 1205	Vetoed	173
State Bar of California: Unaccredited Law Schools	SB 1459	Failed	174

(29) Board of Psychology

Behavior Analysis	SB 958	Dropped	175
Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	175
Healing Arts: Boards	SB 1983	Chaptered	176
Hepatitis C	SB 694	Chaptered	175
Hypnotherapists: Hypnotherapist Registration Act	AB 276	Dropped	175
Professions and Vocations	AB 2802	Chaptered	175
Psychology	SB 983	Chaptered	176

(30) Board of Registered Nursing

Education: School Nurses	SB 305	Vetoed	177
Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	177
Health Facilities: Nursing Staff	AB 695	Failed	176
Health Facilities: Nursing Staff	SB 1125	Vetoed	178
Medicine: Pain Management	SB 1140	Chaptered	179
Nurses	AB 892	Failed	177
Nursing: Analysis or Nursing Practice	SB 1816	Vetoed	180
Professions and Vocations	AB 2802	Chaptered	177
Workers' Compensation: Nurse Practitioners and Physician	SB 1940	Chaptered	180

(31) Respiratory Care Board

Child Day Care Facilities: Administering Inhaled Medication	SB 1663	Chaptered	182
Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	182
Professional License Fees	SB 1930	Vetoed	183
Regulatory Boards and Committees	SB 1980	Chaptered	183
Respiratory Care Practitioners	AB 123	Chaptered	180
Respiratory Care Practitioners	AB 2709	Dropped	181

(32) Bureau of Security and Investigative Services

Alarm Companies: Exemptions	SB 1440	Chaptered	185

Collateral Recovery	SB 117	Chaptered	184
Peace Officers: School Security Officers: Training	SB 1626	Chaptered	185
Privacy: Electronic Tracking Devices	SB 1667	Chaptered	186
Private Patrol Operators	SB 2044	Chaptered	186
Professions and Vocations	AB 2802	Chaptered	183
Professions: Licensing: Military Service	SB 1959	Chaptered	186
Security Guards: Background Checks	AB 2312	Failed	183
Security Services: Hospital Guards	SB 587	Dropped	184
Security Services: Hospital Security Guards	SB 1544	Dropped	185

(33) Speech-Language Pathology and Audiology Examining Committee

Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	188
Professional License Fees	SB 1930	Vetoed	188
Speech and Hearing Sciences Board of California	SB 1982	Failed	188
Speech-Language Pathologist	AB 205	Chaptered	187

(34) Structural Pest Control Board

Pest Control Activities	AB 505	Failed	188
Professions and Vocations	AB 2802	Chaptered	189
Structural Pest Control	AB 1134	Chaptered	189

(35) Veterinary Medical Board

Dogs: Breeding and Sale	SB 2102	Failed	191
Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	189
Veterinary Medical Board	SB 2003	Chaptered	190
Veterinary Medicine: License Renewal: Continuing Education	SB 155	Chaptered	189

(36) Board of Vocational Nursing and Psychiatric Technicians

Healing Arts Licensees: Unprofessional Conduct: Acupuncture	AB 2721	Chaptered	191
Professional License Fees	SB 1930	Vetoed	191

1. TABLE OF BILLS

C. STATE AGENCIES

(1) DCA General

Consumer Affairs	SB 2238	Chaptered	193
Professions and Vocations	SB 2239	Chaptered	195
Professions and Vocations	AB 2802	Chaptered	193
Residential Real Property: Trespass: Rent Skimming	AB 583	Chaptered	193

(2) State Agencies General

1998-1999 Budget	AB 1656	Chaptered	197
Administrative Adjudication: Scientific Evidence	SB 178	Dropped	203
Administrative Costs: State Government	AB 1637	Failed	197
AIDS: Clean Needle and Syringe Exchange Pilot Project	SB 885	Failed	206
Crime Prevention: Fingerprints	AB 75	Chaptered	196
Criminal History Information: School Volunteers	AB 1804	Failed	198
Drugs: Prescription: Disposal	SB 1920	Failed	215
False Claims Actions	SB 778	Dropped	206
Health Care Service Plans: Drugs	SB 625	Chaptered	205
Judicial Review: Governmental Agency Actions	SB 261	Failed	204
Judicial Review: Governmental Agency Actions	SB 209	Failed	203
Legislature: Overturning Administrative Regulations	ACA 35	Failed	202
Liens and Encumbrances	SB 1759	Chaptered	213
Maintenance of the Codes	AB 2803	Chaptered	201
Open Meetings: State Bodies	SB 1364	Failed	208
Pharmaceutical Benefit Management Companies	SB 2164	Failed	215
Pharmaceutical Drugs: Narrow Therapeutic Range Drugs	SB 1181	Failed	207
Public Agencies: Child Support	AB 1682	Vetoed	198
Public Employee Liability	SB 1876	Vetoed	214
Public Records	SB 134	Dropped	202
Public Records: Confidential Information	SB 0489	Chaptered	204
Public Records: Fees	AB 2607	Failed	200
Public Records: In-Home Supportive Services and Personal Care	AB 2630	Vetoed	200
Public Records: Political Reform Act of 1974	AB 2012	Dropped	199
Records	SB 143	Chaptered	202
Residential Care Facilities for the Elderly	SB 1630	Chaptered	211
Safekeeping of Property	SB 1707	Chaptered	213

Secretary of State: Document Filing	SB 1652	Chaptered	212
State Agencies: Continuation	AB 2503	Failed	200
State Agencies: Ethics Orientation	AB 2179	Chaptered	199
State Agencies: Performance	AB 1497	Dropped	197
State and Local Government: Performance Audits	AB 1393	Failed	196
State Auditor	SB 1426	Failed	208
State Budget: Performance Measures	SB 1093	Failed	206
State Budget: Zero-Based Budgeting	SCA 13	Dropped	216
State Budget: Zero-Based Budgeting	SB 1304	Dropped	207
State Computer Technology: Information Gathering	SB 1386	Chaptered	208
State Funds: Public Access Telephone Numbers	SB 1609	Dropped	211
State Government Administration	SB 1589	Chaptered	209
State Government: Realignment or Closure	AB 19	Failed	196
Validating Proceedings	AB 2049	Chaptered	199

BLANK PAGE

BILL SUMMARIES

A. CONSUMER PROTECTION

(1) Business and Sales

Bill	Summary	Disposition
AB 50 **Murray**	**<u>Personal Information: Unlawful Use</u>** Existing law regulates the collection and dissemination of personal information concerning an individual. This bill would have prohibited a person from engaging in biometric verification or identification, which is an automated method of measuring an individual's physical characteristics to prove the identity of that individual, unless certain criteria had been met, such as the person used the biometric identifier for the sole purpose of verifying the identity of an individual; and the person, excluding certain situations, did not sell, transmit, exchange, or provide a third party with the biometric information. (Civ C § 1798.85) (See AB 2265 & SB 1622)	**Failed Senate Appropriations**
AB 61 **Strom-Martin**	**<u>Secretary of State: Business Registry</u>** Existing law requires that a person operating a business under a fictitious name file a fictitious business name statement with the county clerk in the county in which the person's principal place of business is located. The statement must include any names of persons operating under the fictitious name. This bill would have required that the Secretary of State, by July 1, 1998, adopt regulations expanding its corporate filing and services divisions to allow businesses to register at a single point and be assigned a statewide fictitious business name that is accepted by all state and local agencies and meets the requirements of all state agencies. The regulations would have allowed for registration at city, county or state offices, electronic registration, and that there must be toll-free "800" numbers to provide electronic access to the fictitious names registry by businesses or consumers. Costs would have been shared through interagency agreements. (Gov C § 12175)	**Dropped**

AB 225
Woods

Motor Vehicle Leases

Dropped

Existing law requires ads for auto leases that mention (1) the amount of any payment, (2) the number of payments, or (3) that any or no prepayment is required, to make several other disclosures on the terms and conditions of the lease. Existing law allows radio ads to avoid making some of these disclosures on the air, if the ads refer listeners to a toll-free number or written advertisement where listeners can get the information.

This bill would have required radio ads to indicate that the information provided by the toll free number or written advertisement will include financial information regarding the lease contract. (CIV C § 2985.71)

AB 1629
Miller/
Cuneen

Advertising: Telephonic Sellers

Chapter 863
Statutes of 1998

Existing law establishes penalties for violating provisions governing the misuse of computers, computer data, computer systems, and computer networks; has no specific prohibitions against e-mailing unsolicited mail advertisements ("spam"), or domain name forgery (using the domain name of others to disguise the origin and content of an e-mail advertisement); and exempts certain entities from the definition of a telephonic seller.

This statute: 1) authorizes electronic mail service providers (EMSPs) to develop policies prohibiting and restricting spam; 2) allows EMSPs to take civil action against violators for actual damages, or $50 per spam (up to $25,000 per day), whichever is greater, and allows the prevailing party to recover reasonable attorney fees; 3) prohibits and imposes penalties for domain name forgery; and 4) exempts a corporation from the definition of telephonic seller if the corporation has been exempt from the Revenue and Taxation Code for at least ten years, has maintained its principal purpose for at least ten years, and has been incorporated in the state for at least 25 years.
(B&P C §§ 17511.1 & 17538.45 and Pen C § 502) (See AB 1676 & AB 2640)

AB 1676
Bowen

Advertising: Electronic Mail

Chapter 865
Statutes of 1998

Existing law prohibits faxing unsolicited advertisements, unless the sender provides a toll-free telephone number by which the recipient may request the sender to stop sending further faxed ads.

This statute requires the sender of an unsolicited e-mail advertisement to provide a return toll-free telephone or e-mail address by which the recipient may request the sender to send no further ads; requires the sender to include "ADV" on the subject line of every e-mail sent, and "ADV:ADLT" if the e-mail contains material that can only be viewed by an adult; and applies these provisions when unsolicited e-mail

documents are delivered to a California resident via an electronic e-mail service provider located in this state. (B&P C § 17538.4)
(See AB 1629 & AB 2640)

AB 1810
Davis

Chapter 445
Statutes of 1998

Charitable Fundraising

Existing law defines a "charitable solicitation" as: 1) a charitable appeal; 2) using a charity's name in making the appeal; or 3) stating that the donation will go toward the charity, and contains a similar definition for a "sales solicitation for charitable purposes." Existing law, the Uniform Supervision of Trustees for Charitable Purposes Act, or USTCPA, requires companies that solicit charitable funds for profit ("commercial fund-raisers for charitable purposes") to register with the Attorney General (AG), file annual financial statements, maintain a bond, and disclose (when requested by the person solicited) the ratio of total expenses of the fund-raiser to the total revenue received; defines "commercial fund-raiser for charitable purposes" as anyone who, for compensation, 1) solicits charitable donations or 2) receives or controls donations as a result of a solicitation; and authorizes the AG to charge a $200 registration or renewal fee in 1990 (the year after the law was enacted), and authorizes the AG to adjust these fees as needed.

This statute: 1) expands the definitions of a "charitable solicitation" and "sales solicitation for charitable purposes" to include fundraising that uses the name of any organization of public safety workers (law enforcement personnel, firefighters, or others who protect public safety); 2) adopts the definition of "charitable solicitation" for the USTCPA; 3) removes the word "Uniform" from the name of the USTCPA (making it the STCPA); 4) requires "fundraising counsels" to register and report to the AG, but relieves "commercial co-venturers" from reporting under certain conditions; 5) expands the definition of a commercial fund-raiser for charitable purposes to include anyone who, for compensation, hires paid persons to solicit, receive, or control charitable donations; 6) strikes "in 1990" from the provision that allows the AG to charge a $200 registration or renewal fee; and 7) requires registration or renewal fees paid to the AG to be used to operate and maintain the registration program and provide Internet access to financial reports filed with the AG.
(B&P § 17510.2; and Gov C §§ 12580, 12581, 12581.2, 12587, 12599, 12599.1 & 12599.2)

AB 1830
Davis

Chapter 595
Statutes of 1998

Seller Assisted Marketing Plans

Existing law requires seller assisted marketing plan (SAMP) operators to disclose to prospective purchasers whether any of the management or any other company they managed have been (1) convicted of certain crimes, (2) held liable in certain civil actions, or (3) subject to an injunction or restraining order brought by a public agency.

This statute requires SAMP operators to include the identity of any officers, directors, trustees, partners, and management personnel in their disclosure, as well as whether any of these people have filed bankruptcy within the last seven years, or have any cease and desist orders, assurance of discontinuance, or comparable restrictive orders. (Civ C §§ 1812.203 & 1812.206)

AB 1872
Baca

Telephonic Marketing

Chapter 446
Statutes of 1998

Existing law regulates telephonic sellers.

This statute expands the law related to telephonic sellers by restricting the collection of fees for attempting to recover goods for an individual until seven business days after the goods have been delivered to the individual, and prohibits a telephonic seller from using a third party delivery, courier, or other pickup service to obtain a purchaser's payment for goods until the goods have been delivered.
(B&P C §§ 17512 & 17513)

AB 2088
Floyd

Pawnbrokers

Chapter 804
Statutes of 1998

Existing law establishes a four-month loan period for pawnbroker loans, during which time the borrower may redeem the pledged property by paying the loan amount plus any accrued charges, and requires pawnbrokers to give borrowers a "10-day notice" after the loan period ends, notifying the borrower of his or her right to redeem the property within 10 days of mailing the notice.

This statute requires the pawnbroker to extend the 10-day redemption period if the pawnshop is closed when the period ends, and requires the pawnbroker to provide the borrower with a receipt, upon redemption of the loan contract, containing the fees, charges, and compensation paid by the borrower. (Fin C §§ 21201 & 21204)
(See SB 1685)

AB 2265
Papan

Biometric Identifiers

Failed
Assembly
Banking
And
Finance

Existing law regulates the collection and dissemination of personal information concerning an individual.

This bill would have prohibited the use of a biometric identifier, which is a fingerprint, voiceprint, or any other similar method of identifying a person, unless certain criteria had been met, such as the person using the biometric identifier, excluding certain situations, did not sell, transmit, exchange, or provide a third party with the biometric information. (Civ C § 1798.90) (See AB 50 & SB 1622)

AB 2504
Goldsmith

Swap Meets: Gun Shows Or Events — **Dropped**

Existing law regulates and defines swap meets, and exempts certain events from the definition of a swap meet.

This bill would have excluded gun shows or events that comply with certain requirements from the definition of a swap meet.
(B&P C § 21662) (See SB 1414)

AB 2511
Morrow

Unfair Practices — **Dropped**

Existing law, known as the Unfair Practices Act, prohibits any unfair competition, such as unlawful, unfair, or fraudulent business act or practice and unfair, deceptive, untrue, or misleading advertising. Existing law also allows actions to be taken against any person who engages in unfair competition, but is silent with regards to the bringing of further actions alleging the same wrongful conduct.

This bill, among other things, would have prohibited a person from bringing further actions on behalf of others similarly situated against the same defendant and alleging the same conduct if the action is either tried or settled with court approval. (B&P C §§ 17204, 17300 & 17535)

AB 2618
Granlund

Health Studio Contracts: Refund Of Dues — **Dropped**

Existing law provides for the regulation of contractual agreements for health studio services, and the practice, business, and financing methods of these contracts. Specifically, the law requires every contract for health studio services to provide that services will begin within six months from the date the contract is signed, and requires that if a member of a health studio moves further than 25 miles from the health studio, that member may be charged a fee of $100 for cancellation of the membership.

This bill, among other things, would have required that no contract for health studio services shall be offered until the health studio facility is fully operational; allowed a member of a health studio to terminate his/her membership after six months and receive a refund for prepaid membership fees, provided that the member gives a 30-day written notice; and removed the provision that a health studio may charge a member a fee of $100 for cancellation of his/her membership if the member relocates. (Civ C §§ 1812.85, 1812.851, 1812.89 & 1812.891)

AB 2640
Bowen

Internet Service Providers — **Dropped**

Existing law makes it a crime to use, modify, or damage computer data, a computer, a computer system, or a computer network without

authorized access, and allows a victim of these crimes to seek civil remedies.

This bill would have allowed Internet service providers (ISP) to take civil action against a person who, among other things, knowingly and without authorization altered, deleted, or damaged a computer system, computer network, computer program, or data of an ISP. This bill would have subjected a person found guilty of these acts to a monetary fine equivalent to the actual commercial or retail value of the accessed services or data, or, if the value is not readily calculable, to statutory damages as specified. (Civ C § 1726) (See AB 1629 & AB 1676)

SB 289
Calderon

Warranties: Motor Vehicle

Failed Assembly Consumer Protection

Existing law authorizes each manufacturer of motor vehicles to provide for a qualified third-party dispute resolution process for resolution of disputes brought by buyers or lessees of new motor vehicles. Participating in a dispute resolution program is voluntary. These programs may seek certification by the Department of Consumer Affairs (DCA). The Tanner Consumer Protection Act, commonly known as the "Lemon Law," presumes that a reasonable number of attempts have been made to conform a new motor vehicle to applicable express warranties if within one year or 12,000 miles: 1) the same nonconformity has been subject to repair four or more times; and/or 2) the vehicle is out of service due to repair of a nonconformity by the manufacturer for 30 days in a 12-month period. Existing law defines a new motor vehicle for purposes of the "Lemon Law" to mean a new motor vehicle which is used or bought for use primarily for personal, family or household purposes.

This bill would have extended the applicability of the "Lemon Law" presumption to 24 months from delivery to the buyer or 24,000 miles for a nonconformity in a new motor vehicle covered by express warranties and required motor vehicle manufacturers who do not participate in a dispute resolution process certified by the DCA to disclose that fact to the buyer. The bill would have provided that if the nonconformity is a safety defect, as defined by this bill, the "Lemon Law" presumption is met if the nonconformity is subject to two or more repairs and the buyer has provided a specified notice to the manufacturer. The bill would have revised the definition of a new motor vehicle to include a vehicle used for business purposes by a person who has not more than five motor vehicles registered in this state. (Civ C §1793.22)

SB 597
Peace

Internet Use

Chapter 599 Statutes of 1998

Existing statutes prohibit false and misleading advertisements generally and also prohibit specific practices, such as advertising construction services without a contractor's license, making false statements about

real property, advertising used or defective goods without disclosing that they are used or defective, and making false claims in the sale of an energy conservation product or service.

This statute extends those prohibitions to representations made over the Internet. (B&P C §§ 7027.1, 17500, 17502, 17509, 17510.4, 17510.85, 17530, 17531, 17531.5, 17533, 17533.8, 17533.9, 17533.10, 17537.5, 17539.5 & 17539.55)

SB 1086
Schiff

Self-Service Storage Facilities: Containers

Chapter 45
Statutes of 1998

Existing law regulates self-service storage facilities (SSSFs), which are defined as real property designed and used to rent or lease storage space to persons who store and remove personal property to and from that space. The Act requires a written contract and gives SSSFs a lien on stored goods.

This statute expands that definition to include the storage of individual storage containers provided to occupants who have exclusive use of the container for storing and removing personal property. The statute allows SSSFs to move these containers to and from a customer's home if the SSSF: 1) does not charge more than $100 for the move; 2) does not load, pack or otherwise handle the contents of the container; 3) registers under the Household Goods Carriers Act or Motor Carriers Act; 4) maintains cargo insurance of at least $20,000 per shipment; 5) gives the customer a disclosure statement 72 hours before the SSSF delivers the empty container (unless the customer waives that requirement); and 6) gives the customer an informational brochure about loading the container. (B&P C §§ 21701 & 21701.1)

SB 1374
Leslie

Personal Information

Chapter 488
Statutes of 1998

Existing law makes it a public offense to use another person's personal identifying information to obtain credit, goods, or services without the person's consent, punishable by imprisonment in a county jail up to one year, and/or by a fine of up to $1,000.

This statute prohibits using another person's medical information without the person's consent; authorizes an alternative misdemeanor/felony penalty, punishable by imprisonment in state prison, and/or a fine of up to $10,000; and requires the court records to reflect that the victim of personal identity theft did not commit the crime. (Pen C § 530.5)

SB 1411
Rosenthal

Rental Cars: Rental Car Damage Act

Failed
Senate
Insurance

Existing law regulates the rental of passenger vehicles, including the total amount of the renter's liability to the rental company resulting from damage to the rented vehicle, and the price and terms of optional

damage waivers that may be offered by rental companies in connection with rentals.

This bill would have prohibited a rental company, in rental agreements of 30 days or less, from holding any authorized driver liable for any damages, except in certain situations, such as the damage that occurred intentionally by the driver due to his/her willful and wanton misconduct, the damage that occurred while the driver was intoxicated, or the damage that occurred while the driver was engaged in a speed contest. This bill also would have prohibited a damage waiver to be offered to provide coverage for the above exceptions to liability; prohibited a rental company from taking action for damage against a renter who is a resident of the U.S. except in the state and county of the renter's primary residence; and prohibited a rental company from requiring a security or deposit for damage in any form during the rental period or pending resolution of any dispute.
(B&P C § 22325 and Civ C § 1936)

SB 1414
Lewis

Swap Meets: Reporting Requirements: Exemption For Gun Shows

Failed Senate Business and Professions

Existing law regulates swap meets, and exempts certain events from the definition of a swap meet.

This bill would have excluded gun shows or events that comply with certain requirements from the definition of a swap meet.
(B&P C § 21662) (See AB 2504)

SB 1476
Costa

Sweepstakes Solicitation

Chapter 354 Statutes of 1998

Existing law requires that if a person is solicited by mail or telephone to participate in a sweepstakes by contacting an information-access service (i.e., "900" or "976" numbers), there must also be a free alternative method of participating that provides all participants with an equal chance of winning and meets specified requirements.

This statute prohibits the use of information-access services numbers in sweepstakes solicitations. (B&P C § 17539.5) (See SB 1780)

SB 1622
Peace

Biometric Identifiers: Financial Institutions

Failed Assembly Banking and Finance

Existing law regulates various types of financial institutions.

This bill would have prohibited banks, credit unions, check cashiers, or savings associations from requesting or requiring a customer to provide a biometric identifier, which is a fingerprint, voice print, retinal scan, or other biologically based characteristics used for identification purposes, when cashing a check or opening an account.
(Fin C § 4970) (See AB 50 & AB 2265)

SB 1685
Burton

Pawnbrokers: Compensation

Vetoed
August 31, 1998

Existing law: 1) establishes a four-month loan period for pawnbroker loans, during which time the borrower may redeem the pledged property by paying the loan amount plus any accrued charges; 2) requires pawnbrokers to give borrowers a "10-day notice" after the loan period ends, notifying the borrower of his or her right to redeem the property within 10 days of mailing the notice; and 3) specifies two different rate structures for pawnbroker loans: a fixed rate schedule for the first 90 days of a loan, and a percentage-based schedule for any extensions or renewals.

This bill would have: 1) established a three-month loan period for pawnbroker loans; 2) established a new fee schedule with a fixed rate for the initial loan period, and a smaller fixed rate for any loan extensions; 3) required the pawnbroker to extend the 10-day redemption period if the pawnshop is closed when the period ends; and 4) precluded loan origination or storage fees for a fourth loan period if a loan had been rewritten three times in succession following the original loan. (Fin C §§ 21051, 21200, 21200.5, 21200.7, 21201 & 21201.5) (See AB 2088)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 1685 without my signature.

The bill is similar to SB 788 vetoed last year. As proposed in SB 788, this bill would seek to conform two overlapping fee schedules posted on the walls of pawn shops. The first and more venerable schedule provides a monthly interest rate while the second schedule adopted in 1968 provided a flat fee for short-term loans of less than 90 days.

At the time of its adoption in 1968 the Collateral Loan Association of California (sponsors of the short-term flat rate) wrote to Governor Reagan asserting that "twenty percent" (20%) of all loans are redeemed within 30 days and a total of 40% within 60 days, it is within these periods that we fail to profit. Consequently we designed the rate schedule to afford a reasonable short-term loan profit without penalizing the borrower who takes advantage of the full six month term."

That promise has not been kept. It was soon realized that a short-term loan (90 days) for $100 yielded a $12.50 interest fee, while a six month loan for $100 yielded $15.00 interest, only $2.50 more. Loan brokers soon started to insist that every customer pay the short-term rate for the first 90 days and the percentage rate for the remaining period if the loan continued beyond 90 days. This would result in fees of $20.00 for a six month loan of $100. That is $12.50 for the first 90 days and $2.50 per month for the fourth, fifth, and sixth month. Under this convoluted formula a $15.00 fee was manipulated into a $20.00 fee contrary to legislative intent.

SB 1685 completes the cycle by eliminating the monthly rate schedule altogether. Under this bill all loans are short-term. A six month loan for $100 would, under its terms, generate two flat fees of $12.50 each for a total of $25.00. The process has all the charm of requiring a taxi passenger to exit and re-enter

after each mile so that the high initial charge can be repeated.

The six month $100 loan which cost $15.00 in interest in 1968 would under SB 1685 cost $25.00. It is possible that pawn broker fees need to be increased in order to keep pace with the cost of doing business. That issue should be addressed in a direct fashion. This bill, however, purports to be a revenue neutral clarification of the current law. It is not.

SB 1780
Peace

Contest Advertising

Chapter 280
Statutes of 1998

Existing law prohibits certain unfair advertising practices in the offering of a prize or gift, as well as the operation and conduct of contests.

This statute prohibits sweepstakes solicitations which represent that a person is a winner or has already won a prize unless that person has in fact won a prize; requires sweepstakes solicitations to include a prominent statement in the official rules stating that no purchase is necessary; and requires that there be an equal chance of winning for each participant. (B&P C § 17539.15) (See SB 1476)

SB 1836
Johnston

Donated Property

Chapter 348
Statutes of 1998

Existing law regulates disclosures made by any individual, corporation, or other legal entity that for compensation solicits funds or other property for charitable purposes. Existing law also allows taxpayers to deduct the fair market value of property (e.g., cars, boats, planes) donated to charity on their income tax returns, and for donations claimed that have a value of over $250, the taxpayer must provide a receipt from the charity.

This statute requires a nonprofit organization or commercial fundraiser that states the percentage of a contribution that will go to charity to calculate that percentage annually based on a prescribed formula, and requires a nonprofit organization or commercial fundraiser that receives a car, plane, or boat as a contribution to give the donor a receipt, containing specified information, within 90 days from the date of the donation. (B&P C § 22930)

SB 2024
Rainey

Collectibles

Chapter 494
Statutes of 1998

Existing law regulates the advertisement and sale of collectibles.

This statute tightens the laws governing sales of collectibles by requiring: 1) regulation of items priced at five dollars (rather than the current $25) or more; 2) collectibles to bear a sequence number and the total quantity produced; 3) dealers to specify the date of sale on a certificate of authenticity and to retain it for a minimum of seven years; 4) certificates to include the date, location, and name of a witness to the autograph signing, as well as the identification number which corresponds to the number on the collectible; and 5) inclusion of the

serial number on the sales receipt. This statute also allows consumers who prevail in court against a dealer to recover interest, witness fees, and additional damages. (Civ C § 1739.7)

SB 2175
Alpert

Chapter 924
Statutes of 1998

Sellers Of Travel: Travel Consumer Restitution Plan

Existing law, the Sellers of Travel Law, creates a restitution fund, financed by travel sellers, for victims of travel fraud; requires the fund to maintain a balance of $1.2 million; authorizes the Travel Consumer Restitution Corporation (TCRC) to make an annual assessment if the fund has less than $1.2 million on January 15 of any year; and authorizes the TCRC to make an emergency assessment of $200 upon travel sellers if the fund dips below $900,000. This law is due to sunset January 1, 1999.

This statute extends the Sellers of Travel law until January 1, 2006; requires the Department of Justice to report to the Legislature by January 1, 2005, regarding the registration program, the restitution fund, and the TCRC; and makes various changes to the Law, such as: 1) requiring a travel seller whose passenger is outside of California to get a written acknowledgment from the passenger that his or her travel certificate may not be refundable; 2) requiring sellers to make refunds either a) within thirty days of the date of departure, the date the passenger requests a refund, or the date of cancellation by the seller, or b) within three days after the seller is unable to provide travel services, whichever comes first; and 3) making various changes to the restitution fund and the TCRC, such as a) requiring persons who file a successful claim for payment from the restitution fund to waive their right to file a claim against the seller, unless the claim is denied or the seller was not a participant in the restitution fund; b) requiring persons filing a subsequent claim (because their first claim was rejected or was unsuccessful) to pay a $50 processing fee; c) requiring the restitution fund to maintain a balance of $1.6 million; d) authorizing the TCRC to make an annual assessment if the fund has less than $1.6 million; and e) decreasing the emergency assessment of $200 to $150 if the fund dips below $900,000. (B&P C §§ 17550.10, 17550.12, 17550.13, 17550.14, 17550.15, 17550.16, 17550.17, 17550.19, 17550.20, 17550.21, 17550.23, 17550.24, 17550.3, 17550.30, 17550.32, 17550.33, 17550.34, 17550.37, 17550.38, 17550.41, 17550.43, 17550.44, 17550.46, 17550.47, 17550.5, 17550.53, 17550.57, 17550.58, 17550.59 & 17550.9)

(2) Court System and Conflict Resolution

AB 128
Morrow

Failed
Legislative
Deadline

Electronic Recording

Existing law authorized the Judicial Council to establish a

demonstration project to assess the costs, benefits, and acceptability of utilizing audio and video recording as a means of producing a verbatim record of proceedings in up to 75 superior court departments and also provided for the termination of the demonstration project in each county on January 1, 1994.

This bill would have authorized the Judicial Council to adopt rules to permit any court to utilize audio and video recording as a means of producing a verbatim record. (CCP § 270)

AB 185
Papan

Interpretation of Contracts: European Currency

Chapter 62
Statutes of 1998

Existing law sets forth various rules governing the interpretation of contracts.

This statute, which is an urgency statute, provides for the interpretation of contracts, securities, and similar instruments with relation to mediums of payment replaced by the euro dollar.
(Civ C § 1663)

AB 565
McClintock

Criminal Procedure: Pleading

Failed
Legislative
Deadline

Existing law specifies that a plea of "nolo contendere" is equivalent to a plea of guilty for all purposes in felony cases. In nonfelony cases, a plea of "nolo contendere" may not be used against the defendant as an admission in any civil suit based upon or growing out of the act upon which the criminal prosecution is based.

This bill would have eliminated this distinction and would have provided that a plea of "nolo contendere" is equivalent to a plea of guilty in a subsequent civil action or trial involving an allegation of wrongful or false arrest. (Pen C § 1016)

AB 635
Oller

Testimony: Closed-Circuit Television

Chapter 356
Statutes of 1998

The United States and California Constitutions guarantee the right of a criminal defendant to be represented with counsel and to be confronted with the witnesses against the defendant. Existing statutory law authorizes various three-year pilot projects involving video arraignment.

This statute authorizes the County of Placer to establish a three-year pilot project until January 1, 2002, permitting a court in that county to allow its peace officers to testify, upon application by a law enforcement agency, and to allow specified defendants to testify or appear for arraignment via closed-circuit television. The statute also requires the presiding judge of the superior court of Placer County to evaluate the pilot project and report to the Legislature and the Judicial Council. (Pen C § 977.5 and Veh C § 40502.1)

AB 737
Pacheco

Expert Witness Testimony

Failed Assembly Public Safety

Existing law provides that an expert witness may testify in the form of an opinion and may state the reasons for and the matter upon which the opinion is based, unless he or she is precluded by law from using such reasons or matter.

This bill would have prohibited an expert witness, in a criminal case, from revealing the contents or details of any statement made or expressed by a nontestifying defendant in a criminal action.
(Evid C § 802)

AB 771
Margett

Small Claims Court: Jurisdiction

Chapter 240 Statutes of 1998

Existing law limits small claims court jurisdiction to claims no more than $5,000 and limits small claims against a guarantor (i.e., surety company) to no more than $2,500.

This statute increases the small claims jurisdictional limit from $2,500 to $4,000 against a defendant guarantor (i.e., surety company) beginning January 1, 2000, provided the guarantor charges a fee for services; requires the court to grant a one-time postponement of the hearing date upon written request of the guarantor; allows a defendant guarantor the right to specified documentation relating to the small claim; and specifies procedures for obtaining hearing continuances in instances where the documentation has not been received.
(CCP §§ 116.220 & 116.570)

AB 804
Baugh

Civil Actions

Failed Legislative Deadline

Existing law provides that a plaintiff may not recover his or her costs and shall pay the defendant's costs from the time of a settlement offer made by the defendant if the plaintiff does not accept the offer and fails to obtain a more favorable judgment. The court has the discretion to apply similar provisions to offers made by plaintiffs that are not accepted by the defendants.

This bill would have added reasonable attorney's fees from the time of the offer to the costs recoverable under existing law, except as to personal injury actions, and would have authorized the court or arbitrator to require a party who fails to accept such an offer to post a bond to cover the expected costs and attorney's fees. (CCP § 998)

AB 843
Goldsmith

Summary Judgment

Failed Legislative Deadline

Existing law provides that a motion for summary judgment can be made if there is no *triable* issue of fact.

This bill would have provided that a motion for a summary judgment can be made if there is no "genuine issue of fact." (CCP § 437)

AB 886
Morrow

Jury Service

Failed Legislative Deadline

The Legislature recognizes that jury service is an obligation of citizenship and all qualified persons are required to perform jury service unless they are excused for undue hardship.

Among other things, this bill would have specified that jury service is mandatory for all qualified California citizens who are summoned or ordered to appear. This bill would have also provided that an eligible person shall be excused from jury service for a minimum of 12 months after he or she has completed jury service. (CCP §§ 191.5, 204, 215, 219.5, 220, 222, 222.3, 223.5, 223.6, 223.7, 231, 234 & 237; Pen C § 19.5; and R&T C §§ 17053.20 & 23635)

AB 918
Floyd

Discovery

Failed Legislative Deadline

Existing law provides various discovery methods and allows the court to restrict the use of a method if the selected method is unduly burdensome or expensive or is reasonably cumulative or duplicative.

This bill would have provided that the pendency of or the failure to file a particular motion or pleading does not constitute a basis for an order restricting the use of such methods of discovery. (CCP § 2019)

AB 919
Floyd

Discovery Sanctions

Failed Legislative Deadline

Existing law authorizes a court to impose specified sanctions upon a party to an action for misuse of the discovery process.

This bill would have provided that failing to produce documents or other information within the party's possession, custody, or control at the time that the responses to discovery are due or at a later time agreed upon by the parties is a misuse of the discovery process.
(CCP § 2023)

AB 1094
Escutia

Civil Actions

Chapter 932 Statutes of 1998

Existing law provides for the establishment of the Court Reporters Board and the Transcript Reimbursement Fund. Existing law also provides that the Court Reporters Board and the Transcript Reimbursement Fund will sunset on July 1, 1999.

Among other things, this omnibus bill from the Assembly Judiciary Committee extends the sunset date for the Transcript Reimbursement Fund. This statute makes several non-controversial changes to existing law regarding superior and municipal courts and court procedures. (B&P C §§ 22350, 6301.1, 8030.2, 8030.4, 8030.6 & 8030.8; Civ C §§ 1793.23, 2924 & 2924.3; CCP §§ 1005, 1985.3, 1985.6, 200,

2024, 2025, 2031, 484.350, 484.70, 569, 701.040, 77 & 87; Com C §§ 8603, 9501, 9502 & 9504; El C §§ 8023, 8040 & 8201; Gov C §§ 21290, 68152, 68511.3, 75050 & 76219; H&S C 115800.1 & 33502; Pen C §§ 11165.8 & 1368; and Fam C §§ 400 & 4251)

AB 1199
Alby

Court Proceedings: Disqualification of Judges

Chapter 167
Statutes of 1998

Existing law allows a party to a civil or criminal action or proceeding to move to disqualify a judge, commissioner, or referee for prejudice.

This statute would provide that a motion to disqualify may be made following reversal on appeal of a trial court's final judgment by the party or side that filed the appeal, and would create an exception allowing that party or side to make this motion without regard to whether that party or side has made a previous motion to disqualify for prejudice. (Civ C § 170.6)

AB 1323
Martinez

Victims of Crime: Photographs: Civil Liability

Failed Legislative Deadline

Existing law provides certain civil rights to victims of crime and prohibits the making of any copy of any photograph of the body or a portion of the body of a deceased person, taken by or for the coroner.

This bill would have provided that any person who publishes, disseminates, exhibits, displays, circulates, prints, distributes, televises, issues, or markets any kind of photograph, videotape, negative, print, or internegative of a body or a portion of a body of a victim of crime without the expressed written consent or waiver by a surviving victim, by the guardian or parent of a surviving minor victim, or by the immediate family of a deceased victim is subject to civil liability.
(Civ C § 2228) (See AB 1500)

AB 1324
Escutia

Summary Judgment

Failed Legislative Deadline

Existing law establishes specific procedures for a party to move for summary judgment or summary adjudication.

This bill, among other things, would have limited the number of motions for summary judgment or summary adjudication that may be made by one party against another party. (CCP § 437)

AB 1371
Morrow

Civil Actions: Exemplary Damages

Failed Legislative Deadline

Existing law provides for the awarding of punitive or exemplary damages if the defendant has been found guilty of oppression, fraud, or malice in an action for the breach of an obligation not arising from contract.

This bill would have required that if the trier of fact determines that the defendant was liable for exemplary damages, a separate proceeding

should be conducted to determine the amount of exemplary damages to be imposed. The bill also would have provided that the court shall preclude the admission of evidence relevant solely to the amount of punitive or exemplary damages, including certain profits gained by the defendant. (Civ C §§ 3294.5 & 3295)

AB 1374
Hertzberg

State Bar

Chapter 798
Statutes of 1998

Existing law requires the Board of Governors of the State Bar to establish and maintain a system for arbitration of fee disputes between attorneys and their clients. Senate amendments deleted the original Assembly version of this bill.

This statute clarifies existing law relative to parties agreeing in writing to be bound by the award of appointed arbitrators in cases involving fee disputes between attorneys and their clients. (B&P C § 6204)

AB 1462
Morrow

Governmental Liability: Attorney's Fees

Failed
Legislative
Deadline

Existing law provides that civil actions may be filed against a state or local entity according to specified procedures.

This bill would have required the court to award reasonable attorney's fees to the prevailing party in such an action. (Gov C § 814.4)

AB 1471
Pacheco

State Public Defender

Failed
Legislative
Deadline

Existing law authorizes the State Public Defender to contract with specified attorneys and organizations for the provision of legal services for indigent persons.

Among other things, this bill would have authorized the State Public Defender to contract with law schools that have established a clinical program organized to furnish legal services to persons who are not financially able to employ counsel. (Gov C §§ 15401, 15402, 15403, 15420, 15421, 15421.5, 15422, 15425, 27707.1 & 68804; and Pen C §§ 1026.5 & 1240)

AB 1500
Thomson

Publication: Liability to Crime Victims

Failed
Legislative
Deadline

Existing law provides certain civil rights to victims of crime and prohibits the making of any copy of any photograph of the body or a portion of the body of a deceased person, taken by or for the coroner.

This bill would have provided that any person who causes to be published, broadcast, or otherwise disseminated any still photograph, video or film image of an actual murder, rape, mutilation, or torture in progress, or the immediate aftermath, and causes actual damage to the victim depicted in the material or to any person who would be entitled to bring a wrongful death action, shall be liable for all compensatory

damages suffered and for any exemplary damages that may be deemed appropriate by the trier of fact. (Civ C § 48.6) (See AB 1323)

AB 1617
Baca

Religious Freedom Protection Act

Vetoed
September 28, 1998

The First Amendment to the United States Constitution provides that Congress shall make no law regarding an establishment of religion or prohibiting the free exercise of religion, and the California Constitution provides that the free exercise and enjoyment of religion without discrimination or preference is guaranteed.

This bill would have declared that its purpose is to codify the principle that government should not substantially burden religious exercise without compelling justification, and then only by the least restrictive means consistent with that compelling justification, as set forth in People v. Woody (1964) 61 Cal.2d 716, Sherbert v. Verner (1963) 374 U.S. 398, and Wisconsin v. Yoder (1972) 406 U.S. 205, and provided a claim or defense to persons whose religious exercise is substantially burdened by government. This bill would have prohibited government from substantially burdening a person's exercise of religion even if the burden results from a rule of general applicability, except if government demonstrates that application of the burden to the person is both in furtherance of a compelling governmental interest and the least restrictive means of furthering that compelling governmental interest. This bill would have also permitted a person whose religious exercise has been burdened in violation of these provisions to assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. This bill would have specified that the free exercise of religion is a substantive right that applies in this state even in instances where laws, regulations, or other governmental actions are facially neutral and would have provided that laws, regulations, and other governmental actions shall be subject to the Religious Freedom Protection Act. (Civ C § 43.2 and Gov C § 6400)

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 1617 without my signature.

This bill enacts the "Religious Freedom Protection Act," which would prohibit any state or local government from enacting or applying a facially neutral law, ordinance, or regulation which substantially burdens a person's exercise of religion unless the government can demonstrate that the law, ordinance, or regulation (1) furthers a compelling governmental interest and (2) uses the least restrictive means of furthering that compelling governmental interest. This test would apply to all state or local laws, "whether adopted before or after the effective date of this chapter," and could be asserted as a claim or defense in any judicial proceeding. It bears emphasis that the bill's focus is on laws that regulate conduct claimed to be motivated by religious beliefs, not religious beliefs - which are fully protected by the First Amendment.

This country has been a beacon for religious freedom. Many of the earliest settlers came to America to escape religious persecution. Few principles epitomize America's unique national character as does the First Amendment's right to freedom of religion. But this bill goes beyond the guarantees under the First Amendment or the California Constitution. Poorly drafted, it sets standards for assessing the validity of laws which would have untold consequences not contemplated by its supporters. It would engender litigation by prisoners and criminal defendants alike, who claim that the laws which protect and preserve order burden their religious beliefs. It would open up the prospect of invalidating laws ranging from the payment of taxes to compulsory vaccination laws, to drug laws, to land use laws, to laws against racial discrimination. Indeed, so broad is this bill that the federal version of this Act - before the U.S. Supreme Court struck it down as unconstitutional - was used in the Proposition 187 litigation to argue that Proposition 187 was invalid because it burdened religious tenets.

Ironically, this law is not only unnecessary in light of the existing California constitutional guarantee of the free exercise of religion (Cal. Const., Art. I, 4), but more importantly, it threatens law enforcement, is unworkable, and is of doubtful constitutionality.

I. Background

The bill is largely a response to two U.S. Supreme Court decisions. In 1990, in Employment Division v. Smith, 494 U.S. 872 (1990), the U.S. Supreme Court, in a decision delivered by Justice Scalia, upheld an Oregon criminal law which prohibited the possession of controlled substances, including peyote, against a challenge under the Free Exercise Clause of the First Amendment, and therefore ruled that Oregon could deny unemployment benefits to persons dismissed from their jobs because of their religiously inspired use of an illegal drug, peyote. The Court declined to require that a facially neutral criminal law that burdened a religious practice - ingesting peyote for sacramental purposes - had to be justified by a compelling governmental interest. Instead, it ruled that "[t]o make an individual's obligation to obey such a law contingent upon the law's coincidence with his religious beliefs, except where the State's interest is compelling... contradicts both constitutional tradition and common sense." 494 U.S. at 885.

The Court observed that "[a]ny society adopting such a system would be courting anarchy, but that danger increases in direct proportion to the society's diversity of religious beliefs." It concluded that "we cannot afford the luxury of deeming presumptively invalid, as applied to the religious objector, any regulation of conduct that does not protect an interest of the highest order." 494 U.S. at 888.

The Congress enacted the Religious Freedom Restoration Act of 1993 in response to the Supreme Court's decision in Employment Division v. Smith. That Act - like the bill here - seeks to prohibit government from substantially burdening a person's exercise of religion unless the application of the burden furthers a compelling governmental interest by the least restrictive means.

In June, 1997, the U.S. Supreme Court struck down the Religious Freedom Restoration Act in City of Boerne v. Flores on the grounds that Congress did not have authority under Section 5 of the Fourteenth Amendment to enact such a law. The California Legislature has now passed this bill to enact the federal Religious Freedom Restoration Act at the state level and to establish the compelling interest test rejected in Employment Division v. Smith.

II. The Act is Unnecessary

This bill, to the extent it seeks to restore the compelling interest test rejected in Employment Division v. Smith, is unnecessary. The protections guaranteed under the California Constitution's free exercise clause in Article I, section 4 are independent of those safeguarded under the First Amendment. See Cal. Const., Article I, section 24. And the California Supreme Court confirmed two years ago

that the California courts have construed the California Constitution's free exercise clause "to afford the same protection for religious exercise as the Federal Constitution before Employment Division v. Smith, supra, 494 U.S. 872." (See Smith v. Fair Employment and Housing Commission, 12 Cal. 4th 1143, 1177 (1996).) Accordingly, the primary concern of proponents of this bill - the abandonment of a compelling interest test - is unwarranted.

Unfortunately, this bill would go further than the compelling interest test utilized by the courts before Employment Division v. Smith and would create a means to challenge facially neutral laws by prisoners, criminal defendants, and others.

III. The Bill Creates An Unworkable Standard That Would Engender Litigation by Prisoners, Criminal Defendants and Others

Under the bill, any facially neutral law, regulation, ordinance, or other governmental action could not be applied to substantially burden a person's exercise of religion unless the government demonstrates that the burden (1) furthers a compelling governmental interest and (2) is the least restrictive means of furthering that interest. However, the test is uncertain and will result in the invalidation of laws preserving public safety and welfare:

* First, judicial decisions do not offer a generally applicable definition of "substantial burden," see, e.g., Smith v. Fair Employment and Housing Commission, 12 Cal. 4th 1150, 1169 (1996). Application of this test will be uncertain. * Second, the U.S. Supreme Court has warned that the bill's requirement that laws be the "least restrictive means" of furthering a compelling interest adds "a requirement that was not used in the pre-[Employment Division v.] Smith jurisprudence" that this bill purports to codify. See City of Boerne v. Flores, 117 S. Ct. 2157, 138 L.Ed.2nd 624, 648 (1997).

Thus, this bill goes beyond the constitutional protections for religion that its supporters believed they are restoring.

Unfortunately, the "least restrictive means" requirement would open the door for constitutional challenges by prisoners to laws and regulations, which challenges are currently denied under the Supreme Court's decision in Turner v. Safley, 482 U.S. 78, 90 (1987). That decision specifically ruled that a prison regulation that impinges on inmates' constitutional rights "is valid if it is reasonably related to legitimate penological interests." Id. at 89. The Court emphasized that this is "not a 'least restrictive alternative' test: prison officials do not have to set up and then shoot down every conceivable alternative method of accommodating the claimant's constitutional complaint." Id. at 90-91.

By invalidating any facially neutral law or regulation which substantially burdens a person's exercise of religion unless the government demonstrates that the law or regulation is the least restrictive means of furthering a compelling governmental interest, correction officials can and will be sued over a variety of facially neutral laws and regulations by prisoners who claim that alcohol, a specific diet, sacred knives, conjugal visits, and satanic bibles are all part of their free exercise of religion.

Likewise, under the bill, criminal defendants could raise religious objections to drug laws, seek to justify domestic violence based on a purported religious belief that wives should be submissive to their husbands, and could seek to resurrect the diminished capacity defense for defendants who are under the influence of drugs when they commit crimes. In each case, the State would have to show that these criminal laws are the "least restrictive means" of furthering its compelling interests in these laws. While no one can predict the outcome of these challenges, we can predict that law enforcement will be thwarted, delayed, and consumed in litigation.

For these reasons, the bill has been strongly opposed by sheriffs, police chiefs, peace officers, corrections officials, and prosecutors.

IV. The Bill Transfers Legislative Responsibilities to

the Judiciary And Is Constitutionally Suspect

Although it is not a constitutional amendment, this bill would establish a statutory test of invalidity, which the courts could use to restrict or invalidate laws enacted by the Legislature, "whether adopted before or after the effective date of this chapter." In essence, instead of each Legislature addressing the issue of religious accommodation on a bill-by-bill basis, the bill would transfer from the Legislature to the judiciary the determination of whether a law - which meets the test for protecting religious freedom under the U.S. and California Constitutions - should be restricted further, or invalidated, because it fails to meet the "compelling interest/least restrictive means" test established by this proposed statute.

In short, one statute will restrict - depending upon the judgment of a court -the scope of a subsequent statute passed by a majority of the people's representatives and signed by the Governor. This places in the court the power to amend statutes, and therefore raises serious separation of powers concerns under Article III, section 3 of the California Constitution since the judiciary may not amend statutes.

V. Conclusion

Few rights are as important in America, or epitomize America's values, as the right to freedom of religion. Both the U.S. and California Constitutions guarantee that right. But this bill, as it is drafted, goes beyond those guarantees and sets a test many laws would fail, engendering litigation by prisoners and criminal defendants who would claim that the laws which protect us and preserve order burden their religious beliefs. It would weaken prison regulations and law enforcement with costly lawsuits seeking to subordinate our criminal laws to criminal defendants' supposed religious beliefs. Those literally doing the Lord's work through prison ministries have urged that I sign the bill and seek subsequent enactment of a state analogue to the federal Prison Litigation Reform Act. They have generously offered to help move such a bill through the Legislature. I value their offer of assistance (and totally agree with the need for prison litigation reform), just as I value and endorse the work prison ministries do in our prisons where it is so critically needed. Prison officials should be strongly encouraged to welcome their efforts. But the concerns occasioned by AB 1617 argue that the restraints of such a prisoner litigation reform act should first be in place to protect against the abuses by California's activist prisoner rights bar that this bill might otherwise invite. And prisoner litigation reform, were it in place, does not address the problem of criminal defendants not yet in prison who assert a religious basis for criminal conduct as a defense in order to stay out.

Moreover, the bill raises a serious constitutional objection that it invites the Legislature to violate the Separation of Powers Doctrine by abandoning its responsibility to consider accommodations for religious freedom on a bill-by-bill basis. Instead, through this bill, the Legislature would put in the hands of private litigants and the courts the decision whether to restrict or invalidate perfectly valid laws - laws which comply with the constitutional right to freedom of religion - on the grounds that they nonetheless impinge on conduct which is claimed to be substantially motivated by religious beliefs. Rather than establishing a test which risks the unintended and wholesale invalidation of perfectly valid laws that protect our safety and welfare, the Legislature should decide on a bill-by-bill basis whether and how to accommodate conduct motivated by religious concerns. As much as I treasure the religious freedom that is our nation's heritage, I cannot in good conscience sign this bill.

AB 1669
Hertzberg

State Bar

Failed Legislative Deadline

Existing law sets forth provisions regarding the licensing and regulating of the practice of law in California by the State Bar.

Among other things, this bill would have limited the functions of the State Bar to those authorized by the Legislature and the Supreme Court, including responsibilities related to the enforcement of disciplinary provisions, the maintenance of member records, and the making of various recommendations to the Legislature, the Governor, the courts, the federal government, and other agencies. This bill would have further prohibited the Board of Governors from engaging in advocacy for or against any legislation that is not related to the State Bar, the regulation of the legal profession, the improvement of the quality of legal services, or the administration of justice in California. (B&P C §§ 6001.2, 6001.5, 6001.7, 6008.6, 6026.5, 6031, 6070, 6071, 6086.65, 6095.1, 6140, 6140.55, 6145 & 6204) (See AB 1798 & SB 1371)

AB 1716
Murray

Lawyers: Financial Services

Vetoed
September 30, 1998

Existing law regulating the practice of law establishes that properly adopted rules of professional conduct are binding upon all members of the State Bar. These rules provide that lawyers may enter into business transactions with their clients or acquire pecuniary interests adverse to their clients if certain prerequisites, including the client's informed written consent, are met.

This bill would have provided that a lawyer may sell financial products to a client who is an elder or dependent adult with whom the lawyer has or has had, within the preceding three years, an attorney-client relationship, if the lawyer provides that client with a disclosure statement. (B&P C § 6175)

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 1716 without my signature.

This bill would require an attorney to provide a detailed disclosure statement before the attorney would be able to sell long-term care insurance, life insurance, or annuities to any client who is an elder or dependent adult with whom the attorney has or has had an attorney-client relationship within the past three years

I would sign this bill to provide elder protection were it not for the requirement that the attorney advise his client as to how to spend down his assets in order to qualify for Medi-Cal.

AB 1798
Morrow

California State Bar

Failed Legislative Deadline

Existing law sets forth provisions regarding the licensing and regulating of the practice of law in the State of California by the State Bar.

This bill would have limited the responsibilities of the State Bar to specified areas concerning the regulation of and admissions to the

legal profession. (B&P C §§ 6001.2, 6001.7, 6008.6, 6026.5, 6029, 6031, 6032, 6070, 6140, 6140.3, 6140.5, 6140.55, 6140.6, 6140.9, 6145, 6155 & 6210; and Gov C § 12011.5) (See AB 1669 & SB 1371)

AB 1884
Cedillo

Proceedings Involving Minors: Interpreters

Chapter 981
Statutes of 1998

Existing law provides for custody proceedings and other proceedings in which the best interests of a minor child are at issue.

This statute directs the Judicial Council to create a one-year pilot project in at least two counties, one of which shall be Los Angeles, to provide a court appointed interpreter in any child custody proceeding if needed and the court determines the parties are unable to pay the cost. (Fam C § 3032)

AB 1912
Ashburn

Attorneys Fees: Prevailing Public Entities

Failed Assembly Judiciary Committee

Existing law authorizes the court to award attorney's fees to the prevailing party in any action that results in the enforcement of an important right affecting the public interest, if specified conditions are satisfied. In these actions, existing law permits the court to assess fees against, but prohibits an award of fees to, public entities.

This bill would have permitted the court to award attorney's fees to a public entity if the public entity is the prevailing party in an action and if the court finds that an award is appropriate in the interest of justice. (CCP § 1021.5)

AB 1934
Honda

Liability: Computer Failures

Failed Legislative Deadline

Existing law specifies the measure of damages recoverable in tort and contract actions.

This bill would have specified that in an action to recover damages resulting from a computer date failure, the damages recoverable for noneconomic losses shall not exceed $250,000. (Civ C § 3339)

AB 2069
Kaloogian

Estates and Trusts: Protective Proceedings

Chapter 682
Statutes of 1998

Existing law establishes procedures for the establishment of a conservatorship over a person and the administration of an estate of a decedent.

Among other things, this statute authorizes the appointment, by the superior court, of a practice administrator with specified powers to take control of the practice or deceased or disabled member of the State Bar of California. This statute also makes other technical changes to provisions relating to probate and trusts. (B&P C § 6185 and Prob C §§ 100, 101, 13651, 16060.5, 16061, 16061.5, 16061.7, 16062, 16246, 17200, 18201, 2468 & 9764)

AB 2071
Kaloogian

Civil Actions: Attorney's Fees

Failed Assembly Judiciary

Existing law provides for the awarding of attorney's fees to the prevailing party in specified civil actions.

This bill would have provided that if a convicted felon brings a civil action for damages resulting from an intentional tort proximately caused by his or her felony, or his or her immediate flight therefrom, such as an action for the excessive use of force, and does not prevail in the civil action, the defendant shall be entitled to attorney's fees. (CCP § 1033.6)

AB 2086
Keeley

Arbitration: Attorneys

Chapter 915 Statutes of 1998

Existing law requires any person rendering legal services in this state to be admitted to the State Bar of California.

This statute clarifies that out-of-state attorneys (not licensed in California) are allowed to participate in California arbitration proceedings. (CCP § 1282.4)

AB 2150
Brewer

Depositions: Computer-Assisted Transcription

Chapter 974 Statutes of 1998

Existing law sets forth procedures regarding the taking of oral deposition and requires any party seeking discovery by taking the oral deposition of a person to serve a deposition notice to all parties.

This statute requires a court deposition notice to state any intention to record the testimony by stenographic method through the instant visual display of the testimony and requires that this notice be given to the deposition officer. (CCP § 2025) (See AB 1094 & SB 2145)

AB 2207
Escutia

Family Law Information Centers

Chapter 721 Statutes of 1998

Existing law provides for the appointment of counsel in specified family law matters where the parent is unable to afford counsel.

This statute creates a pilot project to establish family law information centers, to be administered by the Judicial Council, in three pilot project courts that apply to participate and are selected by the Judicial Council. These family law information centers, which will be located in the superior court, will provide legal resources to low-income family law litigants under the supervision of an active member of the State Bar. (Fam C § 15000)

AB 2239
Strom-Martin

Attorneys: Estate Planning Services

Failed Legislative Deadline

Existing law provides for the licensure and regulation of attorneys in the state and for membership by those licensees in the State Bar.

This bill would have prohibited the rendering of certain specified services in connection with estate planning documents or other estate planning services by persons other than active members of the State Bar. (B&P C § 6229)

AB 2269
Granlund

Juries: Construction Defects

Failed Assembly Judiciary

Existing law provides that a jury may view property which is the subject of litigation, upon the motion of the court or any party, when the court finds that such a viewing would be proper and would aid the trier of fact in its determination of the case.

This bill would have required a jury to view a construction site upon the motion of any party in an action or proceeding in which a defect in construction on real property is alleged. (CCP § 652)

AB 2280
Papan

Contractors: Works of Improvement

Vetoed
September 21, 1998

Existing case law provides that "pay-if-paid" clauses in contracts for public and private works of improvement which provide that a subcontractor will be paid the amount specified in the contract only if the contractor is paid, are void and unenforceable because they violate the public policy that underlies the statutory anti-waiver provisions of the mechanic's lien law (Wm. R. Clarke Corp. v. Safeco Ins. Co. (1997) 15 Cal.4th 822; Capitol Steel Fabricators, Inc. v. Mega Construction Co. Inc. (1997) 58 Cal.App.4th 1049). Existing law does not require an owner to provide security for development projects, but does provide for a mechanic's lien upon a property for certain persons who have bestowed labor or furnished materials. The lien is in the amount of value of the labor completed or the materials furnished.

This bill would have required property owners who contract for a work of improvement with a contract value of more than $1 million to provide financial security for the project through a bond, letter of credit or deposit account. This bill was intended to ensure that contractors, subcontractors, material suppliers and employees are paid for completed work in the event the owner of a construction project defaults on his or her contract with the prime contractor.
(Civ C § 3110.5)

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 2280 without my signature.

This bill would require property owners who enter into construction contracts for more than $1 million to provide the general contractor financial security for the project. The security must be in the form of a surety bond equal to 50 percent of the contract, a letter of credit for 15 percent of the contract or a cash deposit of 3 months' worth of payments under the contract. The bill would also require

property owners to provide the general contractor with a copy of the construction mortgage or deed of trust certified by the county recorder.

Contract matters such as payment terms and the use of security instruments are best left to the contracting parties. General contractors are free to negotiate terms that are similar to the provisions of this bill. Similarly, property owners should be able to negotiate these issues without legislative interference.

AB 2445
Oller

Works of Improvement: Mechanic' s Liens

Failed Legislative Deadline

Existing law provides that any original contractor or subcontractor who files a mechanic's lien is entitled to recover only the amount due him or her according to the terms of his or her contract after making deductions for claims of other claimants. Existing law provides that, in an action where the owner of property or the owner of any interest therein petitions the court for a decree to release the property from a lien that is not enforced, the prevailing party is entitled to attorney's fees not to exceed $1,000.

This bill would have provided that in an action to foreclose a mechanic's lien, the prevailing party may be entitled to reasonable attorney's fees. (Civ Code § 3150.5)

AB 2557
Alquist

Law Schools: Unaccredited

Vetoed
September 18, 1998

Existing law provides for the State Bar to approve and regulate accredited law schools and for the Bureau for Private Postsecondary and Vocational Education (BPPVE) to approve and regulate nonaccredited law schools.

This bill would have required all degree-granting law schools that are subject to regulation by the BPPVE to provide reasonable access, which may be via electronic means, to specified library resources. (Ed C § 94900)

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 2557 without my signature.

This bill would provide that unaccredited law schools may comply with current requirements for libraries by providing reasonable access to specified types of law books and treatises and provides that the law schools may comply with this requirement via access to electronic means, such as providing access to personal computer for on-line, Internet and CD-ROM research services.

California Rule of Court 957 establishes minimal requirements for law schools not accredited by the California Committee of Bar Examiners. This rule was promulgated by the Supreme Court. The establishment of standards for unaccredited law schools is currently a power of the Supreme Court. It is not appropriate for the Legislature to attempt to second guess the Supreme Court on what are and are not appropriate standards for unaccredited law schools. The Supreme Court has the authority to amend Rule of Court 957 and can consider whether the changes proposed in this bill are appropriate.

AB 2702
Aroner

Civil Rights: Alteration of Buildings: Small Claims Actions

Chapter 195
Statutes of 1998

Existing law prohibits discrimination, boycotting, blacklisting, or the refusal to buy from or sell to a person by business establishments, and discrimination by franchisers, based on, among other things, a person's disability; provides that nothing in the Unruh Civil Rights Act shall be construed to require any construction, alteration, repair, or modification of any new or existing structure; and specifies the types of actions that may be brought in small claims court, provided the demand does not exceed $5,000.

This statute clarifies that the Unruh Civil Rights Act does not require any construction, alteration, repair, or modification of any new or existing structure, beyond what is required by other provisions of law; specifies that the jurisdiction of the small claims court includes actions for damages for specified acts of discrimination, provided the demand does not exceed $5,000. Civ C §§ 51, 51.5, 51.8 & 52)

SB 19
Lockyer

Mediation

Chapter 618
Statutes of 1998

Existing law provides for a mediation pilot project that authorizes the courts in Los Angeles County to order specified civil action to mediation and provides for the sunset of this project on January 1, 1999.

This statute repeals the sunset date of the mediation pilot project. (CCP § 1775.16)

SB 213
Kopp

Legal Services: State

Vetoed
September 24, 1998

Existing law generally prohibits, with specified exceptions, any state agency from employing any legal counsel other than the Attorney General in any matter in which the agency is interested. Existing law authorizes, on the other hand, a state agency to employ outside counsel after obtaining the prior written consent of the Attorney General.

This bill would have provided that the general prohibition, which specifically applies to the Department of Insurance in insurance delinquency proceedings, is limited to insurance delinquency judicial proceedings and includes any judicial proceeding that is ancillary to an insurance delinquency proceeding. (Ins C § 1036)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 213 without my signature.

This bill would expand the current legal requirement that the Insurance Commissioner secure the consent of the Attorney General before retaining private

counsel by also requiring the Commissioner to obtain the Attorney General's consent before the Commissioner uses agency counsel - even in a case where the Attorney General is not representing the Insurance Commissioner.

Under existing law, the Insurance Commissioner must secure the written consent of the Attorney General before employing counsel for the institution and prosecution of all insurance delinquency proceedings. However, with respect to the use of existing agency counsel, the law states that it is the Legislature's intent that the Attorney General and Insurance Commissioner consult and cooperate in regard to utilizing agency counsel of the Department of Insurance in delinquency proceedings, judicial and otherwise.

This bill would clarify that the Insurance Commissioner's employment of counsel for insurance delinquency proceedings (for which the Attorney General's consent is required) includes judicial proceedings ancillary to insurance delinquency proceedings. But the bill would add that as a matter of legislative intent, the requirement that the Attorney General grant consent before the employment of counsel applies to the use of agency counsel.

Significantly, the bill's author did not intend the bill to reach so far. In his letter requesting that I sign this bill, he states that the bill "is intended to clarify for all parties the intent of existing law which specifies that before hiring private counsel, the Department of Insurance must first obtain authorization of the Attorney General."

Regrettably, the bill goes beyond a clarification concerning the hiring of private counsel, and instead raises a new issue: Whether the Attorney General's consent must first be obtained or the use of agency counsel - despite existing law's express intent that the Insurance Commissioner and Attorney General instead "consult and cooperate" in regard to utilizing agency counsel. Further, this bill is written in such a way so as to go beyond the Department of Insurance. It suggests that the existing requirement in Government Code Section 11040 that the written consent of the Attorney General be obtained for any state agency to employ counsel be construed to cover agency attorneys already employed by the State.

SB 232
Brulte

Liability

Dropped

Existing law provides that an obligation imposed upon or a right created in favor of several persons is presumed to be joint and not several. Also, existing law provides that the liability of each defendant for noneconomic damages in an action for personal injury, property damage, or wrongful death is several and not joint.

This bill would have provided that a person shall have only several, and not joint and several, liability for any claim. Claim is defined as meaning all economic losses, damages, and other liabilities not arising from personal injury, property damage, or wrongful death, but from tort, contract, or acts of omissions of a person rendering services to the claimant. (Civ C § 1431.25)

SB 262
Burton

Damages

Chapter 1000
Statutes of 1998

Existing law provides that any person who knowingly uses another's name, voice, signature, photograph, or likeness, in any manner on or in products, merchandise, or goods, or for the purpose of advertising or selling or soliciting without such person's prior consent is liable for any damages sustained by the person or persons injured.

This statute provides that a person is liable for a physical invasion of privacy when the defendant knowingly commits an act of trespass in order to invade physically the privacy of the plaintiff with the intention to capture any type of visual image, sound recording, or other physical impression of the plaintiff and the physical invasion occurs in the manner that is offensive to a reasonable person. (Civ C § 1708.8)

SB 709
Rosenthal

Self-Help Legal Services

Dropped

Existing law prohibits any person who is not a member of the California State Bar from practicing law or from advertising or holding himself or herself out as practicing or entitled to practice law.

Among other things, this bill would have specified that legal technicians of self-help legal services does not constitute the unauthorized practice of law. (B&P C § 6450) (See SB 1418)

SB 778
Haynes

False Claims Actions

Dropped

Existing law authorizes the Attorney General to investigate and bring a civil action for false claims made against the state if money, property, or services issued are involved.

This bill would have provided that tort claims and actions against public entities and public employees, specified construction claims or arbitration claims from public works projects, claims made pursuant to other statute or law, and claims made in the course of any litigation, arbitration, or other formal adjudicatory proceedings are exempt from these provisions. (Gov C § 12654)

SB 845
Haynes

State Bar of California: Law Students' Examination

Chapter 29
Statutes of 1998

Existing law provides that in order to practice law in the state of California, an applicant must meet certain requirements such as the passing of the General Bar Examination. Existing law also provides that students attending nonaccredited law schools pass the Law Students' Examination in order to receive credit for their first year of law school studies.

This statute, which was amended prior to its enrollment, makes a technical change to existing law regarding the admission of persons who have practiced in other jurisdictions to the practice of law in California. (B&P C § 6062)

SB 1340
Polanco

Trial Courts: Interpreters

Dropped

Existing law provides that court interpreters who provide services to the courts at uniform rates do not have a statutory right to be

represented by an organization of their own choosing for the purpose of representation and negotiation.

This bill would have created such a statutory right, as specified. (Gov C § 68567)

This bill was later amended to issues relating to the handling of solid waste and no longer impacts the DCA.

SB 1371
Kopp

State Bar of California

Failed Legislative Deadline

Existing law establishes procedures under which the State Bar, through its Board of Governors, assumes broad responsibilities for its operation and function, including, among other things, administration of the State Bar, admission to the practice of law, and disciplinary authority over its members.

Among other things, this bill would have limited the functions of the State Bar to those authorized by the Legislature and would have specifically prohibited certain funds of the State Bar from being used for certain purposes. (B&P C §§ 6026.5, 6031, 6070, 6086.5, 6140.3, 6140.55, 6145, 6223, 6001.2, 6001.3, 6001.7, 6008.6, 6031.5, 6140, 6140.35, 6155.1, 6207, 6012.5, 6013.1, 6013.4, 6013.5, 6013.6, 6014, 6015, 6016, 6017, 6018, 6019, 6032, 6033, 6140.6, 6140.9 & 6011; and Gov C §§ 11121, 11126, 12011.5 & 12011.6) (See AB 1669 & AB 1798)

SB 1378
Hayden

Commission of Inquiry into Paparazzi Behavior

Failed Legislative Deadline

Existing law establishes various boards and commissions in state government for specified duties.

This bill would have created in state government, the Commission of Inquiry into Paparazzi Behavior, set forth the duties of the commission, and required the commission to report its findings and recommendations to the Legislature no later than June 1, 1999. (Gov C § 8250)

SB 1379
Hayden

Invasion of Privacy: Paparazzi

Failed Legislative Deadline

The California Constitution creates a right of privacy, and various statutes protect individuals from harassment by others.

Among other things, this bill would have made it a tort: 1) to approach physically a public figure or any other person who is the subject of media interest for the commercial purpose of photographing, videotaping, or recording that person in a manner that causes the plaintiff to reasonably expect physical harm or emotional distress to children or other family members present; 2) to harass a person of media interest for commercial purposes; or 3) to come intentionally

within 10 feet of any person who is the subject of media interest for the commercial purpose of photographing, videotaping, or recording that person in a manner that causes the plaintiff to reasonably expect physical harm or emotional distress to children or other family members present and refuses to leave the 10-foot zone upon request. (Civ C § 1708.8)

SB 1418
Rosenthal

Legal Document Assistants

Chapter 1079
Statutes of 1998

Existing law provides for the licensure and regulation of persons practicing law in the state of California. Existing law also requires that unlawful detainer assistants register and post a bond with the county clerk's office.

Among other things, this statute requires legal document assistants to register with the county clerk's office and to post a bond. The statute further defines what duties a legal document assistant can and cannot perform. **The statute requires the Department of Consumer Affairs to create the application for registration and contract forms to be used by legal document assistants. It further requires the Department of Consumer Affairs to establish procedures to conduct reviews of applications that were denied by the County Clerk.** (B&P C §§ 6400, 6401, 6401.6, 6402, 6402.1, 6403, 6405, 6406, 6407, 6408, 6409, 6410, 6411, 6412, 6412.1, 6413, 6415 & 6416) (See SB 709)

SB 1459
Haynes

State Bar of California: Unaccredited Law Schools

Failed
Assembly
Judiciary

Existing law provides for the State Bar's Committee of Bar Examiners to approve and regulate law schools that are accredited by the State Bar.

This bill would have provided that the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs replace, in all respects, the examining committee of the State Bar as the agency charged with the administration of existing law, Rule of Court 957, and required the Bureau for Private Postsecondary and Vocational Education to adopt reasonable rules and regulations as necessary to ensure compliance with this section. (B&P C § 6061)

SB 1487
Rainey

Guardians, Conservators, and Administrators: Accounting and Compensation

Chapter 103
Statutes of 1998

Existing law requires guardians and conservators to periodically present to the court an account relating to the assets of the estate. The court may, however, make an order waiving this obligation if the value of the estate property is less than $5,000 and the estate's income during the relevant period is less than $750. Existing law also provides

that public administrators are entitled to a minimum compensation of $600.

This statute allows the court to waive the account obligation if the value of the estate property is less than $7,500 and the estate's income during the relevant period is less than $1,000. This statute also increases the minimum amount of compensation for public administrators to $750. (Prob C §§ 2628, 2942 & 7666)

SB 1511
Haynes

Civil Procedure: Sanctions

Chapter 121
Statutes of 1998

Existing law requires every pleading, petition, written notice of motion, or other similar paper to be signed by the attorney of record, or if a party is unrepresented, by the party, thereby certifying to the best of the person's knowledge, information, and belief that it is not being presented for an improper purpose and that the claims, defenses, legal, and factual contentions are warranted. Existing law provides that trial courts may impose sanctions upon attorneys, law firms, or parties that violate these provisions in a complaint, petition, or other paper filed after January 1, 1995, and also provides for the repeal of these provisions as of January 1, 1999.

This statute extends the repeal date of these provisions to January 1, 2003. (CCP §§ 128.6 & 128.7)

SB 1536
Brulte

Liability

Failed
Assembly
Judiciary

Existing law defines economic damages to include medical expenses.

This bill would have provided that a person has only several liability and not joint and several liability in tort for economic losses based on acts or omissions of persons rendering services, other than losses arising from personal injury, property damage, or wrongful death. (Civ C § 1431.25)

SB 1556
Kopp

Civil Actions: Nonsuits: Reconsideration

Chapter 200
Statutes of 1998

Existing law provides that after the plaintiff has completed his or her opening statement, or the presentation of his or her evidence in a trial by jury, the defendant may move for a judgment for nonsuit without waiving his or her right to offer evidence if the motion is not granted.

This statute specifies that a motion for nonsuit may not be made before completion of the plaintiff's opening statement, and specifies the intent of the Legislature in this regard. (CCP §§ 1008 & 581)

SB 1623
Kopp

Commission on Judicial Performance: Investigations: Judicial Service After Retirement

Vetoed
September 29, 1998

Existing law establishes the Commission on Judicial Performance and provides for its powers with respect to the discipline of judges and subordinate judicial officers. The California Constitution also specifies that upon request, the Commission on Judicial Performance shall provide to the Governor of any state of the union, the President of the United States, or the Commission on Judicial Appointments, the text of any private admonishment, advisory letter, or other disciplinary action together with any information that the Commission on Judicial Performance deems necessary to a full understanding of the commission action, with respect to an applicant for judicial appointment, provided that all such information shall remain confidential and privileged except that it shall also be provided to the applicant about whom the information was requested.

Among other things, this bill would have specified that when the Commission on Judicial Performance decides to issue a confidential advisory letter or to impose discipline without instituting formal proceedings, the judge or subordinate judicial officer shall have access to the record of each commission member's vote as to whether the subject discipline or quasi-discipline should issue, as well as a brief statement of the reason for any dissenting vote. (Gov C §§ 68705, 68706, 68708 & 68709)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 1623 without my signature.

This bill seeks to remedy a number of perceived shortcomings in the rules and procedures of the Commission on Judicial Performance. Specifically, the bill would (1) require the Commission to establish rules providing for the independence of its examiners, (2) allow a judge to testify before the Commission upon completion of a preliminary investigation, (3) require the Commission to issue a press release following a decision to close an investigation and to not convey to the media any further opinion as to the judge's behavior, and (4) require the Commission to publicly report the way each commissioner voted on a decision to institute a formal proceeding against a judge or on a decision to discipline a judge. The bill would also require the Commission to provide a judge contemplating retirement with a commitment letter, stating whether the judge would be considered eligible to serve as a judge pro tem.

I do not minimize the importance of enhancing the fairness of investigations and formal proceedings that may lead to discipline against a judge. The Judiciary has been described as the weakest of the three branches of government (see The Federalist Papers No. 78), and the Code of Judicial Ethics restrains judges from responding to criticism over their handling of a pending case. See Canon 3B(9). Hence, special efforts should be taken to ensure fairness in disciplinary proceedings against judges.

However, while the bill contains some legitimate proposals which the Commission should carefully consider, Senate Bill No. 1623's efforts to remedy

perceived shortcomings in the Commission's procedures through legislation are unconstitutional, and in some cases, ill-advised.

I. The Bill Is Unconstitutional

In 1994, the voters passed Proposition 190, which amended the California Constitution to require, inter alla, that the Commission on Judicial Performance make the rules for disciplinary proceedings concerning judges, including, but not limited to, the rules for investigations and formal proceedings. See Cal. Const. Art. VI, sec. 1 8(i). Senate Bill No. 1623 conflicts with the California Constitution by having the Legislature enact rules and procedures which Article VI, section 18(i) of the California Constitution instead directs the Commission on Judicial Performance to make.

Supporters of the bill argue that the constitutional requirement that the Commission make the rules of procedure does not preclude the Legislature from also making them. However, before Proposition 190 placed on the Commission the obligation to adopt rules, the California Constitution had provided that the Judicial Council shall make rules implementing this section [concerning judicial discipline]. See former Cal. Const. Art. VI ½ 18(h). And the Constitutional Revision Commission - which had proposed that prior section - had stated that the section had given exclusive rule-making power to the Judicial Council. See Proposed Revision to the Constitution, p. 98. The transfer of rule-making authority from the Judicial Council to the Commission, without otherwise changing the language of the authorization, did not therefore change the exclusive nature of the rule-making.

Moreover, in contrast with the Commission's authorization here, where the judicial branch shares the power to adopt rules with the Legislature, the Constitution has so stated. For instance, the Judicial Council shares authority with the Legislature to make rules for court administration, practice and procedure, and the Constitution so states: ... the [Judicial] council shall... adopt rules for court administration, practice and procedure.... The rules adopted shall not be inconsistent with statute. [Emphasis added]. Nor does the existence of a handful of statutes which empower the Commission to take various actions suggest that the Legislature has the power to make rules of procedure: Those statutes were enacted before the passage of Proposition 190, and do not establish rules of procedure but instead authorize the Commission to do certain acts, such as the right to reimbursement for travel, the right to compensate experts, and the right to employ the Attorney General.

II. Parts of The Bill Are III-Advised

While some parts of this bill are salutary - if placed in constitutional form - other sections are ill advised. The following is an illustration of the latter.

A. The Bill's Restrictions On The Commission's Press Releases

The bill provides that upon request from a judge under investigation, where the Commission closes an investigation and determines not to proceed against the judge, it shall issue a press release containing only specified information, and the Commission members and staff shall not further convey to the media any opinion as to the judge's...behavior which formed the basis of the investigation, and the preceding statement shall be the exclusive public comment of the commission and its staff....

I strongly agree that the Commission should issue a press release that it has not taken action against a judge where it has publicly acknowledged a complaint or an investigation against that judge.

However, statutory restrictions on the right of the Commission and staff to speak to the media not only raise First Amendment concerns but conflict with

Article VI, section 18(k) of the California Constitution, which states that the Commission may make explanatory statements.

B. The Bill's Requirements That The Votes Of Each Commissioner Be Released

The bill would also require that the way that each commissioner voted be released with respect to (i) votes to institute a formal proceeding against a judge and (ii) votes on any disciplinary measure. Disclosure of the former votes may be counterproductive; disclosure of the latter votes may already be required.

First, release of the votes of each commissioner on whether to institute a formal proceeding could be used to politicize the process and to commit the commissioners to a position before they have decided on the issue of discipline. Specifically, requiring commissioners to defend their vote to commence formal proceedings may commit them to their vote. Instead, they should feel free to alter their position after the formal proceedings have concluded.

In contrast, the release of votes of individual commissioners concerning the imposition of discipline on judges is presently the subject of litigation before the Court of Appeal for the First Appellate District in The Recorder v. The Commission on Judicial Performance, Case No. A079881, which will interpret whether the provisions in Article VI, Section 18(j) already require disclosure of the individual votes of commissioners.

III. Conclusion

The debate over this bill has raised some valid concerns. However, this bill includes some ill-advised modifications, and in any event, is in conflict with the California Constitution. In light of the People s decision to amend the State Constitution to require the Commission to make the rules of procedure for disciplinary proceedings, if the Legislature wants to improve the Commission's processes, it should do so in the form of a constitutional amendment, not legislation in conflict with the California Constitution. In the meantime, the Commission ought to carefully consider the points raised in the debate and consider whether some modifications to its rules are warranted.

SB 1768
Kopp

Criminal Restitution: Disclosure of Financial Information

Chapter 587
Statutes of 1998

Existing law provides that a person convicted of a crime is required to make restitution to any victim in the amount of the economic losses suffered by a victim as a result of the criminal conduct. Under existing law, the victim may enforce the restitution order as a civil money judgment, and may obtain access to the criminal defendant's financial records and information regarding his or her assets.

Among other things, this statute would require the defendant, in any case in which a restitution order may be entered, to prepare and file a disclosure, which would be available to the victim, identifying all assets owned or controlled by the defendant as of the date on which the defendant was arrested, as well as other information relating to the defendant's financial resources. (CCP § 2033.5 and Pen C §§ 11177.2, 1202.4, 1214, 2085.5 & 987)

SB 1796
Leslie

Stalking: Cyberstalking

Chapter 825
Statutes of 1998

Existing law provides that a person is liable for the tort of stalking when the defendant engages in a pattern of conduct intended to

follow, alarm, or harass, resulting in the plaintiff reasonably fearing for his or her safety or the safety of an immediate family member, and where in the defendant has either made a credible threat or violated a restraining order.

Among other things, this statute expands the definition of "credible threat" to include threats made by means of an electronic communication device, and incorporates the definition of "electronic communication" used in a specified provision of federal law. (Civ C § 1708.7 and Pen C § 422, 646.9 & 653)

SB 1825
Schiff

Chapter 973
Statutes of 1998

Superior and Municipal Courts

Existing law sets forth the number, classification, and compensation of employees of the various superior and municipal courts.

Among other things, this statute imposes a state-mandated local program by revising the number, classification and compensation of employees of the Superior Courts of specified counties.
(Gov C §§ 69894, 69894.1, 69899.5, 69904, 69905, 70044.5, 72608, 72609, 72627.5, 72762, 72776, 73330, 73348, 73349, 73351, 73353, 73353.2, 73354, 73355, 73356, 73358, 73363, 73364, 73365, 73366, 73399, 73523, 73524, 73525, 73528, 73529, 73565, 73566, 73567, 73568, 73586.1, 73604, 73644, 73649.1, 73665, 73665.5, 73665.6, 73666, 73681.1, 73682, 73683, 73684, 73691, 73692, 73695, 73699, 73699.1, 73736, 73759, 73772, 73773, 73775, 73778, 73778.5, 73780, 73785, 73794, 73795, 73798, 73799, 73822, 73823, 73954, 73957, 73957.5, 73959, 73960, 74000, 74001, 74001.5, 74002, 74004, 74005, 74006, 74343, 74344, 74345, 74346, 74355, 74356, 74357, 74358, 74359, 74368, 74370, 74603, 74604, 74607, 74610, 74642, 74643, 74663, 74665, 74727.5, 74743, 74745, 74745.1, 74749, 74765, 74905, 74907, 74909, 74910, 74911, 74912, 74913, 74921.10, 74921.11, 74921.5, 74921.6, 74921.7, 74921.8, 74921.9, 74922.5, 74926.6 & 74926.7)

SB 1841
Burton

Chapter 77
Statutes of 1998

Liability: Breach of Trust or Duty

Existing law imposes liability for a breach of trust by a trustee, or a breach of a fiduciary duty by a guardian or conservator or a personal representative. That liability is in the amount of the loss or depreciation to the estate, the loss of profit that would have accrued to the estate, or the profit to the person who breached the trust or duty. However, where that person acted reasonably and in good faith under the circumstances known to the person at the time, the court is authorized to excuse the person, in whole or in part, from liability. Existing law also makes that person liable for interest on the amount for which he or she is held liable.

Among other things, this statute authorizes the court to excuse the

persons described above from liability for the interest where those persons act reasonably and in good faith under the circumstances known to them at the time. (CCP § 883 and Prob C §§ 16441, 2401.5, 8480 & 9602)

SB 1876
Kopp

Public Employee Liability

Vetoed
July 20, 1998

Existing law provides that, except as otherwise provided by statute, a public employee is not liable for an injury resulting from his or her act or omission where the act or omission was the result of the exercise of the discretion vested in the employee, whether or not that discretion is abused.

This bill would have provided that for the purposes of discretionary immunity, the representation by a public defender of a client shall be deemed an exercise of discretion for the purposes of any legal malpractice action that may result from that representation.
(Gov C § 820.3)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No.1876 without my signature.

This bill would provide that representation by a public defender of a client is an exercise of discretion, thereby granting them immunity from malpractice actions.

Current law generally provides that a public employee is not liable for an injury resulting from an act or omission where the act or omission was the result of an exercise of discretion vested in the employee, whether or not that discretion is abused. An appellate court recently held that discretionary immunity does not apply to a public defender in the performance of his or her duties.

This measure would extend immunity to public defenders against malpractice actions brought by those clients they represent. This bill could lower accountability and promote negligence in the defense of those accused of criminal acts.

Public defenders are not like prosecutors or judges whose jobs are to represent the interests of society and to see that justice is served. Immunity is properly accorded those governmental officials to enable them to carry out those responsibilities. In contrast, the public defender's sole responsibility is to serve the interests of his or her client by opposing the government. In that respect, public defenders are more closely aligned and should be compared with privately retained counsel.

Privately retained attorneys in criminal cases are not immunized from malpractice claims. Quite the contrary. They are subject to actions for negligence for failure to use ordinary judgment, skill, care and diligence. Public defenders should be held to the same standards as private attorneys since they perform the same function and have identical responsibilities. To require less is to accept less.

SB 1927
Schiff

Criminal Procedure: Discovery

Chapter 630
Statutes of 1998

Existing law, added by initiative statute, requires the prosecuting attorney and the attorney for the defendant to disclose to each other specified materials and information in their possession, or known to be in the possession of investigators, including, among other things,

names and addresses of witnesses the attorneys intend to call, as well as their statements and statements of the defendant.

Among other things, this statute prohibits the prosecuting attorney, attorney for the defense, or investigator for either the prosecution or the defendant from interviewing, questioning or speaking to a victim or witness whose name has been disclosed by the defendant pursuant to existing state law without first clearly identifying himself or herself and the full name of the agency by whom he or she is employed.
(Pen C § 1054.8)

SB 2115
O'Connell

Escheat

Failed Legislative Deadline

Existing law provides that prescribed deposits or accounts with a banking or financial organization escheat to the state when the owner of the deposits or accounts has not, for more than three years, indicated an interest in the deposit.

This bill would have instead provided that these deposits or accounts would escheat unless the owner has, within five years, indicated an interest in the deposit, as specified, or owned another deposit or account that is not subject to escheat and the organization has communicated with the owner regarding the deposit or account that would otherwise escheat at the address to which the banking organization has sent communications regarding the other deposit or account. (Civ C § 1513)

SB 2139
Lockyer

Courts: Unification

Chapter 931 Statutes of 1998

The California Constitution provides for the establishment of superior and municipal courts, as specified, in each county. SCA 4 of the 1995-96 Regular Session, as approved by the voters on June 2, 1998, provides for the abolition of municipal courts within a county, and for the establishment of a unified superior court for that county, upon a majority vote of superior court judges and a majority vote of municipal court judges within the county; provides for the qualification and election of the judges; and revises the number of jurors required in certain civil actions.

This statute makes various changes to implement and conform to the unification of trial courts pursuant to the constitutional amendment. The statute also makes changes to various provisions of the Code of Civil Procedure, Financial Code, Government Code, Penal Code, and Vehicle Code to conform to changes proposed by AB 310, AB 1094, AB 1211, AB 1590, AB 1754, AB 1858, AB 1927, AB 2070, AB 2134, AB 2551, SB 117, SB 752, SB 1452, SB 1558, SB 1608, SB 1638, SB 1768, SB 1850, and SB 2168, respectively, contingent upon their prior enactment. (B&P C §§ 17209, 17536.5, 25762, 470.3, 6152, 6301, 6302.5, 6321, 6322, 6341 & 7028.2; Civ C §§ 1181,

1719, 1780, 1812.10, 2984.4, 3342.5 & 798.61; CCP §§ 32.5, 38, 77, 81, 82, 83, 84, 85, 86, 86.1, 87, 88, 89, 90, 91, 116.120, 116.210, 116.231, 116.250, 116.760, 116.770, 116.940, 116.950, 134, 166, 170.5, 170.7, 179, 194, 195, 198.5, 200, 215, 217, 234, 269, 274, 392, 393, 395, 395.9, 396, 399.5, 400, 402, 402.5, 422.20, 422.30, 425.10, 425.11, 489.220, 564, 575, 575.1, 580, 581, 582.5, 594, 628, 631, 632, 655, 668, 670, 685.030, 688.010, 697.310, 697.350, 697.540, 703.600, 706.105, 708.180, 720.160, 720.260, 720.420, 871.3, 904.1, 904.2, 904.5, 911, 912, 996.430, 1014, 1033, 1052, 1052.5, 1060, 1068, 1085, 1103, 1134, 1140, 1141.11, 1141.12, 1161.2, 1167.2, 1171, 1206, 1281.5, 1283.05, 1287.4, 1710.20, 1775.1 & 2015.3; Ed C §§ 44944, 45312, 48294, 48295, 87675, 87679 & 88131; El C §§ 13107, 13109, 13111, 325, 327 & 8203; Evid C § 300; Fin C §§ 16154, 17335, 1785, 1824, 18415.2, 18495, 1893, 3102, 31713 & 34113; F&G C §§ 12150, 12151, 210, 2357, 309, 4341, 4755 & 5934; F&A C §§ 12647, 25564, 27601, 29733, 30801, 31503, 31621, 31622, 43039, 52514, 53564, 59289 & 7581; Gov C §§ 11189, 11511, 12965, 12972, 12980, 15422, 1770, 18671, 23220, 23296, 23398, 23579, 24055, 24057, 25351.3, 25560.4, 26299.008, 26524, 26665, 26806, 26820, 26820.4, 26824, 26826, 26826.01, 26863, 27082, 27647, 27706, 28003, 29603, 29605, 29610, 3075, 31469, 3501.6, 41606, 50920, 53069.4, 53075.6, 53075.61, 53679, 6701, 68071, 68072, 68074.1, 68074.41, 68078, 68081, 68084, 68086, 68090.7, 68093, 68098, 68108, 68112, 68114, 68114.5, 68114.6, 68115, 68152, 68202.5, 68206.2, 68505, 68513, 68540, 68541, 68542, 68542.5, 68546, 68547, 68551, 68620, 68902, 69510, 69741.7, 69744.5, 69746.5, 69753, 69957, 70140, 70141, 70200, 71001, 71002, 71004, 71010, 71040, 71042.5, 71045, 71080, 71080.5, 71080.6, 71080.7, 71083, 71084, 71085, 71087, 71088, 71091, 71091.1, 71092, 71093, 71094, 71095, 71096, 71097, 71098, 71099, 71100, 71140, 71141, 71143, 71145, 71180.3, 71180.4, 71180.5, 71181, 71181.1, 71220, 71221, 71260, 71264, 71267, 71280, 71280.1, 71280.2, 71280.3, 71280.4, 71280.5, 71340, 71341, 71380, 71381, 71382, 71384, 71386, 71600, 72000, 72055, 72056, 72056.01, 72056.1, 72060, 72190, 72190.1, 72190.2, 72193, 72194.5, 72196, 72197, 72198, 72301, 72302, 72604, 72785, 75101, 75103, 75602, 77003, 77007, 910, 945.3 & 990.2; H&N C §§ 664 & 667; H&S C §§ 108580, 111880, 111895, 117070 & 117120; Ins C § 12961; Lab C §§ 3352, 5710, 6613, 98 & 98.2; M&V C § 467; Pen C §§ 1000, 1007, 1009, 1010, 1016, 1038, 1039, 1050, 1130, 1150, 1187, 1191, 1203.1, 1214, 1235, 1269, 1278, 1281, 1309, 13125, 13151, 1327, 1368.1, 1382, 14154, 1424, 1427, 1428, 1429, 1429.5, 1447, 1449, 1458, 1459, 1462, 1462.1, 1462.2, 1463, 1463.1, 1463.22, 1466, 1468, 1471, 1538.5, 190.9, 2620, 2621, 2623, 3076, 4004, 4022, 4024.1, 4112, 682, 691, 726, 737, 740, 804, 806, 808, 810, 813, 827, 829, 830.1, 832.4, 851.8, 859, 860, 869, 949, 97, 977, 977.2, 977.4, 987.1, 987.2, 988 & 990; PRC §§ 3357, 3769 & 5560; PUC §§ 103100, 1794 & 5411.5; R&T C §§ 19232, 19233, 19280,

6776 & 6777; UIC §§ 1785 & 1786; Veh C §§ 10751, 11205, 14607.6, 27360, 2802.5, 40230, 40256, 40502, 40506.5, 40508.6, 42008, 42203 & 9872.1; Wa C §§ 1100 & 310; W&I C §§ 11350.7, 245, 255, 3050, 3051, 3200, 601.4, 603.5, 656, 661 & 742.16; and Fam C § 400)

SB 2145
Maddy

Depositions

Chapter 875
Statutes of 1998

Existing law prescribes the procedure for conducting depositions in civil actions, such as requiring the parties to serve a notice of a deposition. The deposition notice must state, among other things, any intention to record the testimony by stenographic method.

This statute requires the deposition notice to state any intention to record the deposition by stenographic method through the instant visual display of the testimony. The statute would also revise the provision requiring the deposition officer to suspend the taking of testimony on demand of any party, or the deponent. (CCP § 2025) (See AB 1094 & AB 2150)

SB 2214
Leslie

Injured Consumers' Bill of Legal Rights

Failed
Legislative
Deadline

Existing law requires attorneys, when contracting to represent a plaintiff on a contingency fee basis or when contracting to represent parties in other matters wherein the attorney's fees will exceed $1,000, to enter into a written agreement with the client that contains specified disclosures regarding the contingency fee rate or hourly rate and other specified matters.

This bill, which would have been known as the Injured Consumers' Bill of Legal Rights, would have required an attorney, before contracting to represent a plaintiff with a personal injury claim to make to the prospective client specified disclosures, including, among other things, the client's right to retain the attorney on either an hourly or contingent fee basis. The bill would have also required the plaintiff's attorney in personal injury actions to provide specified disclosures to the client while the case is pending and at the conclusion of the case. The client in these cases would have had the right to have the final contingent fee amount reviewed by a designated arbitration panel and during the pendency of that review, any settlement awarded to the plaintiff would be held in a constructive trust until the resolution of the fee dispute. (B&P C §§ 6146.5, 6146.6, 6146.7 & 6146.8)

SCA 3
Haynes

Jury Trials

Dropped

The California Constitution provides that a jury trial is an inviolate right and shall be secured to all.

This constitutional amendment would have provided that in a civil case

in which the only relief sought is money damages and the total sought does not exceed $7,500, the plaintiff (or all the plaintiffs) may elect to waive the right to a jury trial.

(3) Credit and Financial Institutions

AB 1435
Machado

Credit Cards: Marketing Information

Dropped

Existing law requires credit card issuers who sell marketing information on cardholders to give cardholders a prescribed notice informing them of their right to "opt out" (prevent the disclosure). The notice may be provided (1) on or with the credit application, (2) with the credit card when it is delivered to the cardholder, or (3) in any other way, as long as it is provided before marketing information is disclosed.

This bill would have instead required the notice (1) on or with the credit application, (2) with the credit card when it is delivered to the cardholder, and (3) upon the delivery of a renewal card. In addition, the bill would have required credit card issuers to give cardholders an annual notice of their right to opt out. (Civ C § 1748.12)

AB 1638
Brown

Credit Or Debit Cards: Cardholder Liability

Failed Assembly Consumer Protection

Existing law makes a credit card holder liable for unauthorized use of the credit card up to $50, if the card issuer gives notice to the cardholder of the potential liability.

This bill would have established the same requirements for a debit card holder, and would have required the issuer to credit the debit card holder's account within five days after the issuer is notified of unauthorized use of the debit card. (Civ C §§ 1747, 1747.02, 1747.11 & 1747.12)

AB 1947
Runner

Consumer Credit Reporting

Failed Assembly Banking and Finance

Existing law regulates consumer credit reports and consumer reporting agencies, and authorizes a consumer to bring an action for a civil penalty of up to $2500 against any person who, among other things, knowingly and willfully obtains access to data from a consumer's credit record, except under specified conditions, or who uses the data received from a file contrary to an agreement with a consumer credit reporting agency.

This bill would have increased the maximum civil penalty to $250,000. (Civ C § 1785.19)

AB 2039 Baugh	**Finance Lender Law** Existing law, known as the California Finance Lenders Law (CFLL), establishes requirements for consumer and commercial loans, and exempts certain persons and certain loans from the CFLL. This statute exempts nonprofit church extension funds from the CFLL. (Fin C § 22061)	**Chapter 469 Statutes of 1998**
AB 2642 Wildman	**Consumer Credit: Credit Cards** Existing law regulates credit card issuers. This bill would have required a credit card issuer to disclose to each cardholder any new fees or penalties, changes in fees, penalties, or interest rates and any addition or deletion of any service. This bill also would have prohibited a card issuer from charging a cardholder a fee or higher interest rate solely because that the cardholder pays off his or her balance in full when due. (Civ C §§ 1747.95 & 1747.96)	**Failed Assembly Banking and Finance**
SB 346 Burton	**Personal Information: Credit Transactions** Existing law prohibits anyone who accepts credit cards from requesting or requiring and recording personal identification information concerning the cardholder as a condition of accepting the credit card. Existing law exempts situations where the information is required for a special purpose incidental to the individual credit card transaction, such as information related to shipping or delivery. This bill would have exempted information required for in-store pickup at a location other than the point of sale and warehouse pickup. (Civ C § 1747.8)	**Dropped**
SB 930 Rosenthal	**Consumer Credit** Existing law, the Consumer Credit Reporting Agencies Act (Act) regulates consumer credit reporting agencies (CCRAs) and access to consumer credit reports. The Act requires CCRAs to reinvestigate the accuracy of any item in a consumer's credit file upon the consumer's request, and to correct or delete information that is found to be incorrect. This bill would have required CCRAs to also delete all inquiries from the consumer's file pertaining to the disputed information. The bill also would have required credit card issuers who receive a customer's change of address and request for an additional credit card to verify the change of address prior to issuing or activating the card. (Civ C §§ 1785.16, 1758.19, 1785.31, 1785.35 & 1747.82)	**Failed Assembly Floor**

SB 1454
Leslie

Chapter 988
Statutes of 1998

Investigative Consumer Reporting

Existing law establishes requirements for investigative consumer reports and investigative consumer reporting agencies.

This statute makes substantive and technical changes to the existing law, such as: 1) defining an investigative consumer report as information obtained through any means; 2) deleting a provision that prohibits consumers from viewing medical information contained in their reports; 3) requiring the person asking for the report to provide the consumer with specified disclosures; and 4) prohibiting investigative consumer reporting agencies from releasing adverse information obtained from an interview, unless there is independent confirmation of the information, or the person interviewed is the best source of information. (Civ C §§ 1786.10, 7186.11, 1786.12, 1786.16, 1786.18, 1786.2, 1786.20, 1786.24, 1786.26, 1786.30, 1786.40 & 1786.50)

SB 1512
Maddy

Chapter 104
Statutes of 1998

Finance Lenders: Delinquency Fees

Existing law, known as the California Finance Lenders Law, provides for the licensure of individuals who make consumer and commercial loans, and establishes requirements for those loans.

This statute, which effects loans of $5,000 or less but excludes precomputed loans, 1) allows a licensee to contract for and receive a delinquency fee of up to $10 if the period of default is longer 10 days, or up to $15 if the period of default is longer than 15 days, unless there is a minimum of 20 days, between the monthly billing date and the date it is due and 2) prohibits the delinquency fee from being collected more than once for the same default, as specified.
(Fin C § 22250 & 22320.5)

(4) Health and Safety

AB 162
Alby

Chapter 647
Statutes of 1998

Medicine: Regulation

Under existing law, the Medical Board of California enforces and administers the Medical Practice Act, the Department of Corporations regulates health care service plans under the Knox-Keene Health Care Service Plan Act of 1975, and the State Department of Health Services regulates and administers various health programs and facilities, including the Medi-Cal Act.

This statute requires the Department of Corporations and the State Department of Health Services to coordinate, to the extent feasible, any physician office auditing required by the managed care program

under the Medi-Cal Act or any physician office auditing or surveying required by the Knox-Keene Health Care Service Plan Act of 1975. (Gov C § 11840 and H&S C § 1342.8)

AB 183
Richter

Consumer Affairs: Bureau of Automotive Repair: Motor Vehicle Owners' Rights Advocate

Vetoed
August 17, 1998

Existing law, the Automotive Repair Act, establishes the Bureau of Automotive Repair in the Department of Consumer Affairs under the supervision and control of the Director of Consumer Affairs.

This bill would have required the Director to appoint an advocate for the Bureau to act as the principal proponent for consumers who register automotive complaints related to the Smog Check Program. (B&P C § 328)

Veto Message

Governor Pete Wilson
To Members of the California Assembly:

I am returning Assembly Bill 183 without my signature.

This bill would create a Motor Vehicle Owners' Rights Advocate for the Bureau of Automotive Repair (BAR) to act as the principal proponent for consumers who register automotive complaints related to the Smog Check Program.

This bill is unnecessary. The Advocate is superfluous to the existing responsibilities of the BAR Chief and the Director of the Department of Consumer Affairs. There is no empirical evidence that demonstrates the need for a person solely dedicated to monitoring the resolution of complaints. Moreover, should a need arise, there is nothing to prevent the Director from assigning someone to assume these responsibilities on an ad hoc basis until the concern has been dealt with. The mandated establishment of the Advocate position would simply add an unnecessary, unfunded position and corresponding staff to review the existing complaint mediation structure when such powers already reside with the Department Director.

AB 224
Alby

Health Care Service Plans: Consumer Bill Of Rights

Failed Assembly Floor

Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Act), provides for the regulation of health care service plans by the Department of Corporations.

This bill would have enacted the Health Care Consumer Bill of Rights. This bill would have made legislative findings and declarations with respect to the need to reorganize state agency jurisdiction over health care service plans, by vesting responsibility for the administration and enforcement of the act in an agency that will be responsive to the health care rights of consumers, and to ensure that health care service plans provide to their members all the health care services and benefits to which they are entitled under the act. (H&S C § 1342.2)

AB 332
Figueroa

Health Care

Vetoed
September 29, 1998

Existing law provides for the regulation and licensure, certification, or registration of various healing arts professionals; provides for the licensure and regulation of health care service plans by the Department of Corporations, and of disability insurers by the Department of Insurance; and requires the criteria used by health care service plans to determine whether to authorize or deny health care services to, among other things, be developed with involvement from actively practicing health care providers.

This bill would have required a physical exam or review of medical records, as specified, before a health plan or insurer refuses to authorize services; required medical necessity decisions that result in denial of care to be made only by licensed practitioners, as specified; and required health plans and insurers to disclose to the public upon request the criteria used to determine whether to authorize or deny services. (B&P C § 733; H&S C §§ 1363.5 & 1368.07; and Ins C §§ 791.28 & 10123.91)

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 332 without my signature.

This bill would provide that any decision or recommendation regarding the necessity or appropriateness of treatment constitutes the practice of a healing arts profession and limits the applicability of the Medical Insurance Reform Act (MICRA). The bill would also require that clinical guidelines used by health care service plans be available to the public upon request. Finally, the bill would require health plans to physically examine certain patients before concluding that a requested treatment was not medically necessary or appropriate.

This bill is a transparent effort to eliminate the appropriate use of utilization review and a bald attempt to increase the number of lawsuits in the health care system. The cumulative impact of these various provisions will only increase health care costs while doing little to improve the quality of health care. We should focus our efforts on reforming the managed health care system instead of dismantling it and placing health insurance coverage beyond the means of working class families.

AB 434
Gallegos

Health Care Service Plans: Discrimination

Vetoed
September 27, 1998

Existing law requires a health care service plan to disclose the reasons for the termination of a contract with a provider to the provider only if the termination occurs during the contract year. Willful violation of those provisions is a crime.

This bill would have provided, notwithstanding the above requirement, that a health care service plan, its contracting provider groups, or contracting providers shall make available to any providers with whom it contracts the criteria used to credential individual providers, terminate contracts, or fail to renew contracts with individual providers. (H& S C §§ 1348.7 & 1348.8)

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 434 without my signature.

This bill would specify procedures for economic or capacity profiling and prohibits health care service plans and contracting providers from discriminating against individual providers that have a substantial number of patients with serious medical conditions. The bill would also require plans and provider groups to make available to any providers with whom it contracts the criteria used to credential individual providers, terminate contracts, or fail to renew contracts.

Health plans and medical groups should not discriminate against providers simply because they care for seriously ill patients. However, this bill includes unrelated provisions interfering with the contractual relationship between health plans, medical groups and contracting providers. The parties may determine for themselves the criteria upon which a contract will terminate or not be renewed.

I have instead signed Senate Bill 984 which requires health plans to provide the public and the Department of Corporations with information about how economic profiling is used and how the health plan ensures that medical decisions are rendered by qualified medical providers, unhindered by fiscal and administrative management considerations.

AB 589
Figueroa

Health Care Coverage: Clinical Practice Guidelines

Failed Assembly Floor

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Commissioner of Corporations and for the regulation of disability insurers by the Department of Insurance. Willful violation of the law regulating health care service plans is a crime.

This bill would have required, if health care service plans or certain disability insurers develop or use clinical practice guidelines, the clinical practice guidelines to be based on enumerated criteria; required the processes used in the development of clinical practice guidelines to be available to the public upon request; and required the Department of Corporations and the Department of Insurance to make available to the Legislature, upon request, information regarding implementation of these provisions. (H&S C § 1367.64 and Ins C § 10123.175)

AB 714
Kuehl

Domestic Violence: Reports

Dropped

Existing law requires health practitioners to report to a local law enforcement agency if they provide medical to a patient whom they know or reasonably suspect is suffering from any wound or other physical injury that is the result of assaultive or abusive conduct.

This bill would have removed the reporting mandate when the patient is an adult who is mentally competent, is a victim of domestic violence, and objects to a report being sent to law enforcement. The bill would require the objection to be in writing and to contain specified information. (Pen C § 11160)

AB 818
Martinez

HIV: Treatment

Vetoed
September 29, 1998

Existing law provides for the licensure and regulation of health care service plans by the Department of Corporations and provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health care services. One of the methods by which services are procured under the Medi-Cal program is through the use of managed care plans.

This bill would have required health care service plans and managed care plans providing services under the Medi-Cal program to ensure that enrollees who are infected with the human immunodeficiency virus (HIV) are afforded medical care consistent with certain federal guidelines relating to the treatment of HIV. (H&S C § 1365.6 and W&I C § 14132.51)

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 818 without my signature.

This bill would require health plans to ensure that enrollees that are infected with HIV are afforded care consistent with current federal guidelines relating to the treatment of HIV. This bill also requires health plans to inform enrollees as to what steps, if any, the plan has taken to provide referral to physician practices that have substantial experience in the treatment of HIV. The bill would require the Department of Health Services to establish risk-adjusted capitated rates for managed care plans based on HIV-related treatment costs.

This bill is unnecessary. Existing law already requires that health plans provide health care services consistent with good professional practice standards. Additionally, the Department often does risk-adjusted rates taking into account many factors including age, sex, high cost of AIDS drug and treatment costs. Establishment of an illness-based rate is contrary to the principles of managed care and could result in violation of federal law related to rate setting methodology.

AB 823
Papan

Medi-Cal: Managed Care

Chapter 1009
Statutes of 1998

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons. Under existing law, Medi-Cal services may be provided to a beneficiary or eligible applicant by an individual provider, or through a prepaid managed health care plan, pilot project, or fee-for-service case management provider. Under existing law, each beneficiary or eligible applicant shall be provided with information as to health care options, including certain provider information. Under existing law, an applicant who chooses to enroll in a managed care plan, pilot project, or fee-for-services case management provider must indicate his or her choice of a primary care provider.

This statute revises the existing provisions relating to provider information, including specifying the format in which the information shall be organized; and authorizes an applicant who chooses to enroll in a managed care plan, pilot project, or fee-for-services case management provider, to indicate a choice of clinic as well as of a primary care provider. (W&I C § 14016.5)

AB 834
Bowen

Vehicles: Leaking Fluid Inspection Program: Los Angeles County

Dropped

Existing law requires the Chief of the Bureau of Automotive Repair (BAR) to enforce and administer the Automotive Repair Act and the Smog Check program.

This bill would have required the BAR to establish an advisory committee for the purpose of establishing a voluntary leaking automotive fluids inspection program for Los Angeles County.
(B&P C §§ 9889.70 & 9889.71)

*This bill was amended to become Assembly Member Aroner's **Special Election: Consolidation** bill and was chaptered 4/29/98 in this form.*

AB 1181
Escutia

Health Care Coverage

Chapter 31
Statutes of 1998

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Commissioner of Corporations and makes the willful violation of these provisions subject to criminal sanction.

This statute requires every health care service plan, except a specialized health care service plan, to establish and implement procedures by which an enrollee could receive a standing referral to a specialist and by which an enrollee with a condition or disease that requires specialized medical care over a prolonged period of time and is life-threatening, degenerative, or disabling could receive a referral to a specialist who, or a specialty care center, as defined, that, has expertise in treating the condition or disease for the purpose of having the specialist, or the specialty care center, coordinate the enrollee's health care. (H&S C § 1374.16; and W&I C § 14450.5)

AB 1208
Migden

Occupational Safety and Health: Bloodborne Pathogen Standard

Chapter 999
Statutes of 1998

Under existing law, the Occupational Safety and Health Standards Board (board) may adopt occupational safety, health standards, and orders, which are required to be at least as effective as federal standards for all issues for which federal standards have been adopted under the federal Occupational Safety and Health Act of 1970. Pursuant to this authority, the board has adopted a regulation containing general industry safety orders pertaining to, among other things, occupational exposure to blood or other potentially infectious materials.

This statute requires the board to adopt an emergency regulation no later than January 15, 1999, revising the bloodborne pathogen standard, as specified. (Lab C § 144.7)

AB 1220
Migden

Negligence: Health Care: Noneconomic Damages **Dropped**

Existing law provides that in any action for injury against a health care provider based on professional negligence, the injured plaintiff shall be entitled to recover noneconomic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement, and other nonpecuniary damage, but in no action shall the amount of damages for noneconomic losses exceed $250,000.

This bill would have provided that the $250,000 limitation on the amount of damages for noneconomic losses shall not apply when the trier of fact finds that the health care provider: (1) refused or delayed evaluation, diagnosis, treatment, or a referral to another health care provider for the provider's economic benefit; (2) failed to refer a patient to another health care provider who possessed the skill, training, and expertise possessed by reputable practitioners customarily performing the evaluation, diagnosis, or treatment if, under similar circumstances, a reasonably careful and skillful general practitioner in the same or similar locality would have done so; or (3) administered an evaluation, diagnosis, or treatment without possessing the skill, training, or expertise possessed by reputable practitioners customarily performing the evaluation, diagnosis, or treatment if, under similar circumstances, a reasonably careful and skillful practitioner in the same or similar locality would have done so. (Civ C § 3333.2)

AB 1251
Battin

Human Cloning **Dropped**

Existing law makes it a felony for anyone to knowingly use sperm, ova, or embryos in assisted reproduction technology for any purpose other than that indicated by the sperm, ova, or embryo provider's signature on a written consent form, or to knowingly implant sperm, ova, or embryos, through the use of assisted reproduction technology, into a recipient who is not the sperm, ova, or embryo provider, without the signed written consent of the sperm, ova, or embryo provider and the recipient.

This bill would have provided that any person who clones a human cell, or purchases or sells an ova, zygote, embryo, or fetus, for the purpose of cloning a human being, shall be punished by a criminal fine. It would make a violation an act of unprofessional conduct under the Medical Practice Act. The bill also would have required the revocation of the local business license of any business that violates this provision. The bill would have provided for the repeal of this act on January 1, 2003. (B&P C §§ 16004, 16105 & 2260.5 and H&S C § 24185)

AB 1333
Martinez

Health Care Service Plans: Compensation Arrangements

Failed Assembly Health

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans administered by the Commissioner of Corporations. Under existing law, willful violation of any of these provisions is punishable as either a felony or a misdemeanor.

This bill would have: 1) prohibited health care service plans and their contracting provider groups from adopting compensation arrangements in which an individual provider receives a capitation payment for a substantial portion of the cost of referrals for that provider's patients, as determined by the commissioner; 2) prohibited the use of certain other incentive arrangements unless specified conditions are met; 3) required a health care service plan to ensure that all of its contracting provider groups and individual providers that are at substantial financial risk, as determined by the Department of Corporations, have stop-loss insurance coverage, or have other comparable and verifiable mechanisms for protecting against losses due to adverse risk; and 4) required the Commissioner of Corporations to convene an advisory group, which includes specified representatives, to review provider compensation arrangements, and to identify best practices and practices in need of improvement. (H&S C § 1399.2)

AB 1344
Gallegos

Health Care Service Plans

Failed Assembly Floor

Existing law provides for the licensure and regulation of health care service plans by the Commissioner of Corporations.

This bill would have stated the intent of the Legislature that jurisdiction over health care service plans be reorganized and that responsibility for the administration and enforcement of the laws governing plans be vested in an agency that would best ensure quality of care and be responsive to Californians. The bill would have stated the intent of the Legislature that jurisdiction over health care service plans be reorganized and responsibility for the administration and enforcement of the laws governing plans be vested in an agency that will best ensure quality of care and be responsive to Californians. The bill contained other related provisions.

AB 1431
Oller

Clinical Laboratory Technology

Dropped

Existing law prohibits a person from performing a clinical laboratory test or examination classified as waived under the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA) unless the clinical laboratory test or examination is performed under the overall operation and administration of the laboratory director.

This bill would instead have provided that a licensed home health agency which performs only tests classified as waived under CLIA is not required to utilize the services of, or employ, a laboratory director. (B&P C § 1206.5)

AB 1434
Shelley

Fire Prevention: State Fire Marshal: Standards for Electricians

Dropped

Existing law requires the State Fire Marshal (SFM) to establish and validate minimum standards for fire protection personnel and fire protection instructors at all career levels. Existing law provides for the licensure and regulation of electrical contractors by the Contractors State License Board.

This bill would have required the SFM to establish and validate minimum standards for the competency and training of electricians through a system of testing and certification. The SFM would have been required to establish advisory committees and panels to assist in carrying out the provisions of this bill, establish fees necessary to implement the bill, and promulgate regulations to enforce the bill.
(H&S C § 13142)

AB 1437
Cardoza

Air Pollution: Transported Pollutants

Dropped

Existing law requires the State Air Resources Board (ARB) to assess the relative contribution of upwind emissions to downwind pollution and to determine if the contribution is overwhelming, significant, inconsequential, or some combination thereof.

This bill would have required the ARB, for each area of the state that contributes overwhelming or significant amounts of transported pollution to a downwind district, to implement a program that requires each upwind district to take prescribed actions that reduce the emissions being transported into the downwind district, or make mitigation payments for those emissions to the downwind district. This bill also would have subjected the upwind districts to the Enhanced Vehicle Inspection and Maintenance Program. (H&S C §§ 39604, 39611, 39612, 40915 & 40924)

AB 1439
Granlund

Health Care Practitioners: Identification: Mental Health: Involuntary Commitments

Chapter 1013
Statutes of 1998

Existing law defines a health care practitioner as "any person who engages in acts which are the subject of licensure or regulation under the healing arts division of the Business and Professions Code or under any initiative act referred to in this division." Existing law also allows persons deemed to be dangerous to themselves or others to be detained for a period of 72 hours for evaluation. A determination can then be made to certify the person for a maximum of 14 days for

treatment. Two parties must sign this 14-day certification, the first of who must be either a physician or a licensed psychologist. The second signature must be either from a social worker or registered nurse.

This statute requires health care practitioners to disclose their practitioner's status and specialty on nametags while working and prohibits any person other than a registered nurse or a licensed vocational nurse from using the title "nurse." This statute also requires that a social worker who provides the second signature on a 14-day certification to commit a person for mental illness or chronic alcoholism to be a licensed clinical social worker. (B&P C § 68 and W&I C § 5251)

AB 1523
Battin

Automotive Repair

Dropped

Existing law provides for the Bureau of Automotive Repair (BAR) to establish standards for certification of registered automotive repair facilities. The BAR is required to have procedures setting forth the basic requirements for application and certification in certain areas of automotive repair.

This bill would have required the procedures be in writing. (B&P C § 9889.33)

AB 1731
Bowler

Ketamine: Unauthorized Possession

Chapter 358
Statutes of 1998

Existing law does not penalize or punish the unauthorized possession of ketamine.

This statute makes the unauthorized possession of ketamine a misdemeanor. (H&S C § 11377)

AB 1758
Runner

Abortion: Anesthesia

Failed
Assembly
Health

Existing law, the Therapeutic Abortion Act, contains provisions regarding abortions, including a requirement that the procedure be performed by a physician and surgeon.

This bill would have: 1) required physicians performing an abortion in the third trimester to offer to the patient information and counseling on fetal pain and to offer to the patient anesthesia for the fetus; 2) required the physician to arrange for anesthesia if the patient voluntarily consents to anesthesia for the fetus; and 3) required the patient to sign a document that information and counseling on fetal pain was provided and that the physician offered anesthesia for the fetus. (H&S C § 123451)

AB 1914
Ashburn

Air Pollution: Sales, Use, Income, Bank and Corporation Taxes

Failed Assembly Transportation

Existing law establishes a motor vehicle inspection and maintenance program administered by the Department of Consumer Affairs/Bureau of Automotive Repair. The Sales and Use Tax Law imposes a tax on the gross receipts from the sale of tangible personal property and provides various exemptions from this tax. The Personal Income Tax Law and the Bank and Corporation Tax Law authorizes various credits against the taxes imposed by these laws.

This bill would have: 1) suspended the Smog Check Program until all manufactured BAR-97 testing equipment was completely certified; 2) provided a full tax credit for the costs of the BAR-97 equipment to shop owners; and 3) provided a $50 credit to the owners of tested vehicles. (R&T C §§ 17053.56 & 23656)

AB 2200
Migden

Cigarette Fire Safety

Failed Legislative Deadline

Existing law provides that the Bureau of Home Furnishings and Thermal Insulation (BHFTI) enforces flammability safety requirements related to upholstered furniture, bedding, and insulation.

This bill would have required the BHFTI to adopt a fire safety performance standard for cigarettes by June 1, 1999. After January 1, 2000, all cigarette manufacturers would have been required to certify that their cigarettes met the new standard before they could sell their products in California. The manufacture, distribution, or sale of cigarettes that failed to meet the standard would have been a violation punishable by a civil penalty of up to $10,000 per violation. The Attorney General would have been authorized to bring actions to enforce the standard. (B&P C Chapter 29, § 22940 et. al.)

AB 2311
Baugh

Income and Bank Corporation Taxes: Credit: Motor Vehicle Inspection Program

Failed Legislative Deadline

Existing law establishes a motor vehicle inspection and maintenance program (Smog Check) administered by the Department of Consumer Affairs/Bureau of Automotive Repair which includes the required use of dynamometers in the Enhanced Areas of the state. Existing law also authorizes various credits towards the taxes imposed under the Personal Income Tax Law and the Bank and Corporation Tax Law.

This bill would have provided, until January 1, 2005, a limited tax credit to Smog Check station owners to mitigate the costs of dynamometer equipment up to $50,000 per machine. This tax credit would have become effective only if the vehicle population subject to biennial inspections as of January 1, 1998 were to decrease by twenty-five percent (25%) or more. This bill would have also created an additional credit for costs over $5,000, until January 1, 2005, on any

future equipment enhancement that may be required by the state. (R&T C §§ 17053, 17053.1, 23605 & 23605.1)

AB 2389
Margett

<u>Partial-Birth Abortion: Ban</u>

Failed Assembly Health

Existing law contains provisions regarding abortions, including a requirement that the procedure be performed by a physician and surgeon; provides that a violation of various provisions by a physician and surgeon constitutes unprofessional conduct; and provides that a violation of the Medical Practice Act is a misdemeanor.

This bill would have: 1) prohibited a person from knowingly performing or attempting to perform a partial-birth abortion, except as specified; 2) provided that a woman upon whom a partial-birth abortion is performed or attempted to be performed is not guilty of violation of the prohibition, or of complicity or conspiracy in the commission of a violation of the prohibition; 3) provided that violation of its prohibition constitutes unprofessional conduct under the Medical Practice Act; 4) required the Division of Medical Quality (Division) of the Medical Board of California to impose a civil penalty of not less than $10,000 and not more than $25,000 for a first violation and not less than $50,000 and not more than $100,000 for a subsequent violation; 5) required the Division to suspend a licensee's right to practice for one year for a first violation and to revoke a licensee's right to practice permanently for a subsequent violation; and 6) provided that the misdemeanor provisions of the Medical Practice Act would not apply to a violation of these provisions. (B&P C § 2253.5; and H&S C § 123455)

AB 2496
Aguiar

<u>Perfusionists</u>

Dropped

Existing law establishes certain educational and examination requirements for persons who hold themselves out as perfusionists; states the intent of the Legislature that authority be reserved to the Division of Licensing of the Medical Board of California (MBC) to adopt examination, continuing education, and training standards for perfusionists, with appropriate consultation if certain existing standards prove inadequate after a trial period of at least three years; and provides that the performance of certain procedures are included in the definition of perfusion services.

This bill would have prohibited, commencing January 1, 2001, any person who holds himself or herself out as a perfusionist, or performs perfusion services, from doing so without a valid license as a perfusionist; established procedures for the licensure of perfusionists; required the MBC to establish a limit on the number of times an applicant for licensure who fails an examination may retake the examination; established the requirements for retaking an examination; and required the MBC to establish licensure related fees. (B&P C §§ 2590, 2591, 2592, 2593, 2596, 2597 & 2598)

AB 2542
B Thompson

Abortion

Dropped

Existing law contains provisions regarding abortions, including a requirement that the procedure be performed by a physician and surgeon; and provides for the Medi-Cal program, which is administered by the State Department of Health Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons.

This bill would have: 1) required the diagnosis of pregnancy to be made by a physician and surgeon prior to the initiation of the abortion procedure; 2) required specified information to be communicated to the pregnant woman, and included in her medical records prior to the initiation of the abortion procedure; 3) required a one-hour waiting period between the time the pregnancy is diagnosed, or the required information is provided to the pregnant woman; 4) provided that a violation of its provisions by a physician and surgeon constitutes unprofessional conduct pursuant to specified provisions of existing law; 5) provided that no Medi-Cal claim shall be paid for an abortion procedure unless the claim is accompanied by a medical record signed by the physician and surgeon who performed the abortion; 6) provided that falsification of this medical record by a physician and surgeon constitutes unprofessional conduct pursuant to specified provisions of existing law; and 7) provided that falsification which occurs when the abortion procedure is to be paid for or subsidized directly or indirectly by the Medi-Cal program, constitutes evidence of intent to defraud the Medi-Cal program. (H&S C § 123451 and W&I C § 14185)

AB 2552
Baugh

Motor Vehicle Inspection and Maintenance Program

Failed Legislative Deadline

Existing law establishes a motor vehicle inspection and maintenance program (Smog Check) administered by the Department of Consumer Affairs/Bureau of Automotive Repair which includes the required use of dynamometers in the Enhanced Areas of the state. Existing law also authorizes various credits towards the taxes imposed under the Personal Income Tax Law and the Bank and Corporation Tax Law.

This bill would have, in addition to the tax credit provisions of AB 2311, made revisions to the Gold Shield program, the low-income repair assistance program, and allowed certain smog facilities to update or override ZIP Code information contained in the Department of Motor Vehicles' database. (H&S C §§ 44010.5, 44012, 44014.2, 44014.5, 44017.1, 44033, 44056, 44095 & 44062.1; R&T C §§ 17053, 17053.1, 23605 & 23605.1; and Veh C § 24007)

AB 2556
Martinez

Health Care Service Plans: Administration

Vetoed
July 21, 1998

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Corporations.

This bill would have stated the intent of the Legislature that responsibility for the administration and enforcement of the act be vested in an agency that will best ensure quality of care and be responsive to Californians.

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 2556 without my signature.

This bill would express the Legislature's intent that responsibility for regulating health care service plans be vested in an agency that will best ensure quality of care and be responsive to Californians, whether that is an existing agency or a new agency.

This bill is not a serious attempt at managed care reform. It does not change the law. It does not enact any new reforms. It merely states the Legislature's "intent" to enact managed care reform.

The Legislature needs to get serious about reform and approve my "Reorganization Plan No. 1 of 1998." This plan would create the Department of Managed Care to ensure that health care service plans provide quality health care to Californians. The Legislature, on party line votes, has rejected this plan without proposing one of its own. Evidently, they see more value in talking about reform, as evidenced by this bill, than actually taking concrete action.

AB 2693
Migden

Controlled Substances: Prescriptions

Chapter 789
Statutes of 1998

Existing law classifies certain drugs as "controlled substances" and puts them into various schedules (Schedule II includes opiates); requires each prescription for a Schedule II controlled substance to be prepared in triplicate and one of the copies of the prescription to be sent to the Department of Justice; limits the number of triplicate prescription blanks for controlled substances issued to authorized practitioners; requires prescribers to issue the prescription of controlled substances in a specified manner; and criminalizes any violation of the requirements regarding possession of triplicate prescription blanks.

This statute: 1) exempts prescriptions for terminally ill patients from requirements in existing law regarding triplicate prescriptions for "Schedule II" controlled substances, except as specified; 2) requires the prescription to be signed and dated by the prescriber and to contain the name of the person for whom the controlled substance is prescribed, the name and quantity of the controlled substance prescribed, and directions for use; 3) requires the prescription to also contain the address of the person

for whom the controlled substance is prescribed and specific information about the prescriber such as address, telephone number, category of professional licensure, and federal controlled substance registration number, in compliance with existing law; and 4) requires the prescription to indicate that the presciber has certified that the patient is terminally ill by the words "11159.2 exemption." (H&S C § 11159.2)

AB 2721
Miller

<u>**Healing Arts Licensees: Unprofessional Conduct: Acupuncture Licensees**</u>

Chapter 971
Statutes of 1998

Existing law: 1) provides for the licensing and regulation of various healing arts professionals; 2) authorizes various penalties, including fines and imprisonment, against licensed healing arts professionals for unprofessional conduct, such as over-prescribing of drugs and sexual relations with patients; 3) authorizes any licensing board under the Department of Consumer Affairs (DCA) to deny a license on various grounds, including conviction of a crime substantially related to the practice of a profession; 4) charges the Acupuncture Committee with regulation of acupuncturists practicing in California; 5) provides for the denial, suspension, or revocation of the license of an acupuncturist found guilty of unprofessional conduct as defined; 6) requires an acupuncturist to post his or her license in a conspicuous location in his or her place of practice at all times, and requires a duplicate license to be posted for each additional location; and 7) prohibits prostitution, pimping, pandering, and operation of a place of prostitution.

This statute: 1) authorizes specified state licensing agencies to deny, suspend, or revoke the license, on grounds of unprofessional conduct, of any person licensed pursuant to the healing arts provisions of the Business and Professions Code who engages in, or who aids or abets in, certain prostitution related crimes occurring in the work premises of, or work area under the direct professional supervision or control of, that licensee; 2) provides for civil fines of up to $2,500 for the first offense, and up to $5,000 for each subsequent offense, which may be assessed and recovered in a civil action brought by any district attorney; 3) specifies that fine revenue shall be paid to the treasurer of the county in which the judgment was entered; 4) requires registration with the Acupuncture Committee of all places of practice of a licensee within 30 days of licensure and of all changes in location of places of practice within 30 days of the change; 5) provides, for purposes of the Acupuncture Practice Act, that unprofessional conduct includes the revocation, suspension, or other discipline, restriction, or limitation imposed by another state or an agency of the federal government on a license or certificate to practice acupuncture on grounds that would have been grounds for disciplinary action in California; and 6) makes several technical

and clarifying amendments to various sections of the Business and Professions Code. (B&P C §§ 130, 731, 4929, 4929.5, 4930, 4955 & 4961)

AB 2789
Thomson

Vetoed
August 21, 1998

<u>**Motor Vehicle Inspection and Maintenance Program**</u>

Existing law establishes a motor vehicle inspection and maintenance program (Smog Check) administered by the Department of Consumer Affairs/Bureau of Automotive Repair which includes the required use of dynamometers in the Enhanced Areas of the state.

This bill was the urgency budget trailer bill for the Smog Check Program which would have made revisions to the Gold Shield program and the low-income repair assistance program, allowed certain smog facilities to update or override ZIP Code information contained in the Department of Motor Vehicles' database, and would have redesignated certain cities out of the enhanced requirements of the Program. (H&S C §§ 44010.5, 44012, 44014.2, 44014.5, 44017.1, 44033, 44056, 44095, 44062.1 & 44007; and Veh C § 24007)

<u>**Veto Message**</u>

Governor Pete Wilson
To Members of the California Assembly:

I am returning Assembly Bill No. 2789 without my signature.

This bill would make a number of changes to the Smog Check II program by eliminating "ping-ponging" of cars that fail a smog test between test-only facilities and repair shops; revising the low-income and repair assistance program; and simplifying procedures for vehicles to be removed from the enhanced program testing requirements when ownership is transferred to a non-enhanced area.

Unfortunately, the bill, similar to a bill vetoed last year (AB 999), would remove the Enhanced Area designation on some areas of the state by arbitrarily defining an "urbanized" area as having a population of 100,000 or more residents. Changing the designation of these areas would result in emissions reduction shortfall which could force the state to face federal sanctions. Avoiding the sanctions would require creating inequities by shifting the burden of increased emissions reductions to industrial and stationary pollution sources or upon the other areas where the enhanced program remains active.

Nothing has changed over last year to warrant a reversal of the prior veto. It remains imperative that we continue to make desired and necessary progress to protect public health through clean air standards, avoid unnecessary exposure to federal sanctions, and ensure that California's air quality policy approach remains equitable, technologically feasible, and cost effective.

This bill does, however, contain a number of laudable changes that would have made significant improvements for all sectors of the motoring public. As such, I am directing my agencies to implement those features of this bill that will increase public convenience and acceptance to the fullest extent permissible under existing statutory authority.

AB 2795
Oller

Failed Legislative Deadline

<u>**Motor Vehicles: Smog Check Program**</u>

Existing law establishes a motor vehicle inspection and maintenance program (Smog Check) administered by the Department of Consumer

Affairs/Bureau of Automotive Repair (DCA/BAR) which includes the required use of dynamometers in the Enhanced Areas of the state.

This bill would have repealed the Enhanced Smog Check Program reverting back to the pre-1994 program and would have also permitted every motor vehicle subject to inspection to be pre-tested. This bill would have also required the BAR to buy back the dynamometer equipment from smog check station owners. (H&S C §§ 44000.5, 44011, 44012, 44013.5, 44014, 44015, 44017, 44020, 44021, 44024.5, 44033, 44036, 44045.5, 44050, 44056, 44060, 44062.1, 44081, 44081.6, 44011.3, 44003, 44010.5, 44014.2, 44014.4, 44014.5 & 44014.7; and Veh C § 4000.3)

ACA 38
Leonard

Abortion: Parental Consent: Minors

Failed
Assembly Health

The California Constitution establishes the right of privacy. Existing statutory law, the Therapeutic Abortion Act, contains provisions regarding abortions, including a requirement that the procedure be performed by a physician and surgeon.

This measure would have prohibited an abortion from being performed upon an unemancipated minor unless the physician performing the abortion has first obtained the informed written consent of the minor to the abortion and also has obtained the written consent of one of her parents or legal guardian, or has received court authorization, as specified; authorized the minor to file a petition with the court if one or both of the minor's parents or her legal guardian refuses to consent to the performance of an abortion, or if the minor elects not to seek the consent of one or both of her parents or her guardian; and prohibited anything in its provisions from being construed to grant, secure, or deny any right relating to abortion or the funding of abortion. (Constitution Article I § 32)

SB 40
Johannessen

Vehicles: Smog Impact Fee

Failed
Legislative Deadline

Existing law, with specified exceptions, requires any person registering a 1975 or subsequent model gasoline-powered motor vehicle or a 1980 or subsequent model year diesel-powered motor vehicle last registered outside this state to pay a $300 smog impact fee to the Department of Motor Vehicles at the time of registration.

This bill would have repealed those provisions. (R&T C §§ 6261, 6262 & 6263)

SB 61
Haynes

Vehicle Inspection and Maintenance

Failed
Senate Transportation

Existing law requires the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR), to establish an enhanced vehicle emissions inspection and maintenance program (I/M) in urbanized

areas of the state that are classified as non-attainment areas for ozone and oxides of nitrogen (NOx). As part of the I/M, the law also requires the biennial testing of 15% of the state's vehicle fleet in the enhanced areas be performed at a test-only facility. Existing law also requires the DCA/BAR to develop a voluntary certification program which may be called a "gold shield" program providing motorists the option of guaranteed repairs at a qualified station minimizing additional trips back to a test-only facility for certification.

This bill would have repealed the Enhanced Smog Check Program reverting back to the pre-1994 program. It would also have prohibited: 1) any vehicle from being subjected to any emission standard that varies from the standards set at the time of manufacture or to any tailpipe emissions standard that is stricter than the standards applicable pursuant to federal law; 2) any regulation pertaining to motor vehicle emissions from being adopted or revised by the California Air Resources Board until the regulation has been submitted and enacted through statute authorizing the adoption of the regulation by the Legislature; 3) any mandatory roadside inspections; and 4) confiscation of any vehicle. (H&S C Chapter 5 [commencing with Section 44000] of Part 5 of Division 26 & § 43000.7; and Veh C § 9250.18)

SB 201
Kelley

Vehicles: Smog Impact Fee: Exemption

Failed Legislative Deadline

Existing law generally requires any person registering a 1975 or subsequent model year gasoline-powered motor vehicle or a 1980 or subsequent model year diesel-powered motor vehicle last registered outside this state to pay a $300 smog impact fee to the Department of Motor Vehicles at the time of registration.

This bill would have exempted from that fee a vehicle that is sold through a dealer conducting a wholesale motor vehicle auction.
(R&T C § 6262)

SB 322
Craven

Auto Body Repair: Shop Certification

Failed Legislative Deadline

Existing law requires the Bureau of Automotive Repair (BAR) within the Department of Consumer Affairs to register and regulate automotive repair dealers.

This bill would have required the BAR to create the Better Auto Body Repair Shop Gold Star Program--a voluntary certification program for auto body repair facilities until January 1, 2003. (B&P C Article 12 of Chapter 20.3 of Division 3)

SB 406
Rosenthal

Health Care Coverage: Board of Managed Health Care

Vetoed
September 24, 1998

Existing law provides for the regulation of health care service plans by the Commissioner of Corporations.

This bill would have established the Board of Managed Health Care (board) in the State and Consumer Services Agency, on and after March 1, 1999, with prescribed membership and duties; required the board to administer and enforce the regulation of health care service plans on and after July 1, 1999; and required the board to administer and enforce the regulation of disability insurers that cover hospital, medical, and surgical benefits, preferred provider organizations, exclusive provider organizations, and any other preferred provider insurers on and after July 1, 2001. (H&S C §§ 1341, 1342.5, 1347, 1368, 1368.01, 1368.02, 1368.03 & 140000 et seq.)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 406 without my signature.

This bill would transfer the responsibility for regulating health care service plans from the Department of Corporations to a board with five members. Three members would be appointed by the Governor and two members by the Legislature. The Chairperson would hold a full time position, while the other four members would hold part time positions. The Chairperson would appoint two advisors and each board member would appoint an additional advisor. The bill would also establish a 29 member advisory board.

This bill fails to deliver the reform it promises. It would establish a weak and unaccountable regulatory bureaucracy with dispersed enforcement authority. The Little Hoover Commission, an independent non-partisan advisory organization, has rejected the key feature of this bill, establishing a board to regulate health plans, because the burden of collective decision making will not provide consistent and responsive leadership.

The Commission instead concluded that health plans should be regulated by a focused department or agency lead by a single gubernatorial appointee. The Commission found that a single appointee would be more accountable and would be in the best position to provide strong and decisive leadership, particularly on difficult issues lacking broad political consensus.

The regulation of health care service plans must be improved. That is why I sponsored legislation to create the Department of Managed Health Care lead by a single, focused regulator. I am disappointed that the Legislature rejected this health care reform.

SB 666
Maddy

Clinical Laboratory Technology: Unlicensed Personnel

Dropped

Existing law governs the practice of clinical laboratory technology, and requires the State Department of Health Services (DHS) to, by regulation, authorize unlicensed laboratory personnel employed in clinical laboratories in licensed clinics or hospitals to perform venipuncture, arterial puncture, and skin puncture for the purposes of withdrawing blood for test purposes. Existing regulations adopted by the DHS set forth the training requirements for these unlicensed laboratory personnel.

This bill would have established these training requirements in statute and would have required the DHS to authorize any unlicensed

laboratory personnel who satisfy these training requirements to perform the above described procedures. (B&P C §§ 1242.5 & 1246)

SB 977
Sher

Renewable Energy Purchases: Customer Credits

Chapter 1042
Statutes of 1998

Existing law provides for customer credits to California retail customers located in the service territory of an investor-owned utility, as specified, who purchases qualifying renewable electric power, as specified.

This statute further qualifies eligibility requirements for the customer credits depending various factors. (PUC § 383.7)

Prior versions of SB 977 contained provisions pertaining to Health Care Service Plans. Those provisions were stricken from the bill prior to enrollment.

SB 996
Burton

Construction Site Safety

Dropped

Existing law imposes various obligations on persons related to safety at construction sites. A civil action may be taken for failure to meet that obligation or an injury related to the obligation.

This bill would have placed in the Civil Code legislative intent language that every effort should be made to ensure safety at construction sites. (Civ C § 1714.11)

SB 998
Burton

Health Care

Chapter 775
Statutes of 1998

Existing law: 1) establishes certain educational and examination requirements for persons who hold themselves out as perfusionists; 2) defines "perfusion" as those functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular system, circulatory system with or without the oxygenation circuit, or any combination of those activities, and to ensure the safe management of physiologic functions by monitoring the necessary parameters of those systems pursuant to an order and under the supervision of a licensed physician or surgeon; 3) prohibits any person from holding himself or herself out as a perfusionist without having first completed a training program approved by the Commission on Accreditation of Allied Health Education Programs and the entire examination of the American Board of Cardiovascular Perfusion; 4) states legislative intent that authority be reserved to the Division of Licensing of the Medical Board of California (MBC) to adopt examination, continuing education, and training standards for perfusionists in the event that existing standards, as specified, prove inadequate; 5) provides for the regulation of health facilities by the Department of Health Services; and 6) authorizes health facilities to engage in cardiac surgery.

This statute: 1) states various findings and declarations regarding

the practice of perfusion; 2) provides that during cardiovascular surgery, a perfusionist shall operate the extracorporeal equipment under the immediate supervision of the cardiovascular surgeon or anesthesiologist; and 3) provides that the determination of the qualifications and competence of a perfusionist, and the awarding of appropriate privileges, shall be the responsibility of the general acute care hospital or its medical staff. (H&S C §§ 1255.5 & 1255.6)

SB 1084
Watson

Natural Death Act: Durable Powers Of Attorney For Health

Dropped

Under existing law, the Natural Death Act, a person is authorized to execute a prescribed declaration governing the withholding or withdrawal of life-sustaining treatment for the person. Under existing law, a person may execute a durable power of attorney that permits the attorney-in-fact to make health care decisions for the person, under prescribed conditions.

This bill would have required a health facility, and healing arts licentiate, as defined, to develop protocols relating to implementation of those provisions. (H&S C § 7185.6 and Prob C § 4700.5)

SB 1255
Polanco

Health Care: Payment of Claims

Chapter 20
Statutes of 1998

Existing law provides for the licensure and regulation of the healing arts professions; authorizes health care providers, as defined, to grant discounts in health or medical claims submitted to third-party payers when payment by the third-party payer is made promptly within prescribed time limits.

This statute: 1) deletes the reference to third-party payers, and instead authorizes providers to grant discounts in health or medical claims when payment is made promptly within prescribed time limits; 2) expressly authorizes a health care provider to grant discounts for health or medical care to any patient the provider has reasonable cause to believe is not eligible for, or entitled to, insurance reimbursement, or coverage under Medi-Cal or by a health care service plan for the health or medical care provided; 3) prohibits a contract provision from being deemed to apply to, or take into consideration, any cash payment made to the provider by individual patients who do not have any private or public form of health coverage for the services rendered by the provider and to whom a discount was granted under those provisions; and 4) declares that it is to take effect immediately as an urgency statute. (B&P C § 657; H&S C § 1371.22; and Ins C § 10126.5)

SB 1275
Haynes

Air Pollution: Heavy-Duty Vehicles

Failed Legislative Deadline

Existing law requires the State Air Resources Board (ARB) to reduce emissions from heavy-duty motor vehicles by adopting specified regulations and by cooperating with the Department of the California Highway Patrol in conducting roadside inspections to enforce a prohibition against the use of a heavy-duty vehicle that emits excessive smoke. It also requires the ARB to adopt regulations that require owners or operators of heavy-duty diesel vehicles to perform regular inspections of their vehicles for excessive smoke.

This bill would have required the ARB to implement and enforce a heavy-duty vehicle roadside inspection program. (H&S C § 43703 & 44011.6 and R&T C §§ 17053.41 & 23641)

SB 1292
Calderon

Specialized Health Care Service Plans: Mental Health: Transfers

Vetoed
September 29, 1998

Existing law regulates specialized health care service plans, including plans that offer professional mental health services and provides that a willful violation of those provisions is a crime.

This bill would have required a specialized health care service plan offering mental health services to permit an enrollee to continue treatment with a provider if the enrollee must switch plans due to a requirement by the enrollee's employer, subject to certain conditions. (H&S C § 1373.31)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 1292 without my signature.

This bill would require a specialized mental health plan to provide coverage for an enrollee to continue a course of treatment with a nonparticipating provider if the enrollee is required to involuntarily switch plans because of a change in employer sponsored coverage.

This bill is unnecessary. Assembly Bill 1152 (Bordonaro), Chapter 504, Statutes of 1995, already requires that plans establish a policy to facilitate the continuity of care for new enrollees receiving services from a nonparticipating provider. The policy must ensure that reasonable consideration is given to the potential clinical effect that a change of provider would have on the enrollee's treatment.

This bill would also interfere with the ability of a health plan to establish a network of providers to coordinate and ensure the quality of care. Requiring health plans to provide coverage through a nonparticipating provider indefinitely would also result in increased premium costs.

SB 1331
Knight

Hemodialysis: Technician Training

Chapter 373 Statutes of 1998

Existing law provides for the regulation and training of hemodialysis technicians; requires the Department of Health Services (DHS) to prescribe the minimum training standards for technicians, certify

graduates of specified training programs for four-year intervals, and renew a technician's certification upon proof of completion of 30 hours of specified in-service training or continuing education; specifies the sources for the required in-service training or continuing education; authorizes the DHS to deny, suspend, or revoke a certification for specified reasons including unprofessional conduct, fraud, or conviction of a crime related to technician qualifications, duties or functions; provides that the DHS certification program for hemodialysis technicians is subject to the review of the Joint Legislative Sunset Review Committee (JLSRC) and requires the DHS to report to the JLSRC in accordance with specified time limits; and provides that the above-specified provisions of the Hemodialysis Technician Training Act shall become inoperative on July 1, 1999 and as of January 1, 2000, shall be repealed, unless a later enacted statute extends or deletes the dates.

This statute extends the July 1, 1999 sunset date to July 1, 2000. (B&P C §§ 1247.63, 1247.64, 1247.66, 1247.95 & 1300)

SB 1358
Costa

Air Pollution: Motor Vehicle Inspection and Maintenance

Failed Legislative Deadline

Existing law requires the state Air Resources Board to periodically analyze the phenomena of transported air pollutants and to establish mitigation requirements commensurate with the level of contribution of upwind emissions to downwind pollution. Existing law also requires the Department of Consumer Affairs/Bureau of Automotive Repair, to establish an enhanced vehicle emissions inspection and maintenance program in urbanized areas of the state that are classified as non-attainment areas for ozone and oxides of nitrogen.

This bill would have subjected certain upwind districts to the enhanced motor vehicle inspection and maintenance program. (H&S C §§ 44003 & 44010.5)

SB 1366
Monteith

Air Pollution: Motor Vehicle Inspection and Maintenance

Dropped

Existing law requires the state Air Resources Board (ARB) to periodically analyze the phenomena of transported air pollutants and to establish mitigation requirements commensurate with the level of contribution of upwind emissions to downwind pollution. Existing law also requires the Department of Consumer Affairs/Bureau of Automotive Repair, to establish an enhanced vehicle emissions inspection and maintenance program in urbanized areas of the state that are classified as non-attainment areas for ozone and oxides of nitrogen.

This bill would have required the ARB to modify the mitigation requirements requiring upwind districts that contribute an overwhelming or significant level of transported air pollutants to revise

their plans to reduce emissions, make mitigation payments or both. The bill would have also subjected upwind districts to the enhanced motor vehicle inspection and maintenance program.
(H&S C §§ 40915, 44003, 39611 & 39611.5)

SB 1423
Mountjoy

State Air Resources Board: Department of Consumer Affairs

Failed
Senate
Environmental
Quality

Existing law requires the ARB to adopt standards, rules, and regulations necessary for the proper execution of the powers and duties granted to the ARB by the provisions of law relative to air quality. Existing law also authorizes the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR) to adopt regulations to carry out those duties imposed on the BAR under the Motor Vehicle Inspection Program.

This bill would have: 1) prohibited any regulation pertaining to emissions from being adopted or revised by the ARB or the DCA/BAR until the regulation had been submitted and enacted through statute authorizing the adoption of the regulation by the Legislature; 2) required the Joint Committee on Rules to adopt procedures regarding the submission and approval of relevant regulations; 3) prohibited amendment to any submitted regulation until the initial regulation had first been approved by the Legislature; 4) required that submitted regulations that failed the Legislature be sent back to the ARB or DCA/BAR for reconsideration accompanied with the Legislature's comments; and 5) sunseted all current regulations as of June 1, 2000, unless the Legislature enacted a statute approving these regulations. (H&S C §§ 39601.5 & 44001.6)

SB 1539
Solis

Controlled Substances: Iodine: Red Phosphorous

Chapter 305
Statutes of 1998

Existing law imposes specified requirements upon any manufacturer, wholesaler, retailer, or individual who sells to any individual any quantity of specified chemical substances, including iodine and red phosphorous.

This statute: 1) provides that no manufacturer, wholesaler, retailer, or individual, except as provided, can sell or buy more than eight ounces of iodine in any 30-day period; 2) provides that no manufacturer, wholesaler, retailer, or individual can sell or buy more than four ounces of red phosphorous in any 30-day period; 3) exempts from the aforementioned requirements any sale of red phosphorous made to a person or business that is licensed or regulated by the state or federal law; and 4) exempts from the aforementioned requirements any sale of iodine made to a licensed health care facility, any manufacturer licensed by the Department of Health Services, or wholesaler licensed by the Board of Pharmacy who sells, transfers, or otherwise furnishes the iodine to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian. (H&S C § 11107.1)

SB 1636
Haynes

Air Pollution: Heavy Duty Vehicles: Smokemeter Certifications

Dropped

Existing law, the Personal Income Tax Law and the Bank and Corporation Tax Law, authorizes various credits against the taxes imposed by those laws.

This bill would have authorized a credit against those taxes for each taxable and income year beginning on or after January 1, 1998, in an amount equal to 6 1/2% of the taxpayer's gross sales during the taxable or income year of any heavy-duty smoke meters manufactured by the taxpayer in this state that have been approved for use by the State Air Resources Board. (R&T C §§ 17053.41 & 23641)

SB 1663
O'Connell

Child Day Care Facilities: Administering Inhaled Medication

Chapter 625
Statutes of 1998

Existing law: 1) provides for the licensure and regulation of child day care facilities by the State Department of Social Services (DSS); defines a "child day care facility" as a facility that provides nonmedical care to children under age 18 in need of personal services and supervision for less than a 24 hour basis; 2) provides for the regulation of physicians and surgeons by the Medical Board of California (MBC); 3) prohibits the unauthorized practice of medicine except for service in the case of emergency or the domestic administration of family remedies; 4) provides for the regulation of the practice of respiratory care by the Respiratory Care Board of California (RCB); 5) prohibits the unlicensed practice of respiratory care, with specified exemptions; and 6) requires at least one staff member at each day care center to have 15 hours of training in certain preventive health practices, including pediatric cardiopulmonary resuscitation and pediatric first aid.

This statute: 1) provides that the administering of inhaled medication to a child by licensees and staff of a child day care center, as specified, does not constitute a violation of the current law prohibition against the unlicensed practice of respiratory care; 2) provides that notwithstanding any other provision of law, licensees and staff of child day care facilities may administer inhaled medications to a child, if certain specified conditions are met; 3) states that nothing in its provisions may be interpreted to require a certificated teacher who provides day care in a public school setting to administer inhaled medication; and 4) adds to the requirements in existing law for pediatric first aid training, a component of training in the administration of inhaled medication, with standards for this component established by the Emergency Medical Services Authority. (B&P C § 3765 and H&S C §§ 1596.798 & 1596.8661)

SB 1691
Rainey

Controlled Substances: Retail Distributors

Vetoed
September 24, 1998

Existing law regulates the sale of ephedrine and ephedrine like chemicals.

This bill would have: 1) made it unlawful for any retail distributor to sell in a single transaction more than four (4) packages of a product that he/she knows to contain ephedrine, as defined; 2) made it unlawful for any retail distributor to knowingly sell more than 24 grams of ephedrine; 3) provided that it is the intent of the Legislature that the provisions in the bill would preempt all local ordinances or regulations governing the sale of over-the-counter ephedrine-containing products by a retail distributor; and 4) provided an exemption for future products in which ephedrine cannot be diverted from the product. (H&S C § 11100)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 1691 without my signature.

This bill would create a statewide prohibition on the sale of more than four packages per transaction of over-the-counter products containing ephedrine or pseudoephedrine. It would preempt inconsistent local ordinances. Current federal law prohibits the sale of packages containing more than three grams of ephedrine and total retail transactions involving more than twenty-four grams of ephedrine.

While I sympathize with the author's goal of creating a single, easily understood, and enforceable standard for retail sale of ephedrine and ephedrine like products, the standard proposed by this bill misses the mark. All of the local ordinances that this bill would preempt contain a limitation on the total number of tablets which may be sold, in addition to a package limitation. Most of these ordinances permit sale of up to 100 tablets, an amount equal to three grams of ephedrine. This bill by limiting packages, but not tablets, authorizes packages of ten as well as packages of ninety-six.

Ephedrine and pseudoephedrine are useful chemicals. They are used in cold, asthma, and allergy remedies. These chemicals are also key ingredients in the manufacture of methamphetamines, very dangerous and addictive illegal drugs. While it is appropriate to allow reasonable retail purchases of products containing ephedrine and pseudoephedrine, it is essential that we craft some meaningful limitation on the quantities sold. As the author has aptly pointed out, a single statewide standard would best serve law enforcement retailers and consumers.

It is clear from the considerable work of the author that a standard satisfactory to all parties is not easy to achieve. Nonetheless, it is apparent that both proponents and opponents of SB 1691 are earnest in their desire to reach a solution. I urge both groups to demonstrate resourcefulness in achieving this goal even if it requires delayed implementation.

SB 1722
Lewis

Breast Biopsies

Dropped

Existing law makes no specific provision to authorize a physician and surgeon to perform a breast biopsy for breast cancer using a noninvasive optical procedure, without the presence of a radiologist.

This bill would have stated legislative intent to authorize general surgeons to perform breast biopsies using noninvasive optical procedures.

SB 1725
Johannessen

Air Pollution: Vehicles: Retirement

Failed
Senate
Transportation

Existing law requires the California Air Resources Board (ARB) to establish, by regulation, a statewide privately-operated program, to be overseen by a state agency designated by the governor, and to generate emission reduction credits through the retirement or disposal of high-emitting, light-duty vehicles.

This bill would have required the ARB to allow the sale of vehicles, that are being run through a vehicle retirement program, to interested collectors. (H&S C § 44101)

SB 1726
Johannessen

Emissions Standards

Failed
Senate
Transportation

Existing law permits the California Air Resources Board (ARB) to adopt emission standards for 1977 and later model year motorcycles that are sold in the state on or after July 1, 1976 or such later date as established by the ARB by regulation.

This bill would have prohibited the ARB from adopting any emissions standards for all-terrain vehicles or off-road motorcycles that are powered by a two-stroke engine. The bill would have also provided that no regulation concerning emissions standards for motorcycles may be adopted, amended, or repealed by the ARB until it has been approved by the Legislature through statute. (H&S C §§ 43107 & 43200)

SB 1754
Johannessen

Motor Vehicles

Chapter 938
Statutes of 1998

Existing law establishes a motor vehicle inspection and maintenance program (Smog Check) administered by the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR). It also: requires inspection of motor vehicles upon initial registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances; requires the use of dynamometer testing equipment in the enhanced program areas of the state; and, authorizes motor vehicles to be equipped with various turn signal and pilot indicators.

This statute permits a pre-test for every motor vehicle subject to a Smog Check and requires that the vehicle owner be notified of the pretest option via the information pamphlet provided by the DCA included with the notice for renewal of vehicle registration. In addition, the bill authorizes motor vehicles to be equipped with not

more than two exterior-lighted data monitors that transmit information. (H&S C § 44011.3 and Veh C §§ 4000.3 & 25108)

SB 1800
Johnston

Hereditary Disorders: Genetic Counselors

Chapter 897
Statutes of 1998

Existing law requires the Director of Health Services to establish any regulations and standards for hereditary disorder programs as he or she deems necessary to promote and protect the public health and safety in accordance with certain principles.

This statute requires the State Department of Health Services (DHS), in consultation with a group of medical experts, to recommend appropriate criteria and standards for the licensing of genetic counselors and requires the DHS to report its recommendations to the Legislature by January 1, 2000.
(H&S C § 5536.22)

SB 1822
Haynes

Partial-Birth Abortion: Ban

Failed
Senate
Health and
Human Services

Existing law contains provisions regarding abortions including a requirement that a physician and surgeon perform the procedure; provides that a violation of various provisions by a physician and surgeon constitutes unprofessional conduct; and provides that a violation of the Medical Practice Act is a misdemeanor.

This bill would have: 1) prohibited a person from knowingly performing or attempting to perform a partial-birth abortion, unless certain requirements are met, including the requirement that the physician and surgeon reasonably believes that the partial-birth abortion was reasonably necessary to save the life of the pregnant woman and reasonably believes that no other procedure would suffice for that purpose; 2) provided that a woman upon whom a partial-birth abortion is performed or attempted to be performed is not guilty of violation of the prohibition, or of complicity or conspiracy in the commission of a violation of the prohibition; 3) provided that violation of the prohibition constitutes unprofessional conduct under the Medical Practice Act; 4) required the Division of Medical Quality of the Medical Board of California to impose specified civil penalties for a violation of these provisions; and 5) provided that the misdemeanor provisions of the Medical Practice Act would not apply to a violation of these provisions. (B&P C § 2253.5 and H&S C § 123455)

SB 1926
Mountjoy

Water Contamination: Liability: Motor Vehicle Fuel Additives

Failed
Senate
Environmental

Existing law provides that every party is responsible not only for the result of his or her actions, but also for an injury caused to another by the want of ordinary care or skill in the management of his or her property or person.

This bill would have, among other things, made the manufacturer of methyl tertiary-butyl ether (MTBE), or a product that contains MTBE, jointly liable with the owner and operator that releases MTBE into the groundwater. (Civ C § 1714.11; H&S C §§ 25299.37.1, 43833, 43830.5, 116346 & 116671; and WC §13285)

SB 1951 **Brulte**	<u>Health Coverage: Providers: Advertising</u> Existing law provides for the licensure and regulation of health care service plans administered by the Commissioner of Corporations and provides for the regulation of policies of disability insurance administered by the Insurance Commissioner. **This statute makes it unlawful for a contract between a health care provider and a health care service plan, a disability insurer, or any person or entity, including any group of physicians and surgeons, any medical group, any independent practice association (IPA), or any preferred provider organization (PPO) to contain provisions that prohibit, restrict, or limit the health care provider from advertising.** (B&P C § 512; H&S C § 1395.5; and Ins C § 10127.4)	**Chapter 523** **Statutes of 1998**
SB 2077 **Mountjoy**	<u>Transportation: Air Quality Public Officials</u> Existing law provides for a coordinated state, regional, and local effort to protect and enhance the ambient air quality of the state. This bill would have encouraged certain public officials, including the head of the Bureau of Automotive Repair to drive no more than one private vehicle for every two members of their immediate family who have California driver's licenses. The bill would have also prohibited these officials from being provided with, or transported in, a publicly-owned or leased vehicle. These officials would have been required to submit records to the Legislature of their personal, business, and immediate family's travel on public and private modes of transportation. (H&S C § 39006)	**Failed** **Senate** **Transportation**
SB 2181 **Thompson**	<u>Automotive Repair Act: Terminology</u> Existing law requires owners of automotive repair businesses to register with the Department of Consumer Affairs, makes various references to the term "mechanic," and defines the term to include the performance of various automotive repair functions. This bill would have established, until January 1, 2001, the California Automotive Repair Advisory Committee to analyze the effectiveness of the automotive repair industry, and also would have replaced the term "mechanic" with the term "automobile technician" in law. (B&P C §§ 9880.1, 9882.5, 9884.7 and to add and repeal Article 2.5 [commencing with Section 9883] of Chapter 20.3 of Division 3)	**Dropped**

SB 2185
Kelley

Air Pollution: Motor Vehicle Inspection and Maintenance

Chapter 92
Statutes of 1998

Existing law provides that a certificate of compliance or noncompliance for an emissions test is valid for 90 days.

This statute extends the validity of a Smog Check certificate of compliance for a licensed automobile dealer from 90 to 180 days. (H&S C § 44015)

SCA 20
Mountjoy

Vehicle Inspection and Maintenance

Failed
Senate
Transportation

Existing law requires the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR) to establish an enhanced vehicle emissions inspection and maintenance program in urbanized areas of the state that are classified as non-attainment areas for ozone and oxides of nitrogen (NOx). As part of the program, the law also requires the biennial testing of 15% of the state's vehicle fleet in the enhanced areas be performed at a test-only facility. Existing law also requires the DCA/BAR to develop a voluntary certification program which may be called a "gold shield" program providing motorists the option of guaranteed repairs at a qualified station minimizing additional trips back to a test-only facility for certification.

This constitutional amendment would have repealed the Enhanced Smog Check Program reverting back to the pre-1994 program. It would also have: 1) removed all authority to address oxides of nitrogen (NOx) pollution; 2) prohibited centralized testing stations; 3) exempted vehicles twenty-five (25) or more model years old; 4) required the use of BAR90 testing equipment throughout the state; 5) prohibited the use of dynamometer testing equipment; 6) authorized the pre-testing of vehicles; 7) prohibited the use of remote sensing equipment until authorized by statute; 8) imposed a $250 cost limit on repairs; and 9) required the DCA to prepare and submit an annual report to the Legislature on the analyses and evaluations of the program and hold a public hearing prior to submitting each report. (State Constitution adding Article XIXA)

(5) Landlord-Tenant

AB 583
Davis

Residential Real Property: Trespass: Rent Skimming

Chapter 193
Statutes of 1998

Existing law defines rent skimming as the use of revenue from the rental of a parcel of residential property during the first year after acquiring the property without first applying the revenue or an equal amount to payments due on all mortgages or deeds of trust encumbering the property.

This statute will further define "rent skimming" to include receiving rental income from the rental of residential real property without the consent of the property owner or his/her agent. Claiming ownership or claiming or taking possession of, or causing another to enter or remain in, a residential dwelling for the purpose of renting or leasing the dwelling to another without the consent of the owner or the owner's lawful agent is a misdemeanor. (Civ C § 890 and Pen C § 602.9)

As introduced, this bill would have required Internet Service Providers to make various disclosures regarding their service to the clients. The bill was amended and the chaptered version is limited to residential real property issues.

AB 630
Richter

<u>**Tenancies: Unclaimed Personal Property**</u>

Failed
Senate
Judiciary

Existing law sets forth procedures for the handling of property remaining in a rental unit after a tenant has vacated the premises and specifies that a landlord may retain, sell or destroy unclaimed property reasonably believed to be valued at $300 or less.

This bill would have increased the value of the unclaimed property a landlord may retain, sell or destroy to $400. (Civ C §§ 1984 & 1988)

SB 1989
Polanco

<u>**Real Property Disclosure: Registered Sex Offenders**</u>

Chapter 645
Statutes of 1998

Existing law: 1) provides that sellers of residential real estate property have a duty to disclose any facts affecting the value, condition, or desirability of the property; and 2) does not require a seller of residential real estate property to inspect areas inaccessible, or public records or permits concerning the title or use of the property.

This statute requires rental agreements and leases for real property and real property sales contracts to include a notice concerning the availability of the statewide database containing locations of registered sex offenders. (Civ C § 2079.10a)

SB 2166
Costa

<u>**Public Utilities: Services to Tenant**</u>

Chapter 739
Statutes of 1998

Existing law provides that if a previous tenant leaves an unpaid utility bill, municipal utilities and municipal utility districts are not permitted to require that the utility service be established in the name of the landlord or property owner unless the landlord or property owner consents through a written agreement to such an arrangement.

This statute prohibits municipally owned utilities and municipal utility districts from refusing to furnish services to a tenant in the tenant's name based upon the nonpayment of charges by a previous tenant. (PUC §§ 10009.6, 10016, 12811.1, 12811.5 & 12822.6)

(6) Local Government

SB 134
Ayala

Public records

Dropped

Existing law makes it a felony for an officer having custody of various records and documents to willfully, or permit any other person to, steal, remove, secrete, destroy, mutilate, deface, alter, or falsify such a document or record.

SB 134 would have made it grounds for dismissal for a public employee to willfully provide to another person a copy of a record that is legally confidential and prohibited from disclosure, if the public employee had knowledge of the disclosure law. (Gov C § 1242)

(7) Mobilehomes

No Bills for 1998 Session

(8) Proposed Regulatory Programs

AB 2200
Migden

Cigarette Fire Safety

Failed Legislative Deadline

Existing law provides that the Bureau of Home Furnishings and Thermal Insulation (BHFTI) enforces flammability safety requirements related to upholstered furniture, bedding, and insulation.

This bill would have required the BHFTI to adopt a fire safety performance standard for cigarettes by June 1, 1999. After January 1, 2000, all cigarette manufacturers would have been required to certify that their cigarettes met the new standard before they could sell their products in California. The manufacture, distribution, or sale of cigarettes that failed to meet the standard would have been a violation punishable by a civil penalty of up to $10,000 per violation. The Attorney General would have been authorized to bring actions to enforce the standard. (B&P C Chapter 29, § 22940 et. al.)

(9) Privacy

SB 1667
Burton

Privacy: Electronic Tracking Devices

Chapter 449 Statutes of 1998

Existing law prohibits the invasion of privacy by electronic devices with certain exceptions, primarily for law enforcement activities under court supervision. The law provides for the regulation of various

health care and business professionals, including private investigators and private patrol operators by the Department of Consumer Affairs' Bureau of Security and Investigative Services.

This statute prohibits the placing of an electronic tracking device on a vehicle by a person who is not the registered owner. The statute provides that a violation of its provisions is grounds for revocation for any person licensed or registered in accordance with Division 3 of the Business and Professions Code. The statute is intended to protect private individuals from having their privacy invaded by other private individuals without their knowledge. The statute permits the use of tracking devices by peace officers. (Pen C § 637.7)

(10) Products and Services

AB 746
Miller

Liability: Construction Defects

Dropped

Existing law imposes liability for defective design or defective construction of residential buildings and improvements based on tort and contract law for negligence, strict liability, express contract and implied warranty. Strict liability generally has been applied to construction of residential buildings, which the courts have determined is comparable to mass-produced consumer goods. Existing law allows monetary damages for design and construction defects to be awarded for property damage, personal injury or wrongful death and imposes liability for a design or construction defect on those responsible for the defect. Existing law also provides that an action to recover damages for a latent defect related to construction upon real property must be brought within 10 years from the substantial completion of the development or work.

This bill would have provided that a builder, developer, contractor or seller of residential improvements shall not be liable for any loss or damage from a defect in design, surveying, planning, supervision or observation of construction of residential projects unless the defect is caused by a construction defect as defined. Further, it would have provided that compliance with applicable building codes in effect at the time of construction would have established a rebuttable presumption of construction in accordance with accepted trade and professional standards of care. The bill would also have reduced the statute of limitations for a latent defect in real property to six years after the completion of the development or work. (Civ C § 3269; CCP § 337.15; and Ins C § 11580)

AB 1096
Martinez

Telephone Services

Chapter 671
Statutes of 1998

Existing law prohibits a telephone company from changing a customer telephone service without verification. The practice is known as

"slamming." A telephone company that violates the verification procedures is liable to the telephone company previously selected by the subscriber in an amount equal to all charges paid by the customer after the violation.

This statute creates a penalty that benefits consumers inconvenienced by companies that violate laws prohibiting "slamming." The penalty is 10 percent of all charges to the subscriber after the violation. These provisions are superseded by those in AB 284 (c. 672, stats. 1998) due to a chaptering conflict. (PUC § 2889.5)

AB 1848
Davis

Warranties: Motor Vehicle Manufacturers

Chapter 352
Statutes of 1998

Existing law authorizes each manufacturer of motor vehicles to provide for a qualified third-party dispute resolution process for resolution of disputes brought by buyers or lessees of new motor vehicles. Participating in a dispute resolution program is voluntary. These programs may seek certification by the Department of Consumer Affairs. The Tanner Consumer Protection Act, commonly known as the "Lemon Law," defines a new motor vehicle for purposes of the "Lemon Law" to mean a new motor vehicle which is used or bought for use primarily for personal, family or household purposes.

This statute includes vehicles purchased and used for personal, family or household use as well as small business use in the definition of vehicles covered by the "Lemon Law." The exemption applies to businesses with less than five vehicles. (Civ C § 1793.22)

AB 2277
Kuykendall

Warranties: Motor Vehicle Manufacturers

Dropped

Existing law, the Tanner Consumer Protection Act (Act), defines a new motor vehicle as one which is purchased primarily for personal, family and household use. The definition of a new motor vehicle includes the portion of a motor home that includes the chassis, chassis cab, and the engine and drive train but not the "human habitation " portions of the motor home. The Act states that a new motor vehicle is presumed to be out of conformity if in the first 12 months or 12,000 miles or during the manufacturer's expressed warranty the vehicle is: 1) subject to repair four or more times by the manufacturer or its agents for the same problem and the buyer has notified the manufacturer directly of the need to repair the nonconformity; 2) and/or the problem has caused the vehicle to be out of service for repair for more than 30 days.

This bill would have made several changes to the Act relating to motor homes. Changes would have included increasing the presumption period, increasing the days a motor home has to be out of service to meet the presumption, and increasing the number of days a manufacturer has to resolve a problem. (Civ C §§ 1793.22 & 1794)

AB 2301
Wright

Contracts

Chapter 571
Statutes of 1998

Existing law, the Contractors State License Law, regulates home improvement contracts offered by home improvement contractors and their salespersons. Federal regulations require all contracts for goods or services to disclose consumer claims and defenses which may be asserted against the seller or any subsequent holder of the contract.

This statute addresses the issue of home equity fraud and is designed to protect consumers from being duped into losing their homes to liens acquired through home improvement scams by providing written disclosure that the consumer is putting their home at risk. The statute also voids contracts secured by an interest in real property for goods and services with a value of $5,000 or less and makes loans secured by a mortgage on real property for more than $5,000 to be payable to the borrower or a third-party. **Violations of this statute's provisions will be grounds for discipline by the Contractors State License Board which enforces the provisions of the Contractors State License Law.** (B&P C § 7159.1 & 7159.2)

AB 2410
Shelley

Motor Vehicles: Reacquisition Agreements

Chapter 1063
Statutes of 1998

Existing law does not prohibit confidentiality clauses in vehicle buy-back settlement agreements. The law requires disclosure by any person, manufacturer or dealer who sells, leases or transfers ownership of a vehicle reacquired by a manufacturer to the buyer or transferee that the vehicle was repurchased by the manufacturer due to a defect in the vehicle. The title of any vehicle repurchased as a lemon buy-back is to be permanently branded as such. The law requires the manufacturer of a lemon vehicle to prepare a notice to be signed by any subsequent purchaser. The notice must identify the year, make, model and vehicle identification number, whether the vehicle is a lemon law buy-back, the nature of the reported defect, any repairs made to correct the defect and any problems reported by the original vehicle owner. The law provides that inclusion of certain clauses which are determined to be against public policy make contracts null and void.

This statute prohibits confidentiality or "gag" clauses in buy-back agreements involving the manufacturer, importer or distributor's reacquisition of a motor vehicle. Clauses requiring confidentiality regarding the financial terms of a reacquisition are exempted from the prohibition. (Civ C § 1793.26)

AJR 20
Lempert

Sales and Use Taxes: Internet

Failed
Legislative
Deadline

This measure would have respectfully memorialize the President and the Congress of the United States to enact legislation to establish a moratorium on the imposition of any taxes or fees, with specified

exceptions, by any state, county, or municipal taxing authority on the Internet or any other on-line activity.

SB 185
Mountjoy

Contractors State License Law: Home Solicitation Contracts

Failed Senate Business and Professions

Existing law, the Contractors State License Law, requires home improvement contracts and swimming pool contracts that exceed $500 to include in writing certain specified requirements. Among other things, the contract must contain a schedule of payments by the owner or tenant to the contractor including the amount of each payment and the requirement that the contractor furnish a release from any claim or mechanic's lien for the work covered by each payment. The law also provides various exemptions from the definition of "home solicitation contract" and various regulatory provisions related to those contracts, including the right to rescind the contract within three days. One of those exemptions is for contracts for repair services with a licensed building contractor if the contract price is less than $100.

This bill would have recast the Contractors State License Law in regard to home improvement contracts to require that only contracts that exceed $1,500 in aggregate price are subject to the schedule of payments and claim release requirements. The bill would have changed the definition of "home solicitation contracts" to exempt repair contracts with licensed building contractors for less than $1,500. (B&P C §§ 7159, 7159.1, 7159.2 & 7159.3 and Civ C § 1689.5)

SB 289
Calderon

Warranties: Motor Vehicle

Failed Assembly Consumer Protection

Existing law authorizes each manufacturer of motor vehicles to provide for a qualified third-party dispute resolution process for resolution of disputes brought by buyers or lessees of new motor vehicles. Participating in a dispute resolution program is voluntary. These programs may seek certification by the Department of Consumer Affairs (DCA). The Tanner Consumer Protection Act, commonly known as the "Lemon Law," presumes that a reasonable number of attempts have been made to conform a new motor vehicle to applicable express warranties if within one year or 12,000 miles: 1) the same nonconformity has been subject to repair four or more times; and/or 2) the vehicle is out of service due to repair of a nonconformity by the manufacturer for 30 days in a 12-month period. Existing law defines a new motor vehicle for purposes of the "Lemon Law" to mean a new motor vehicle which is used or bought for use primarily for personal, family, or household purposes.

This bill would have extended the applicability of the "Lemon Law" presumption to 24 months from delivery to the buyer or 24,000 miles for a nonconformity in a new motor vehicle covered by express warranties and required motor vehicle manufacturers who do not participate in a dispute resolution process certified by the DCA to

disclose that fact to the buyer. The bill would have provided that if the nonconformity is a safety defect, as defined by this bill, the "Lemon Law" presumption is met if the nonconformity is subject to two or more repairs and the buyer has provided a specified notice to the manufacturer. The bill would have revised the definition of a new motor vehicle to include a vehicle used for business purposes by a person who has not more than five motor vehicles registered in this state. (Civ C § 1793.22)

SB 587
Hughes

Security Services: Hospital Guards

Dropped

Existing law provides for the licensure of private patrol operators and the registration of security guards by the Bureau of Security and Investigative Services (BSIS). Private patrol operators or security guards that carry a firearm when on duty must obtain a firearm qualification card from the BSIS.

This bill would have provided that in order to be employed as a hospital security guard, a person must meet specified training requirements totaling 80 hours, including proof of completion of courses in hospital safety and security and professional assault response, the Peace Officers Standards and Training course for reserve peace officers and being certified in CPR and basic emergency lifesaving. The bill would have created a new registration classification to be regulated by the BSIS. The bill would have imposed the same registration and renewal fees on hospital security guards that are currently imposed on security guards. The bill would have required the BSIS to develop and adopt regulations prescribing the necessary contents and level of knowledge for successful completion of a course in hospital security and professional assault response. (B&P C § 7588 & Article 3.5 [commencing with § 7582.30] to Chapter 11.5)

SB 1773
Calderon

Motor Vehicle: Reacquisition Agreements

Dropped

Existing law provides that certain contracts are null and void as against public policy, as specified.

This bill would have provided that a confidentiality or "gag" clause as a condition of reacquisition of a lemon vehicle by an automobile manufacturer would be null and void. (Civ C § 1793.26)

SB 1792
Mountjoy

Contractor: Arbitration of Disputes

Chapter 492
Statutes of 1998

Existing law provides that the Registrar of Contractors may refer complaints against contractors to binding arbitration if: 1) material damages are greater than $5,000 but less than $25,000; 2) both the consumer and contractor agree; 3) the complaint involves a likely violation of specified sections of law; and 4) the contractor has not had any previous disciplinary actions.

This statute doubles the dollar amount for material damages which would be eligible for arbitration to less than $50,000. (B&P C § 7085 & 7085.5)

SB 2044
Kelley

Private Patrol Operators

Chapter 830
Statutes of 1998

Existing law provides for the registration by the Bureau of Security and Investigative Services (BSIS) of employees of various security industries including locksmiths, repossessors, private patrol operators, and alarm companies. The law provides that registrants of the various security industries regulated by the BSIS may be issued temporary permits by employers for periods of up to 120 days or more while a criminal background check is conducted by the Department of Justice (DOJ) based on fingerprints.

This statute was sponsored by the Department of Consumer Affairs to address the issue of temporary registration for security industry employees regulated by the BSIS. The statute states legislative findings that a large number of convicted criminals currently working as security guards on temporary registrations is a threat to the public's safety and welfare. The language also declares that this is an interim step toward eventual elimination of temporary permits. The statute requires written disclosure to clients by private patrol operators that security guards working with temporary registrations do not have a completed criminal background check. It requires that the temporary security guard registration have on its face a disclosure statement indicating the holder of the registration has not completed a full criminal history investigation. It also requires that all temporary registrations issued to security guards include the name, address and license number of the issuing private patrol operator or training facility. The statute requires that security guards must first have completed an application and provided a set of fingerprints before reporting for employment to a client and to submit the application and fingerprints to the BSIS within three business days. Additionally, the bill authorizes the use of electronic fingerprint systems for purposes of preparing a criminal history on applicants. **As the regulatory agency for licensed private patrol operators and registered security guards, the BSIS is charged with enforcing compliance with these new provisions. Additionally, the BSIS must work with the DOJ to establish procedures and information links to facilitate the use of electronic fingerprint systems for compliance with criminal history requirements for security guard applicants.**
(B&P C §§ 7583.9, 7583.10, 7583.11 & 7583.43)

SB 2075
Polanco

Appliance and Electronic Service Contracts

Chapter 1075
Statutes of 1998

Existing law, the Electronic and Appliance Repair Dealer Registration Law, provides for regulation of service contracts by the Bureau of

Electronic and Appliance Repair (BEAR), when the contracts are sold in conjunction with retail sales for maintenance of appliances and electronic sets including televisions, radios, computer systems, video equipment, photocopiers, facsimile machines, and related products. Sellers and administrators of these service contracts must be registered with the BEAR. The law sets the fee for registration of service contractors at not more than $75 for each place of business. The Home Protection Act provides for regulation by the Department of Insurance (DOI) of home protection contracts in which a person agrees for a fee over a specified period of time, to repair or replace a system or appliance of a home necessitated by wear or defect. Home protection companies, which issue these contracts, must be licensed by the DOI.

This statute, on or after January 1, 2000, exempts from regulation by the DOI home service contracts offered or issued by a company or an affiliate of a company regulated by the California Public Utilities Commission (CPUC) that meet specified conditions. The statute provides that these contracts are to be included in the definition of service contracts in the Business and Professions Code. The intent of this statute is to have home service contracts currently issued by CPUC-regulated utilities and their affiliates placed under the regulatory authority of the BEAR, which currently regulates service contracts sold to perform maintenance on individual electronic sets or individual appliances or repair within the retail chain of distribution. **This statute requires the BEAR to conduct an in-depth study of the evolving marketplace elated to home service contracts and report its findings to the Legislature by May 1, 1999. The report is to include a recommendation on the appropriate form of regulation for service contracts. Additionally, the BEAR must promulgate regulations to provide for regulation of service contracts issued by regulated utilities and their affiliates.**
(B&P C §§ 9855 & 9873 and Ins C § 12741)

SB 2217
O'Connell

Chapter 633
Statutes of 1998

Contractors: Small Operations

Existing law, the Contractors State License Law, requires that persons acting in the capacity of a contractor in California to be licensed by the Contractors State License Board (CSLB) unless that person is specifically exempted. Among the exemptions provided for is a de minimus exemption for work costing less than $300.

This statute increases that exemption to $500. It requires unlicensed persons performing work with a maximum contract price costing less than $500 to disclose to the purchaser in writing that he or she is not licensed by the Contractors State License Board (CSLB). **The statute provides the CSLB with authority to cite unlicensed persons for violations of the disclosure requirement.** (B&P C §§ 7028.6, 7030 & 7048)

(11) Telecommunications

AB 284
Baca

Telephone Services

Chapter 672
Statutes of 1998

Existing law prohibits a telephone company from changing a customer's telephone service without verification. The law provides that a telephone company that violates the verification procedures is liable to the telephone company previously selected by the subscriber in an amount equal to all charges paid by the customer after the violation.

This statute addresses the practice of changing a customer's telephone company without approval, also known as "slamming." This statute requires a telephone company to mail a notice of confirmation to a customer after confirming a customer's desire to switch. The statute penalizes companies that failed to verify this change by crediting the customer with the amount charged that is in excess of charges by the customer's valid telephone company. (PUC § 2889.5)

AB 487
Leach

California Public Records Act: Unlisted Access Numbers

Chapter 13
Statutes of 1998

Existing law prohibits a telephone corporation selling lists of residential subscribers from including any unlisted or unpublished number. The law provides certain exemptions including when the unlisted number is required by a private company operating under contract with government agencies for the exclusive purpose of responding to 911 calls or to warn of imminent threat to life or property. The California Public Records Act generally requires that public records be available for public inspection. However, the Act contains a list of documents exempt from disclosure because they have been deemed by the Legislature to require confidentiality.

This statute adds to the exemption list of the California Public Records Act, telephone numbers provided to private companies who contract with local government to provide emergency telephone disaster warnings. This change protects the privacy of telephone subscribers who have unlisted numbers. (Gov C § 6254)

AB 580
Martinez

Telephones: Billing Practices

Failed
Assembly
Utilities and
Commerce

Existing law provides that the California Public Utilities Commission (CPUC) has jurisdiction over rates and services of telephone corporations and states that violations of CPUC orders, decisions, rules or requirements are misdemeanors.

This bill would have required every telephone corporation, including

cellular corporations, to adopt a system that bills its residential subscribers for calls in increments of no more than 10 seconds per incremental charge where technically feasible. The bill would have created a new misdemeanor crime for failure to bill residential subscribers in 10 second increments. (PUC § 2882.6)

AB 647
Cardenas

Public Utilities: Telecommunications

Dropped

Existing law provides that the California Public Utilities Commission is vested with regulatory authority over public utilities.

This bill made a legislative finding and stated intent that state statues be made to conform with the federal Telecommunications Act of 1996. According to the author, this was a spot bill and was to have been amended with more substantial provisions related to telecommunication law.

AB 906
Papan

Cellular Telephones Resellers

Dropped

Existing law provides that the California Public Utilities Commission (CPUC) may determine and prescribe by order changes in the form of rates scheduled for various utilities. The law provides that if the rates for any commercial mobile radio service, as defined by the Omnibus Budget Reconciliation Act of 1993, are not subject to regulation by the CPUC as a result of federal law, the commission may exempt the service from any tariff-filing requirement.

This bill would have required facilities-based commercial mobile service providers that offer bulk or volume user rate plans to any customers to offer those plans on a nondiscriminatory basis and to resellers without restriction on the resale of those plans to the public. Enforcement of this provision would have been restricted to civil actions. (PUC § 490)

AB 911
Knox

Emergency Telephone Systems

Chapter 649
Statutes of 1998

Existing law, the Energy Resources Surcharge Law and the Emergency Telephone Users Surcharge Law, requires an electric utility or telephone service supplier to collect a state tax, known as a surcharge, from each consumer of electrical energy or telephone service user. The electric utility or telephone service supplier must make quarterly payments of the collected surcharges to the State Board of Equalization, accompanied by a return.

This statute authorizes the State Board of Equalization to require any person subject to the Energy Resources Surcharge Law or the Emergency Telephone Users Surcharge Law, except as provided, to place security for the collected surcharges with the board. The board may determine the amount of the security, not to exceed twice the

estimated average quarterly liability for that industry, or for the telephone industry, three times the estimated average monthly liability. The security must be returned after a three-year period of timely surcharge payments and returns filed. This statute was substantially amended in the 1998 session. It originally addressed the establishment of a statewide emergency number for wireless communication devices. (R&T C §§ 40036 & 41041)

AB 1156
Martinez

Residential Telephone Wiring

Failed
Senate Floor

Existing law provides that the California Public Utilities Commission (CPUC) regulates telephone corporations. Existing law requires telephone corporations operating within a service area to issue annually to each of its residential subscribers a notice containing specified items of information including whether the telephone corporation offers any services to maintain or repair a subscriber's inside wiring, a full description of the types of services offered including the rates, conditions and charges for these services and whether these services are offered by non-utility providers.

This bill would have required that the notice from a telephone service corporation to its residential subscribers also include information on the availability of the inside wiring diagrams of the residence or building. The bill would have required telephone companies to file with the CPUC a plan to make available to the public all inside wiring diagrams, records and installation documents to facilitate the installation and employment of new technology by current and former telephone company customers. The CPUC would have been required to fix the fees that may be charged for making and providing copies of internal wiring documents. (PUC §§ 788 & 788.5)

AB 1161
Martinez

Public Utilities: Telecommunication Services

Vetoed
September 22, 1998

Existing law requires every telephone corporation that offers caller identification services (caller ID) to allow a caller to withhold the display of his or her telephone number.

This bill would have required every telephone corporation to notify its residential customers that their calls may be identified to a called party. The telephone corporation must make the disclosure 30 days prior to offering caller ID to all new residential customers and annually to all residential customers. (PUC § 2893)

Veto Message

Governor Pete Wilson
To Members of the California Assembly:

I am returning Assembly Bill 1161 without my signature.

This bill would require telephone corporations to annually notify new and existing residential telephone customers of the availability of caller identification

services, or caller ID.

Current law already provides for the notification of caller ID services. California's telephone companies not only comply with this law, but also provide additional notification to their customers as a matter of good business practice. While this bill is apparently intended to provide increased consumer protection, it will do little to that end.

Further, the Public Utilities Commission is mandated to promulgate policies and regulations related to telephone utilities and caller ID services. Given the complexities of the industry and its technological continual changes in consumer interest, modifications to the caller ID notification policies are better established under the flexibility of the PUC's regulatory function.

AB 1299
Machado

Public Utilities: Telecommunications Services

Dropped

Existing law provides that the California Public Utilities Commission (CPUC) is vested with regulatory authority over public utilities and states legislative findings and declaration regarding policies for telecommunications in California.

This bill would have made additional legislative findings and declarations. The policy for telecommunications in California is to ensure that rural and non-urban areas of the state receive affordably priced local exchange telecommunication services because of their importance to economic development and the implementation of universal service. This bill would have prohibited the CPUC from taking action that could harm economic development or adversely affect universal telephone service in rural or non-urban areas. The bill would have required the CPUC to adopt rules to require that the rates charged by providers of local exchange telecommunication service be no higher than the rates charged by each provider in urban areas. (PUC §§ 709 & 709.1)

AB 1424
Martinez

Telecommunications: Telephone Cards

Chapter 799
Statutes of 1998

Existing law provides that the California Public Utilities Commission (CPUC) is authorized to regulate public utilities and other specified entities. A violation of any order, decision, rule or other requirements of the CPUC is a misdemeanor. The CPUC is authorized to regulate the activities of interexchange companies, including the sale of prepaid telephone cards by those companies.

This statute requires the CPUC to register non-interexchange companies that issue or sell prepaid telephone cards. The statute will curb abuses in this emerging market by screening companies that sell the cards and making them more accountable. (PUC Article 9 [commencing with Section 885] to Chapter 4 of Part 1 of Division 1)

AB 1517
Vincent

Contracts: Telephone Directory Advertising

Dropped

Existing law provides that certain contracts are void as contrary to public policy. Existing law also provides that if a court finds any part

of a contract to be unconscionable at the time the contract was made, the court may refuse to enforce the contract, may limit the application of any unconscionable clause, or may enforce a contract without the unconscionable clause to avoid any unconscionable result.

This bill would have provided that any provision in a telephone directory advertising contract that purports to limit the responsibility of the directory publisher for acts or omissions is unconscionable and contrary to public policy. The bill would also have provided that a directory-advertising contract containing an unconscionable provision is voidable by the party that entered into the contract with the directory publisher or the contract may be enforceable without the unconscionable provision. (Civ C § 1668.5)

AB 1614
Lempert

California Internet Tax Freedom Act

Chapter 351
Statutes of 1998

Existing law does not provide for regulation or taxation of the Internet.

This statute enacts the California Internet Tax Freedom Act which prohibits the imposition of a tax or fee, directly or indirectly, in connection with the Internet or any interactive computer services. The statute also provides specified exceptions to the Internet tax prohibition for business license taxes, business income taxes, and sales and use taxes (as long as these sales and use taxes are the same as currently exists for interstate catalog and mail orders).
(R&T C § 65001)

AB 1893
Scott

Cable Television: Consumer Contracts

Failed
Legislative
Deadline

Existing law, the Cable Television and Video Provider Customer Service and Information Act, the Video Customer Service Act, and certain provisions regulating cable television consumer contracts, generally require cable television operators to establish customer service standards, specify the duties of video providers, defined to include providers of cable television, and prohibit fees for delinquent payments. Existing law also prohibits a cable television operator or video provider from charging for a service, for which a separate and distinct charge was made, that is provided to a consumer on an individual basis at no charge unless the consumer affirmatively and specifically elects to continue that service for the applicable charge.

This bill would have enacted the Cable Television Consumer Protection Act of 1998, which would, among other things, do all of the following: 1) prohibit franchise agreements between a cable television provider operator and a public franchisor from exceeding five years in duration, except as specified; 2) provide that the wiring located within multiple residential dwelling (MRD) properties, as defined, is owned by the applicable property owner; 3) specify that any

charge to consumers that is not specifically within exclusive federal review and approval jurisdiction shall not be imposed or increased without prior approval of the Public Utilities Commission; and 4) require cable television providers operators to describe their least expensive tier as the "discount tier," provide that the imposition of certain unlawful charges is an act of unfair competition, and prohibit disconnection for nonpayment unless certain conditions are met. (Gov C Article 4.7 [commencing with Section 53088.10])

AB 1973
Campbell

Public Utilities Commission: Telecommunications: Deregulation

Chapter 465
Statutes of 1998

Existing law requires that the California Public Utilities Commission (CPUC) submit to the Governor an annual report containing a complete account of its transactions and proceedings from the preceding fiscal year together with any other facts, suggestions, and recommendations that the commission deems of value to the citizens of California. Existing law requires that the CPUC by June 30, 1997, in consultation with the Law Revision Commission, submit a report to the Legislature on needed revisions to the Public Utilities Code as a result of the restructuring of the electrical, gas, transportation and telecommunications industries. The CPUC is required, by March 31, 1997, to submit a report to the Legislature concerning its recommendations for changes to regulations or statutes that may be required as a consequence of changing competitive environment in which regulated and unregulated entities are competitors.

This statute requires the CPUC to, until January 1, 2004, submit a report annually to the Legislature that reviews the state of telecommunication competition and that recommends code revisions. (PUC § 316.5)

AB 1977
Campbell

Public Utilities: Telecommunication Services: Household Goods Carriers

Chapter 361
Statutes of 1998

Existing law authorizes the California Public Utilities Commission (CPUC) to regulate household goods carriers who transport household goods over public highways in California. The law prohibits household goods carriers from operating without a license issued by the CPUC. Existing law codifies procedures necessary to disconnect telephone service to unlicensed household goods carriers who unlawfully advertise their service in yellow page directories.

This statute requires telephone companies to provide the CPUC, upon the order of a magistrate, the telephone records of suspected unlicensed household goods carriers. This statute is intended to streamline the CPUC enforcement proceedings against unlicensed household goods carriers by granting easier access to telephone billing records. (PUC § 5322)

AB 1994
Bowen

Advertising: Prepaid Calling Cards and Services

Chapter 802
Statutes of 1998

Existing law is silent on regulation of prepaid telephone cards. Existing law provides that the California Public Utilities Commission (CPUC) has indirect authority over sellers of prepaid telephone cards if the seller is also regulated as a public utility providing telephone service.

This statute establishes business standards and disclosure requirements with regard to the advertising and sale of prepaid calling cards. The statute becomes operative on July 1, 1999. (B&P C § 17538.9)

AB 2134
Escutia

Telecommunications: Telephone Service and Telephone Solicitation

Chapter 473
Statutes of 1998

Existing law provides that the California Public Utilities Commission (CPUC) is authorized to regulate telephone corporations. Existing law requires telephone companies to provide information annually to their customers about various aspects of telephone service and requires consumers defrauded by phone solicitors to seek legal remedy in the county from which the solicitor operates.

This statute requires telephone companies to give their residential customers information detailing consumers privacy rights along with other annual information required by the Federal Communications Commission. Additionally, this statute allows consumers defrauded by phone solicitors in other counties to file a lawsuit in the consumer's home county. (CCP § 395 and PUC § 2894.10)

AB 2142
Brown

Public Utilities: Telecommunications: Truth in Billing

Chapter 1036
Statutes of 1998

Existing law, the Telecommunications Customer Service Act of 1993, authorizes the California Public Utilities Commission (CPUC) to require telephone corporations to provide subscribers with sufficient information upon which they can make informed decisions regarding telephone services. The information includes the provider's name, service options, pricing, and terms and conditions of service. The CPUC only has authority to require the provider to grant information for its own services.

This statute addresses the problem of "cramming," a practice in which consumers are charged for unauthorized services in their phone bills. The statute requires entities to provide specific information to telephone subscribers prior to placing a charge for any product or service on the subscriber's telephone bill. This statute authorizes the CPUC to order billing for unauthorized services to be discontinued when a violation is determined. (PUC § 2889.9)

AB 2662
Martinez

<u>**Telecommunications: Access to Operations Support System**</u>

Failed Senate Energy Utilities and Communication

Existing law opened telecommunications markets to competition through the Federal Telecommunications Act of 1996. The law vests in the California Public Utilities Commission (CPUC) the authority to open competition for local telephone service. The CPUC must ensure that all competitors have fair, non-discriminatory, and mutually open access to local exchanges. The law makes violations of the Public Utilities Act or a CPUC regulation a misdemeanor.

This bill would have required incumbent local telephone exchange carriers (ILECs) to disclose the procedures for assessing the operations support system (OSS). These procedures allow competing local exchange carriers to directly access the OSS of ILECs and is a necessary step to facilitate competition for local phone service.
(PUC § 710)

AB 2695
Cardenas

<u>**Telephone Corporations: Services**</u>

Dropped

Existing law prohibits a telephone corporation, or any person, firm, or corporation representing a telephone corporation, from making any change or authorizing a different telephone corporation to make any change in the provider of any telephone service for which competition has been authorized of a telephone subscriber until specified steps have been completed, and prescribes related matters.

This bill would have made technical, nonsubstantive changes in those provisions. (PUC § 2889.5)

AB 2716
Martinez

<u>**Telecommunications: Area Codes**</u>

Chapter 534 Statutes of 1998

Existing federal law provides for a coordinator for California area code relief. Existing law requires the telephone service provider that proposes to establish a new area code, to provide written notice to affected subscribers and the CPUC at least 24 months prior to planned implementation. Within six months after the initial 24-months notice, the telephone service provider must conduct at least three public meetings in the affected area. The telephone service provider must give notice of the specific geographic area of the new code to its subscribers and the CPUC at least 15 months before planned implementation.

This statute was sponsored by the California Public Utilities Commission (CPUC) to codify standard industry practices and CPUC policy related to the implementation of new area codes. This statute changes the notice and public input process and changes the transition period involved in creation of new area codes. This statute aligns state law with new developments in federal numbering administration requirements. (PUC §§ 2887, 7930, 7931 & 7932)

SB 378
Peace

Chapter 1041
Statutes of 1998

Public Utilities: Telephones

Existing law, the Telecommunications Customer Service Act of 1993, authorizes the California Public Utilities Commission (CPUC) to require telephone corporations to provide subscribers with sufficient information with which to make informed decisions regarding telecommunications services. This information includes the telephone service provider's identity, service options, pricing, and terms of service. The law allows the CPUC to require the provider to grant information for only its services, not other companies that may bill on the same statement. The law provides that any entity which violates the Public Utilities Act is guilty of a misdemeanor.

SB 378 states intent language that the Legislature seeks to reduce the inclusion of unauthorized charges in subscribers' telephone bills by encouraging the verification of telephone charges, and by providing an effective way to resolve disputes. The statute specifies that a telephone bill may only contain charges for communications related goods and services such as wired and wireless communications service, Internet access, and video service. The CPUC may permit a telephone company to include in the same envelope with the subscriber's bill a separate bill for non-communications related goods and services. The subscriber must authorize charges for both types of services. The provision sunsets January 1, 2001. Effective January 1, 2001, only products or services which the subscriber has authorized may be in the subscriber's bill. This statute requires that a billing telephone corporation must use a separate billing section for each entity that produces a charge on the subscriber's bill. The entity that produces a charge must do the following: 1) include in the bill the amount being charged for each item along with a clear description of the item; 2) include information such as the name, address, and telephone number of the charging entity in order to resolve disputes related to the charges; and 3) provide an expeditious process for resolving subscriber disputes of unauthorized charges. An entity that produces charges must resolve disputes or verify authorizations for charges no later than 30 days from the date complaints are received. (PUC § 2890)

SB 405
Peace

Chapter 663
Statutes of 1998

Public Utilities: Telephones

Existing law provides that the California Public Utilities Commission has the authority to regulate public utilities, including telephone corporations. The law prohibits a telephone corporation from authorizing a different telephone corporation to make any change in a provider or a telephone subscriber's telephone service unless specific requirements have been met. These requirements include establishing that a subscriber wants to change his or her telephone service provider and explaining to the subscriber any charges associated with the change.

This statute requires telephone companies to provide written notice to the customers prior to the transfer of accounts to a different company. The notice must include specified information regarding rates and terms. (PUC § 2889.3)

SB 439
Johnston

Public Utilities: Telecommunications Services

Dropped

Existing law requires the California Public Utilities Commission (CPUC) to pursue reasonable and necessary legislative and judicial actions to open California's long distance telephone exchange markets to full competition. These provisions are known as the California Long Distance Telecommunications Consumer Choice Act (Act) which contains various legislative findings and declarations.

This bill would have added a legislative finding to the Act, which states that consumers will benefit from the investment in new technologies and expanded telecommunications networks.

SB 961
Hughes

Telephone Directories

Dropped

Existing law requires businesses to obtain a seller's permit from the State Board of Equalization. Various state and local agencies require businesses to be licensed. The law provides the California Public Utilities Commission with certain regulatory authority over the publication of telephone directories.

This bill would have required publishers of "yellow page" telephone directories to verify that each person or business that contracts for a listing or an advertisement has the proper license for their business or profession or a seller's permit from the State Board of Equalization. (PUC § 728.6)

SB 1070
Peace

Telecommunications: Customer Privacy

Vetoed
September 30, 1998

Existing law requires that every telephone call identification service allow a caller to withhold the display of the caller's telephone number, on an individual basis, from the telephone instrument of the person receiving the telephone call. The law stipulates that no charge shall be applied to a caller who wishes to exercise this option.

This bill would have prohibited a telephone corporation from offering a business customer in this state any service that permits the business to reject a telephone call that does not disclose the telephone number from which the call originated. (PUC § 2893.2)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 1070 without my signature.

This bill would prohibit telephone corporations from offering a business customer any service that permits them to reject telephone calls that do not disclose the telephone number from which the cal was originated, a service commonly known as "anonymous call rejection."

Anonymous call rejection is a valuable tool for corporate customers who subscribe to a caller identification service and do not wish to do business with callers who are not willing to disclose their telephone numbers to the party they themselves are calling. In fact, the ability to block calls from certain potential customers has become a matter or security for some businesses. While the intent of this bill is to protect Californians' privacy, I believe that this bill represents an intrusion into the rights of business owners to make legitimate corporate decisions. Clearly, a business owner would not decide lightly to eliminate contact with potential customers.

Further, this service was only recently authorized by the California Public Utilities Commission (PUC). It is premature to conclude that this service will adversely affect the privacy of Californians. The PUC authorized implementation for automatic call rejection on a provisional basis. If it is determined, after this provisionary term has expired, the automatic call rejection is being used to the detriment of Californians, legislation that limits the use of this service may be worthy of consideration.

SB 1148
Peace

Public Utilities: Telecommunications Services

Failed Legislative Deadline

Existing law provides for the regulation of telecommunications by the California Public Utility Commission.

This bill would have expressed various legislative findings regarding the need for competitive intrastate interexchange telecommunications services and high-speed digital telecommunications services.
(PUC §§ 451.1 & 452.2)

(12) Utilities

AB 2728
Martinez

Public Utilities: Consumer Education on Deregulation

Failed Senate Floor

Existing law: 1) directs the Public Utilities Commission (PUC) to require telephone corporations to provide information to customers on telecommunication services and providers so that they can make informed choices; and 2) requires that electric corporations and the PUC devise and implement a customer education program informing customers of the changes in the electricity market.

This bill would have: 1) prohibited the PUC from providing or allocating funding to entities under its jurisdiction for the purpose of developing educational programs related to the deregulation of the electric, gas or telephone markets if the entities have a financial interest in those markets; 2) allowed the PUC to procure funding in relevant markets for education programs related to the deregulation of the electric, gas or telephone markets from entities under its jurisdiction; 3) allowed entities under the PUC's jurisdiction that

provide funding for education programs to recover their costs as determined by the PUC; and 4) allowed the PUC to solicit competitive bids to contract with neutral third parties who would assist the PUC in developing and administering education programs. (PUC § 453)

SB 524
Thompson

<u>**Electric and Gas Service: Master-Meter Customers**</u>

Dropped

Existing law requires the Public Utilities Commission to set electric and gas rates for master-meter customers at a level that enables the customer to recover the costs of operating its submeter system and the cost to the users of the service is no greater than if the utility corporation provides the services directly through individual meters.

This bill would have allowed master-meter customers of an electrical utility that provides electricity to mobilehome parks or manufactured housing communities to engage in direct transactions with electricity suppliers. (PUC §§ 356 and 366.1)

SB 606
Sher

<u>**Renewable Energy Resources: Funding**</u>

Dropped

Existing law: 1) exempts specified research, development, demonstration, and commercialization projects from the Energy Research, Development, Demonstration, and Commercialization Act of 1993; 2) creates the Renewable Resource Trust Fund; 3) appropriates money from the fund to the State Energy Resources Conservation and Development Commission; and 4) prescribes the purposes for which the money may be used.

This bill would have made technical changes to the language that governs the administration of public interest research development and demonstration programs and transition funding for renewable electric generating facilities. (PRC § 25648.4 and PUC §§ 383.5, 384 & 445)

(13) Miscellaneous

AB 247
Scott

<u>**Peace Officers: Warrantless Arrests**</u>

Chapter 224
Statutes of 1998

Existing law requires peace officers to obtain a warrant to make an arrest unless the officer is witness to a crime.

This statute authorizes peace officers to make a warrantless arrest of any person for the offense of carrying a concealed firearm if the officer has reasonable cause to believe the person has committed the offense and the offense occurred in a secured area of an airport. (Pen C § 836)

AB 302
Papan

<u>**Mental Health: Disclosure of Records: Law Enforcement**</u>

Chapter 148
Statutes of 1998

Existing law generally prohibits the disclosure of information and records for recipients of mental health services unless a medical

professional determines the patient presents a serious danger of violence.

This statute requires the disclosure of records on services provided to persons with developmental disabilities and to recipients of certain mental health services, to a law enforcement officer who is trying to locate a person and lodges an arrest warrant or abstract showing that the person is wanted for a violent or serious felony. (W&I C § 5328)

AB 375
Firestone

Solid Waste: Tires: Tire Recovery Programs

Failed
Assembly Floor

Existing law requires every person who purchases a new tire from a retail seller of tires to pay disposal charges of 25 cents per tire.

This bill would have encouraged the re-use of used tires by modifying the California Integrated Waste Management Act of 1989 to require the Department of Transportation to review and modify bid specifications for paving material to give preference to asphalt containing recycled rubber. The bill would have required a fee of 50 cents be paid by each tire wholesaler for every new tire sold which would be placed in the tire recycling Management Fund. The bill would have established, by June 30, 2002, a tire recovery reimbursement program to encourage recycling of tires or use of tires for energy recovery and authorize the New Motor Vehicle Board to collect an additional $2.00 per new vehicle sold to be deposited in the tire recovery reimbursement fund to pay for the tire recovery reimbursement program. (PRC §§ 42825, 42835, 42850, 42850.1, 42885, 42889.1 & 42970)

AB 436
House

Peace Officers: Disability: Retirement

Failed
Senate Floor

Existing law provides that honorably retired peace officers, who were authorized to carry firearms during the course and scope of their employment as peace officers, may be issued an endorsement authorizing them to carry a concealed firearm. However, no peace officer who is retired after January 1, 1989, because of a psychological disability may be issued an endorsement to carry a concealed and loaded firearm.

This bill would have provided, for the purposes of determining whether a retired peace officer may carry a concealed firearm, that a psychological disability is established when a physician or psychologist has provided a written opinion that the retiring peace officer is or may be a danger to himself, herself, or others if permitted to carry a concealed firearm. (Pen C § 12027.1)

AB 1016
Hertzberg

Peace Officers: Personnel Files: Complaints

Chapter 25
Statutes of 1998

Existing law requires each department or agency that employs peace officers to establish a procedure for investigating citizens' complaints against its employees and to make the procedure available in writing to the public. Existing law provides that public complaints determined by the peace officer's employing agency to be frivolous shall not be maintained in the peace officer's general personnel file but rather in a separate file that is considered a personnel file for purposes of the California Public Records Act.

This statute makes complaints that are determined to be unfounded or exonerated subject to the same provisions as frivolous complaints. The complaints must be separately filed, but be accessible by the peace officer's management under specified conditions. The statute defines an unfounded complaint as one where the investigation establishes the allegation to be untrue and defines exoneration as when an investigation clearly establishes the actions of the peace officer were not in violation of law or department policy. Management is prohibited from using unfounded, exonerated or frivolous complaints for any punitive or promotional purposes, but management may require counseling or additional training based on exonerated or unfounded complaints. (Pen C § 832.5)

AB 1235
Leach

Administrative Regulations: Adverse Job Creation Impact

Failed
Legislative
Deadline

Existing law, the Administrative Procedures Act (APA), provides for the adoption, review, and approval of regulations proposed by state agencies. The APA requires the Office of Administrative Law to review pursuant to specified criteria and either approve or disapprove all regulations promulgated by state agencies.

This bill would have, beginning January 1, 1999, and thereafter, every four years from January 1, 2003, required the State and Consumer Services Agency to: 1) review all regulations from agencies under its purview for duplication and consistency; and 2) file an order of repeal for any regulation it finds to be duplicative or overlaps with another state agency or federal regulation without providing added benefits. The bill also would have exempted an agency under the State and Consumer Services authority that is required under existing law to review its regulations for consistency and duplication at least once every four years. (Gov C § 12804.8)

AB 1236
Floyd

Public Employees: Public Safety

Failed
Senate
Public
Safety

Existing law, the Public Safety Officers Procedural Bill of Rights Act: 1) gives officers the right to notification (not necessarily written) of the right to representation when investigated for matters that are likely to result in punitive action; 2) sets forth procedures that must be

followed whenever a public safety officer is under investigation and subject to interrogations that could lead to punitive action; and 3) provides that these rights do not apply to counseling, instruction, or informal verbal admonishment by a supervisor in the normal course of duty.

This bill would have amended the Bill of Rights to require written notification of the right to representation prior to interrogation, provided a reasonable time to review any notes, complaints or recorded statements and prohibited inclusion in an officer personnel file of any information not presented to the officer. (Gov C §§ 3303, 3303.1 & 3303.2)

AB 1703
Leach

Legal Entities: Partnerships and Limited Liability Companies

Chapter 243
Statutes of 1998

Existing law provides that a limited partnership is dissolved when a general partner ceases to be a general partner under certain circumstances; authorizes the formation of limited liability companies (LLCs); and requires the articles of organization of LLCs to set forth the latest date on which the LLC is to dissolve.

This statute allows an assignee of a partnership interest to become a limited partner if all of the general partners and a majority of the limited partnership interests consent; permits, *rather than requires*, the articles of organization of a limited partnership to expressly provide for the continuation of the limited partnership and avoid dissolution; provides that, if there is a remaining general partner, the general partner may continue the business; and deletes the requirement that an LLC set forth in its articles of organization "the latest date on which the limited liability company is to dissolve," since an LLC can now have a perpetual life. (Corp C §§ 15674, 15681, 17051, 17103, 17350, 17352, 17356 & 17357)

AB 1865
Wildman

Governmental Tort Liability: Peace Officers

Chapter 559
Statutes of 1998

Existing law sets forth the liability of public employees, including peace officers, for conduct in the scope of employment. Existing law also provides that certain causes of action against a defendant survive the death of the defendant.

This statute provides that neither the surviving spouse, heirs, nor the estate of a peace officer shall be liable for an act or omission of the officer that occurs in the line of duty if the officer was slain while on duty and an official inquiry has concluded that the plaintiff's allegations of officer conduct were unfounded or without merit. (Gov C § 823)

AB 1876
Floyd

Motor Vehicle Service Contracts

Failed Assembly Insurance

Existing law provides that automobile insurance includes insurance for automobile owners, users, dealers, or others having insurable interests against automobile hazards. Existing law also provides that automobile insurance does not include, in certain instances, the making or selling of a contract covering only defects in material and workmanship.

This bill would have repealed existing provisions of law related to contracts which cover only defects in material and workmanship and replace them with new provisions governing motor vehicle service contracts. (Civ C § 1791.2 and Ins C § 116)

AB 1958
Wildman

Public Safety Officers

Failed Senate Public Safety

Existing law grants immunity to any public employee for damages caused by the public employee instituting or prosecuting any judicial or administrative proceeding within the scope of the public employee's employment, even if the public employee acts maliciously and without probable cause.

This bill would have created a civil action for public safety officers against their employers if the employer brings a judicial or administrative proceeding against the officer for misconduct that is malicious and without probable cause or was in reckless disregard of the rights of the officer. (Gov C § 3309.5)

AB 2245
Baldwin

Limited Liability Companies

Dropped

Existing law authorizes the creation of limited liability companies as a form of business organization and generally provides that a limited liability company may engage in any lawful business activity, except as specified, subject to certain limitations and subject to compliance with other applicable laws; and precludes a limited liability company from rendering professional services, as defined, unless expressly authorized under the provisions of the Business and Professions Code or the Chiropractic Act.

This bill would have repealed the provision relative to professional services, and provided that a limited liability company may engage in any other lawful activity, even if that activity requires licensing, registration, or certification pursuant to the Business and Professions Code, except as otherwise provided. (Corp C § 17002)

AB 2293
Scott

Public Safety Officers

Chapter 112 Statutes of 1998

Existing law, the Public Safety Officers Procedural Bill of Rights Act, provides that no public safety officer may be compelled to submit to a polygraph examination against his or her will.

This statute instead provides that no public safety officer may be compelled to submit to a lie detector test, as defined, against his or her will. (Gov C § 3307)

AB 2534
Margett

Vetoed
September 29, 1998

Contractors: Retention Proceeds

Existing law specifies the requirements for disbursement of retention proceeds withheld from any payment by a public or private entity to the original contractor for a work of improvement or withheld from any payment by the original contractors to a subcontractor. The law defines original contractor as one who has a direct contractual relationship with the owner (also known as the "prime" contractor). The law requires a public agency to withhold not less than five percent of a contract price until final completion and acceptance of a project, and that progress payments on public works contracts may not be in excess of 95 percent of the actual work to be completed. The law requires an original or prime contractor to pay to any subcontractor the amount allowed for work performed not later than 10 days after receipt of a progress payment or a release of retention proceeds consistent with the terms of the contract.

This bill would have established a uniform retention rate for withheld payments between owners and prime contractors and prime contractors and subcontractors for any work of improvement for contracts entered into on or after January 1, 1999. (Civ C § 3262.7)

Veto Message

Governor Pete Wilson
To Members of the California Assembly:

I am returning Assembly Bill 2534 without my signature.

This bill would constrain general contractors to withhold only that percentage, or less, in retention proceeds from a subcontractor that is being withheld by the principal, whether public or private; and would apply these provisions to all contracts for the construction of any work of improvement entered into on or after January 1, 1999. These provisions would not apply to subcontractors who do not provide payment or performance bonds, and would not apply to retention withheld by lenders per construction loan agreements.

Earlier this year I signed AB 2084 which will effectively authorize a standard for public works projects equivalent to the universal standard proposed by this bill.

Public agencies and public utilities are held to levels of practice which are often stricter and less flexible than those which apply to the private sector. This is sometimes necessary to ensure that the public trust and public dollars are protected. Mandatory notice, competitive bid and low bid requirements fit the public but not private model. The public must strive to treat each citizen in an antiseptically equal manner (all like situated taxpayers and ratepayers must pay the same rate, all eligible contractors must be given an opportunity to submit the lowest bid.

In the private sector preferred or long-term customers often receive lower prices. Those with the best credit pay less interest. Contracts can be awarded to the highest bidder or without any bid process at all. While government should often seek to imitate the private sector, the private sector should rarely seek to imitate Government. More often than not when government intrudes into the private sector it imposes mandates which burden and impede the flexibility and profitability of

private business.

Occasionally, it is appropriate for the state to intervene. In this instance, however, the size of retentions can be freely negotiated. In those cases where the new state standard can be equitably applied to private contracts it should be mirrored not mandated.

AB 2553
Thomson

Damages: Medical Malpractice

Dropped

Existing law requires a superior court at the request of either party, to order periodic payments rather than a lump-sum payment for future damages of $50,000 or more awarded against a health care provider for professional negligence.

This bill would have prohibited periodic payments of future noneconomic damages. (Civ C § 667.8)

AB 2558
Mazzoni

Unemployment Compensation Disability Insurance

Chapter 128
Statutes of 1998

Existing law requires the Employment Development Department to pay unemployment compensation disability benefits to eligible claimants; requires a claimant, subject to certain exceptions, to establish medical eligibility by filing a first claim for benefits supported by the certificate of a treating physician or "practitioner;" and defines "practitioner" for these purposes to include, with respect to a normal pregnancy or childbirth, a duly certified nurse midwife or a duly licensed nurse practitioner.

This statute includes within the definition of "practitioner" a duly licensed midwife. (UIC § 2708)

AB 2627
Brown

Works of Improvement

Chapter 986
Statutes of 1998

Existing law provides for a mechanic's lien upon a property for certain persons who have bestowed labor or furnished materials. The lien is in the amount of value of the labor completed or the materials furnished. The law provides for enforcement of mechanic's liens and generally governs payment provisions contained in contracts for works of improvement. The law requires that a property owner pay the contractor on a work of improvement within 30 days following receipt of a demand for payment when there is no good faith dispute between the parties. Contractors are entitled to a penalty if any amount of the payment is withheld wrongfully. Case law provides that "pay-if-paid" clauses in contracts for public and private works of improvement which provide that a subcontractor will be paid the amount specified in the contract only if the contractor is paid, are void and unenforceable because they violate the public policy that underlies the statutory anti-waiver provisions of the mechanic's lien law (Wm. R. Clarke Corp. v. Safeco Ins. Co. (1997) 15 Cal.4th 822; Capitol Steel Fabricators, Inc. v. Mega Construction Co. Inc. (1997) 58 Cal.App.4th 1049.)

This statute authorizes a contractor who has not been paid for undisputed work to stop work on the private work project after providing a 10-day notice to the owner and subcontractors. The contractor would incur no liability for his or her action. This allows the contractor to limit his or her losses when the owner has not paid the general contractor for undisputed work performed. (Civ C § 3260.2)

AB 2704
Alquist

Chapter 196
Statutes of 1998

Service Contracts

Existing law regulates the activities of service contractors including service contract sellers. The law defines a service contract seller as a person who sells or offers to sell a service contract for the maintenance or repair of electronic sets or appliances. The law regulating consumer warranties defines service contract seller with respect to the maintenance or repair of consumer products. The Civil Code defines "service contract" as a contract in writing to perform for a cost over a fixed period of time, services relating to the maintenance or repair of a consumer product. The law defines "home appliance" as any refrigerator, freezer, range, microwave oven, washer, dryer, dishwasher, garbage disposal, trash compactor, or room air conditioner.

This statute adds to the definition of a service contract seller or seller, in both the Business and Professions Code and the Civil Code, a person who is the third-party obligor under a service contract sold by the seller, manufacturer, or repairer of the product covered by the service contract. The statute also makes minor changes to the Civil Code definitions of "service contract" and "home appliance." **This statute requires the Bureau of Electronic and Appliance Repair to register third-party obligors for service contracts sold by the seller, manufacturer or repairer of a product covered by a service contract.** (B&P C § 9855 and Civ C § 1791)

AB 2733
Wildman

Vetoed
September 17, 1998

Bail Enforcement Agents

Existing law provides for licensure and regulation of private investigators by the Bureau of Security and Investigative Services (BSIS) and provides for the licensure and regulation of bail agents by the Department of Insurance. The law does not provide for the licensure or regulation of persons engaged exclusively in bail fugitive recovery.

This bill would have established the Bail Fugitive Recovery Person Act in the Penal Code which would have required that all bail fugitive recovery persons, also known as "bounty hunters," meet specified training and criminal history requirements. The bill also would have required bounty hunters to notify local law enforcement officials as to his or her intention to make an arrest. Enforcement of the bill's provisions would have been by local law enforcement. (Ins C §1810.7

and Pen C Article 5.5 [commencing with Section 1299])

Veto Message

Governor Pete Wilson
To Members of the California Assembly:

I am returning Assembly Bill No. AB 2733 without my signature.
This bill would regulate bail fugitive recovery persons.
This bill is premature. Federal legislation is pending which would supersede provisions of this bill.
Even without federal preemption, it is questionable whether a few isolated though sensational instances of abuse by fugitive hunters warrant either a new regulatory apparatus (which was sought by the bill as introduced) or even a new enforcement priority for overburdened prosecutors. Abuse rising to a misdemeanor level of gravity will in most instances be chargeable as a violation of existing law.

SB 14
Polanco

Leaf Blowers — **Dropped**

Existing law does not regulate noise levels with regard to leaf blowers.

This bill would have regulated noise levels with regard to leaf blowers by allowing cities and counties to establish noise level standards if leaf blowers emit more than 65 dba measured at a distance of 50 feet; allowed cities and counties to regulate the manner of use of leaf blowers; and allowed cities and counties to require that leaf blowers be tested and certified. (B&P C § 21900) (See SB 1651)

SB 546
Johannessen

Public Safety Officers: Interrogation — **Failed Legislative Deadline**

Existing law, known as the Public Safety Officers Procedural Bill of Rights Act (Act), provides a catalogue of basic rights and protections which must be afforded all peace officers by the public entities that employ them. Most of the Act focuses on the procedural rights of peace officers when they are accused or suspected of an act subject to punitive action.

This bill would have made several changes to the Public Safety Officers Procedural Bill of Rights. Changes include an expansion of the situations to which the Act would apply, additional limits on an employer's ability to interrogate or search the locker of a peace officer, a time limit of 90 days to complete investigation of a complaint, and other procedural changes. (Gov C §§ 3303, 3304, 3309 & 3309.5)

SB 700
Rainey

Pilots: Bays of San Francisco, San Pablo and Suisun — **Dropped**

Under existing law there is a Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun (Board). The Board regulates pilotage on the waters of San Francisco Bay and adjoining bays and rivers. Pilots and inland pilots are required to collect on behalf of the Board an operations surcharge from vessels they board.

The money pays for the compensation and expenses of the Board, its officers and employees and pilot training programs. Existing law requires the Board to make recommendations to the Legislature on the rates for pilotage.

This bill would have provided that the Board's jurisdiction includes review of incidents and accidents that occur during operations under a state or federal license of a pilot on equipment or vessels maintained exclusively for pilotage. The bill would also have required the Board to adopt by regulation a review process and procedure of the annual license renewal of pilots and would prohibit a renewal until the Board conducts a review. Additionally, the bill would have required the Board to exclude from consideration any expenses for pilotage operations that are the result of illegal activity or the result of the willful or gross negligence of individual pilots or pilot association in its recommendations to the Legislature regarding pilotage rates.
(H&N C §§ 1127, 1141 & 1204)

SB 891
Watson

Physio-Technology and Health-Fitness

Dropped

Existing law regulates the practice of various allied health professions through licensure and discipline by state licensing boards or agencies, including physical therapists and physical therapy assistants; regulates the use of the titles "occupational therapist" and "occupational therapy assistant," and makes it a misdemeanor to use those titles without meeting specified educational standards and certification by a private organization; and prohibits the use of the titles recreational therapist and recreational therapist assistant by any person who does not meet certain educational and private certification requirements.

This bill would have established the California Physio-technology Licensure and Practice Board (Board), and provided that the Board shall be responsible for the licensure and regulation of health-fitness consultants and physio-technologists. (B&P C §§ 3175 et seq.)

SB 1417
Knight

Peace Officers

Chapter 190
Statutes of 1998

Existing law prohibits a person from exhibiting a firearm in a threatening manner in the presence of a peace officer. Existing law also specifies training requirements and supervisory authority for reserve peace officers.

This statute expands the existing prohibition on exhibiting a firearm in a threatening manner to include reserve peace officers. The statute also implements continuing education requirements for level II reserve officers and provides the authority to work unsupervised to level III reserve officers. As initially introduced, SB 1417 would have authorized any law enforcement agency to issue concealed weapons permits. This provision was deleted. (Pen C §§ 417, 417.1 & 832.6)

SB 1442
Rainey

Chapter 120
Statutes of 1998

Crime Prevention: Peace Officer Training

Existing law requires each applicant for admission to a basic course of training certified by the Commission on Peace Officer Standards and Training who is not sponsored by a law enforcement agency or is not a peace officer employed by a state or local agency, department, or district, to submit written certification from the Department of Justice that he or she has no criminal background that would disqualify him or her from owning, possessing, or controlling any firearm, pursuant to specified provisions of law.

This statute makes a technical, nonsubstantive change to this provision and specifies that the training referred to in this provision includes the carrying and use of firearms.
(Pen C § 13511.5)

SB 1471
McPherson

Chapter 261
Statutes of 1998

Interior Design

Existing law provides for the state-sanctioned certification of interior designers through January 1, 1999 and for review of the program and its continuation by the Joint Legislative Sunset Review Committee.

This statute extends the sunset date for the state sanctioned private certification of interior designers to January 1, 2002. (B&P C § 5810)

SB 1550
Hayden

Vetoed
September 27, 1998

Firearms Manufacture: Use-Limitation Devices

Existing law regulates the sale, transfer, delivery, possession and manufacture of a variety of weapons, including firearms. Existing law prohibits a licensed firearms dealer from delivering or transferring a firearm to a purchaser unless the weapon is unloaded and securely wrapped or locked in a container. The dealer may not deliver or transfer the firearm to the purchaser or person loaned a firearm unless that person has evidence of identification, age and a firearms safety certificate.

This bill would have required firearms dealers, on or after July 1, 1999, to offer for sale to each purchaser of a firearm at least one use-limitation device, such as a trigger guard, so that they may be readily available to consumers. As originally introduced, the bill would have required the Department of Consumer Affairs (Department) to publish a list of approved use-limitation devices. These provisions were amended out of the bill in March, removing any impact on the Department. (Pen C § 12071.05)

Veto Message

Governor Pete Wilson
To Members of the California Senate:

I am returning Senate Bill No. SB 1550 without my signature.

This bill would, commencing July 1, 1999, require a licensed firearms dealer to offer for sale to each purchaser at least one use-limitation device, as defined, appropriate for each firearm that the dealer offers for sale, if such use-limitation devices are commercially available.

Last year I vetoed AB 1124 (Aroner) which would have required licensed gun dealers to include a trigger locking device with the sale of any firearm. At that time I observed that some new guns were being shipped from the factory with trigger-locks and that pending federal legislation requiring the offer but not sale of trigger-locks was an alternative approach.

SB 1550 is responsive to the concerns I expressed in the veto of AB 1124.

However, despite his expressed desire that his bill not do so, it clearly would violate standing state policy to preempt local regulation of firearms as provided in the unambiguous language of Government Code Section 53071, which declares:

> "It is the intention of the Legislature to occupy the whole field of regulation of the registration or licensing of commercially manufactured firearms as encompassed by the provisions of the Penal Code, and such provisions shall be exclusive of all local regulations, relating to registration or licensing of commercially manufactured firearms, by any political subdivision as defined in Section 1721 of the Labor Code."

SB 1550 by its own terms would not prohibit as does section 53071 a local ordinance which places a more stringent requirement upon firearms dealers regarding use-limitation devices or trigger-locks.

The regulation of firearms, including requirements governing use-limitation devices, requires a standard of statewide uniformity. Without the language relating to local ordinances, SB 1550 could have provided such a useful standard. With it, it threatens to undermine the present wise policy of state preemption.

SB 1626
Hughes

Peace Officers: School Security Officers: Training

Chapter 745
Statutes of 1998

Existing law requires every school peace officer, including reserve officers, to complete a 32-hour course of training approved by the Commission on Peace Officer Standards and Training (POST). The law requires every security guard to be registered with the Bureau of Security and Investigative Services (BSIS). Registration requirements include a state criminal background check and completion of a two-hour course of training in powers of arrest. Security guards who carry firearms on the job must complete a 14-hour firearms course and qualify on a firing range. The law authorizes the governing board of any school district to establish a security department and employ security personnel to ensure the safety of students and district personnel. The law requires all school district personnel to submit to a state criminal history background check as a condition of employment. Persons who have been convicted of various serious or violent crimes, as defined, may not be employed by a school district.

This statute increases training standards and adds a national criminal background check to the requirements for school security guards employed at a K-12 public school or community college. The provisions are cross-referenced in the Business and Professions Code, which regulates contract security guards, and the Education Code, which provides authority to school districts to provide for school security as well as the Penal Code, which defines school reserve

officer. **This statute requires the BSIS to develop a course of training designed for school security officers in conjunction with the POST. The BSIS is required to ensure compliance with the statute's provisions with BSIS licensed security guards including confirming training compliance and facilitating a FBI criminal background check.** (B&P C §§ 7583.45; Ed C §§ 35021.5, 38001.5 & 72330.5; and PC § 832.2)

SB 1651
Polanco

Leafblowers

Failed Senate Appropriations

Existing law does not regulate the testing and certification of permissible noise levels for leaf blowers.

This bill would have established requirements with regards to leaf blowers used for commercial purposes, such as requiring the Department of Consumer Affairs (DCA) to certify leaf blowers; allowing cities and counties to regulate the manner of use of leaf blowers; and allowing cities and counties to require leaf blowers to be tested by an independent testing facility approved by the DCA every two years. (B&P C § 21900) (See SB 14)

SB 1767
Burton

Vessels

Chapter 605 Statutes of 1998

Existing law requires the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun (Board) to establish an incident review committee to review all reports of misconduct or navigational incidents involving bar pilots. The law authorizes the Board to appoint an executive director to perform various duties, including assisting the Board with investigation of navigational incidents. The law requires that whenever a suspected safety violation concerning pilot hoists or ladders are reported, a Board investigator shall be immediately assigned to investigate the complaint. The law requires the Board to report its findings to the Coast Guard immediately when a violation of safety standards is confirmed.

This statute is clean-up legislation to correct flaws in SB 417 (c. 660, stats. 1997) that prevent the Board from complying with law related to pilot hoist and ladder safety. This statute requires the Board investigator to submit a written report related to a pilot ladder or hoist to the Board's incident review committee and require the committee to report its findings to the board. A 24-hour deadline to submit the investigator's report is deleted. The statute provides that laws related to pilot hoist or ladder violations and Board requirements to investigate, apply only to the "pilotage ground" defined as the Bays of San Francisco, San Pablo and Suisun to the entrance of San Francisco Bay. The statute deletes existing requirements to forward the Board's findings to the Coast Guard. (H&N C §§ 1114.5 & 1156.6)

SB 1970
Schiff

Arrest Warrants: Electronic Mail

Chapter 692
Statutes of 1998

Existing law requires that a declaration in support of a warrant of probable cause for arrest be a sworn statement made in writing. The law authorizes a magistrate to take an oral statement under oath and receive the proposed warrant and all supporting declarations and attachments via facsimile transmission. Existing law also authorizes the magistrate, before issuing a warrant, to examine under oath the persons seeking the warrant and any witnesses that person may produce. The law requires the magistrate to take affidavits of witnesses in writing except under certain conditions when telephone and facsimile transmission may replace the written affidavit.

This statute authorizes the magistrate to: 1) take <u>via electronic mail</u> a written declaration in support of the warrant of probable cause for an arrest; and, 2) take <u>by telephone and electronic mail</u> the oral statement of the person seeking the warrant or any witness that he or she produces, under specified conditions. (Pen C §§ 817 & 1526)

SB 2119
Hurt

Reports to the Legislature: Internet Access

Failed Legislative Deadline

Existing law requires that any report required or requested by law to be submitted by a state or local agency to the Members of either house of the Legislature, generally, to be submitted instead to the Legislative Counsel, the Secretary of the Senate, and the Chief Clerk of the Assembly. Each report is required to include a summary of its contents, a copy of which is to be provided to each member of the appropriate house or houses of the Legislature by the Legislative Counsel. Notice of receipt of the report is required to be recorded in the journal of the appropriate house or houses of the Legislature. These requirements do not apply to reports required or requested by law to be directed to a committee or other specified entity within the Legislature.

This bill would have required these reports, including reports required or requested to be directed to a committee or other specified entity within the Legislature, to be made available on the state or local agency's Internet website. The bill would further have required that a summary of the report's contents be submitted through electronic mail to the Legislative Counsel, the Secretary of the Senate, and the Chief Clerk of the Assembly, that a copy of the summary be distributed, as specified, by the Legislative Counsel, and that a notice of the report's availability on the state or local agency's Internet website be recorded in the journal of the appropriate house or houses of the Legislature. The bill would have also required a state or local agency that does not maintain an Internet website to submit a hard copy of the report and a summary of its contents to the Legislative Counsel, the Secretary of the Senate, and the Chief Clerk of the Assembly, and would require the summary and notice of the report to be distributed and recorded,

as specified. By increasing the reporting duties of local agencies, the bill would impose a state-mandated local program. 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. (Gov C § 9795)

SB 2215
Lockyer

Public Safety Officers: Procedural Bill of Rights

Chapter 786
Statutes of 1998

Existing law, the Public Safety Officers Procedural Bill of Rights, prohibits any punitive action, or denial of promotion on grounds other than merit of a public safety officer, as defined, without providing the public safety officer with an opportunity for administrative appeal.

This statute expands the Public Safety Officers Procedural Bill of Rights to require a public safety officer be given notice of good cause before a punitive action or denial or probation by the employing law enforcement agency. (Gov C § 3304)

B. OCCUPATIONAL REGULATION
Boards, Bureaus and Programs

(1) Board of Accountancy

Bill	Summary	Disposition
AB 508 **Takasugi**	<u>**Accountancy: Volunteer Services**</u> Existing law (SB 302, Montoya, Ch. 218, Stats. 1985) authorized the Board of Accountancy to contract with a nonprofit organization to provide volunteer accounting services, and limited the contract to $50,000 for the first year and $65,000 for subsequent years. SB 302 sunset January 1, 1991. This statute reinstates that authorization until January 1, 2004, and limits the contract to $50,000 per year. (B&P C §§ 5170, 5171 & 5172)	**Chapter 611** **Statutes of 1998**
AB 2721 **Miller**	<u>**Healing Arts Licensees: Unprofessional Conduct: Acupuncture Licensees**</u> Please see AB 2721 on page 56 for Summary	**Chapter 971** **Statutes of 1998**
AB 2771 **Davis**	<u>**Accountancy: Education: Examination: Claims Against**</u> Existing law establishes educational and examination requirements for certified public accountants (CPAs). Existing law also prohibits an employee of the Board of Accountancy (BOA) from settling claims. **This statute makes various substantive and technical changes to the educational and examination requirements for CPAs, such as: 1) increasing the required 30 semester <u>hours</u> in accounting, commercial law, or economics and finance, to 45 semester <u>units</u> in accounting and related business administration subjects, to be used as one year of public accounting experience; 2) considering an applicant's degree from a foreign educational institution equivalent to a baccalaureate degree obtained in the U.S., as long as certain conditions have been met; 3) and considering an applicant for a CPA license to have met the examination requirements if the applicant is licensed in another country, the International Qualifications Appraisal Board determines that the standards under which the applicant was licensed in another country meet the standards for admission to the International Uniform Certified Public Accountant Qualification Examination (IUCPAQE), and the applicant has successfully passed the IUCPAQE exam. This statute also allows an employee of the BOA to settle claims.** (B&P C §§ 5081.1, 5082.3, 5082.4 & 5084 and Gov C § 912.8)	**Chapter 872** **Statutes of 1998**

SB 1289
Calderon

Chapter 41
Statutes of 1998

<u>Public Accountancy: Commissions</u>

Existing law prohibits accountants from paying a commission to obtain a client or from accepting a commission for referring a client to the products or services of others.

This statute instead permits accountants to accept a commission for providing a client with the products or services of a third party, if those products or services are provided in conjunction with accounting services and the accountant makes certain disclosures. **The disclosures must be specified by the Board of Accountancy in regulation. At a minimum, the disclosures must (1) be in writing, (2) be clear and conspicuous, (3) state the amount of the commission or the basis of its computation, (4) identify the source of the payment and the relationship between the source and the recipient, (5) be given to the client before or upon recommending the product or service, and (6) be signed by the client.** The accountant may not receive a commission if s/he is (1) auditing or reviewing a financial statement, (2) examining prospective financial information, or (3) compiling a financial statement, which might be used by a third party, unless the statement discloses a lack of independence. Accountants may not solicit or accept a fee or commission solely for making a referral. (B&P C § 5061)

SB 2239
Polanco

Chapter 878
Statutes of 1998

<u>Professions and Vocations</u>

Existing law provides for the Board of Dental Examiners (BDE), the Committee on Dental Auxiliaries, the Medical Board of California (MBC), the Physician Assistant Examining Committee, the Board of Accountancy (BOA), the Funeral Directors and Embalmers Program, the Board of Registration for Professional Engineers and Land Surveyors (BRPELS), the Barbering and Cosmetology Program, and the Board of Pharmacy to regulate licensees and registrants who practice in those professions.

This statute makes the following changes: 1) clarifies that <u>any person</u> who has received a certificate of certified public accountant or certificate of public accountant may possess and display the certificate unless it has been suspended or revoked; 2) requires a board, in respect to disciplinary hearings, to provide the licensee with the board's decision to accept or reject the administrative law judge's (ALJ) proposed decision within fifteen days of the date that the board received the proposed decision from the ALJ; 3) provides that the examining committee, under the jurisdiction of the BDE, consist of an unspecified number of members who possess specified qualifications; 4) deletes the requirement for dental licensure candidates to take the oral diagnosis-treatment planning examination and clarify that the candidates are still required to take the written prosthetic dentistry and endodontices written examination; 5) deletes the mandatory

continuing education requirements for dentists who employ auxiliaries in extended functions; 6) permits applicants for a physician and surgeon's certificate, who are required to complete additional medical instruction after failure to pass the oral exam or any part of the written exam after two attempts, to practice medicine in settings approved by the MBC; 7) specifies that the MBC is not required to evaluate for equivalency any coursework obtained at an unapproved medical school; 8) specifies that failure by a licensed physician and surgeon or a licensed health facility to comply with a court order, issued in the enforcement of a subpoena, mandating the release of medical records to the MBC would be a misdemeanor punishable by specified fines and penalties and specifies that such failure would also constitute unprofessional conduct and grounds for license suspension or revocation; 9) requires each physician and surgeon enrolled in a diversion program, to sign an agreement that diversion records may be used for disciplinary or criminal proceedings under certain circumstances, and would permit the retention of records, when specified by regulation; 10) adds the cash compromise of certain controlled substance violations to the definition of unprofessional conduct for a pharmacist; 11) provides that a pharmacist licensed or otherwise authorized to practice in another state, or by an agency of the federal government, who has his/her license suspended or revoked in that sector would also have his/her California license automatically suspended for the duration of the suspension or revocation; 12) increases the maximum fine for obtaining a pharmacist license through fraud or misrepresentation from $400 to $5,000; 13) provides that prescriptions for a controlled substance cannot be filled after 14 days of the date the prescription is written; 14) revises and recasts the provisions that authorize a prescriber to issue a prescription on an oral, written, or electronic order, as specified; 15) authorizes the placement of pharmacy technician trainees in a pharmacy for the purpose of obtaining practical training; 16) defines "pharmacy technician student," describes the duties, and establishes training standards; 17) makes technical changes to the Physician Assistant Practice Act; 18) makes various revisions regarding the use of the title or designation of "certified public accountant" and "public accountant," the use of names in an accountancy firm or corporation, and registration requirements for partnerships and limited partnerships; 19) allows an applicant for admission to the public accountant certificate to present satisfactory evidence of education received from an approved institution outside the United States; 20) provides that an accountancy corporation is prohibited from rendering professional services under a name that has not been approved by the BOA; 21) delays until December 31, 2000, the implementation of continuing education requirements for the renewal of funeral directors' and embalmers' licenses; 22) modifies the education requirements for a land surveyor's license by deleting, effective January 1, 2000, the BRPELS, discretion to grant up to two years of experience credit because the applicant passed the first division of the examination; 23) provides that when a county surveyor places an

explanatory note on a corner record, a copy of the filed corner record will be sent to the land surveyor or civil engineer who submitted the corner record; 24) extends the sunset date for the Medical Quality Hearing Panel within the Office of Administrative Hearings until January 1, 2003; 25) deletes the sunset date for provisions of the Barbering and Cosmetology Practice Act regarding qualifications for schools of barbering and electrology and barbering instructors and makes other technical changes; 26) authorizes an ALJ to issue an interim order to suspend or impose restrictions on a license, if the affidavits supporting the petition show that a licensee of the MBC is unable to practice safely due to a mental or physical condition; 27) provides that when a county surveyor places an explanatory note on a corner record, a copy of the filed corner record will be sent to the land surveyor or civil engineer who submitted the corner record; 28) extends the sunset date for the Medical Quality Hearing Panel within the Office of Administrative Hearings until January 1, 2003; and 29) authorizes an ALJ to issue an interim order to suspend or impose restrictions on a license, if the affidavits supporting the petition show that a licensee of the MBC is unable to practice safely due to a mental or physical condition. (B&P C §§ 120, 125.7, 1621.1, 1632, 1633.5, 1763, 2067, 2103, 2225.5, 2239, 2242, 2350, 2355, 3512, 3516.5, 3517, 3519, 3520, 3521.2, 3523, 3524, 3526, 3527, 3528, 3530, 3534.1, 3534.3, 4301, 4322, 5053, 5055, 5056, 5060, 5070.6, 5072, 5073, 5104, 5134, 7303, 7301, 7348, 7358, 7362.1, 7362.2, 7362.3, 7390, 7391, 7392, 7393, 7394, 7395, 7423.5, 7427, 7622.3, 7651, 8742, 8773.1, 8773.2 & 13660; Gov C §§ 4115.5, 4301.5 & 5058.1; repeals §§ 1621.2, 5059, 5070.1, 5071, 5074, 5075, 5076, 5153, and amends §§ 11371 & 11529; and H&S C §§ 11166 & 11167)

(2) Acupuncture Committee

AB 204
Migden

Chapter 440
Statutes of 1998

Workers' Compensation: Acupuncturists

Existing law requires employers to offer necessary medical treatment and services to injured employees; allows employees to choose a personal physician or personal chiropractor for treatment; and requires health care service plans to provide injured employees with chiropractic services for work-related injuries, if they so choose.

This statute adds acupuncture to the list of available treatments and make conforming changes; allows employees to choose a personal acupuncturist for treatment; and requires health care service plans to provide injured employees with acupuncture services for work-related injuries, if they so choose. (Lab C §§ 3209.5, 4600, 4600.3, 4600.5 & 4601)

AB 410
Gallegos

Sales And Use Taxes: Partial Exemptions: Acupuncturists

Dropped

Existing law imposes a tax on tangible personal property and provides for a partial tax exemption for vitamins, minerals, dietary supplements, and orthotic devices used or furnished by chiropractors in the performance of their professional services.

This bill would have provided a partial tax exemption with respect to any herb, herbal formula or preparation, vitamin, mineral, dietary supplement, drugless substance, or orthotic device that is used or furnished by a licensed acupuncturist in the performance of his or her professional services. (R&T C § 6018.3)

AB 2120
Cedillo

Licensed Acupuncturists: Professional Corporations

Chapter 175
Statutes of 1998

Existing law regulating professional corporations provides that certain licensed persons may be shareholders, officers, directors, or professional employees of designated professional corporations, subject to certain limitations.

This statute adds licensed acupuncturists to the list of licensed persons who may be shareholders, officers, directors, or professional employees of certain of these designated professional corporations. (Corp C § 13401.5)

SB 863
Lee

Acupuncture

Dropped

Existing law, the Acupuncture licensing Act, provides that nothing in the Acupuncture Licensing Act shall be construed to prevent the practice of acupuncture by a person licensed as a dentist or podiatrist.

This bill would have additionally specified that nothing in the Acupuncture Licensing Act shall be construed to prevent the practice of acupuncture by a person licensed as physician and surgeon. The bill would have renamed the Acupuncture Committee as the Acupuncture Board, and would have made conforming and technical changes. (B&P C §§ 4927, 4928, 4933, 4934, 4935, 4944, 4947, 4970 & 4974)

SB 1980
Greene

Regulatory Boards and Committees

Chapter 991
Statutes of 1998

Existing law provides for the creation of the Physical Therapy Board of California (PTB), the State Board of Optometry, the Respiratory Care Board of California (RCB), the Acupuncture Committee, and the Court Reporters Board and provides for the termination of the existence of these licensing and regulatory entities on July 1, 1999.

This statute: 1) extends the termination date of these entities, as specified, and would make similar date changes in related provisions; 2) renames the "Acupuncture Committee" the

"Acupuncture Board (AB);" 3) revises the composition and appointment of the membership of various of these boards, as specified; 4) authorizes those boards and other regulatory entities, designated by the Department of Consumer Affairs as health-related, to adopt regulations to require licensees to display their licenses, as specified, and to inform patients as to the identity of the regulatory agency they may contact with questions or complaints about a licensee; 5) requires the PTB to undertake a study assessing the need for, and potential alternatives to, the tissue penetration certification required under existing law; 6) increases various fees imposed by the RCB; 7) removes Medical Board jurisdiction over the PTB, the RCB, and the AB; 8) revises various fees paid by certified acupuncturists to the AB; and 9) requires various reports to the legislature. (B&P C §§ 104, 473, 2602, 2603, 2604, 2607.5, 2620.5, 3010, 3014.5, 3710, 3711, 3712, 3712.5, 3713, 3716, 3775, 3775.1, 3775.2, 3776, 4925, 4928, 4929, 4934, 4935, 4970, 8000, 8005 & 8006)

(3) Arbitration Review Program

AB 1848
Davis

Chapter 352
Statutes of 1998

Warranties: Motor Vehicle Manufacturers

Existing law authorizes each manufacturer of motor vehicles to provide for a qualified third-party dispute resolution process for resolution of disputes brought by buyers or lessees of new motor vehicles. Participating in a dispute resolution program is voluntary. These programs may seek certification by the Department of Consumer Affairs (DCA). The Tanner Consumer Protection Act, commonly known as the "Lemon Law," defines a new motor vehicle for purposes of the "Lemon Law" to mean a new motor vehicle which is used or bought for use primarily for personal, family or household purposes.

This statute includes vehicles purchased and used for personal, family or household use as well as small business use in the definition of vehicles covered by the "Lemon Law." The exemption applies to businesses with less than five vehicles. (Civ C § 1793.22)

AB 2277
Kuykendall

Dropped

Warranties: Motor Vehicle Manufacturers

Existing law, the Tanner Consumer Protection Act (Act), defines a new motor vehicle as one which is purchased primarily for personal, family and household use. The definition of a new motor vehicle includes the portion of a motor home that includes the chassis, chassis cab, and the engine and drive train but not the "human habitation " portions of the motor home. The Act states that a new motor vehicle is presumed to be out of conformity if in the first 12 months or 12,000 miles or during the manufacturer's expressed warranty: 1) the vehicle

is subject to repair four or more times by the manufacturer or its agents for the same problem and the buyer has notified the manufacturer directly of the need to repair the nonconformity; and/or 2) the problem has caused the vehicle to be out of service for repair for more than 30 days.

This bill would have made several changes to the Act relating to motor homes. Changes would have included increasing the presumption period, increasing the days a motor home has to be out of service to meet the presumption, and increasing the number of days a manufacturer has to resolve a problem. (Civ C §§ 1793.22 & 1794)

AB 2410
Shelley

Chapter 1063
Statutes of 1998

__Motor Vehicles: Reacquisition Agreements__

Existing law does not prohibit confidentiality clauses in vehicle buy-back settlement agreements. The law requires disclosure by any person, manufacturer or dealer who sells, leases or transfers ownership of a vehicle reacquired by a manufacturer to the buyer or transferee that the vehicle was repurchased by the manufacturer due to a defect in the vehicle. The title of any vehicle repurchased as a lemon buy-back is to be permanently branded as such. The law requires the manufacturer of a lemon vehicle to prepare a notice to be signed by any subsequent purchaser. The notice must identify the year, make, model and vehicle identification number, whether the vehicle is a lemon law buy-back, the nature of the reported defect, any repairs made to correct the defect and any problems reported by the original vehicle owner. The law provides that inclusion of certain clauses which are determined to be against public policy make contracts null and void.

This statute prohibits confidentiality or "gag" clauses in buy-back agreements involving the manufacturer, importer or distributor's reacquisition of a motor vehicle. Clauses requiring confidentiality regarding the financial terms of a reacquisition are exempted from the prohibition. (Civ C § 1793.26)

AB 2802
Assembly Consumer Protection

Chapter 970
Statutes of 1998

__Professions and Vocations__

Existing law provides for the licensure and regulation of various professions and vocations by the Department of Consumer Affairs (DCA) and its boards.

This statute: 1) changes references to the Cemetery Board and the State Board of Funeral Directors and Embalmers to the Cemetery Program and the Funeral Directors and Embalmers Program respectively; 2) authorizes the Director of the DCA to synchronize the renewal dates for licenses granted to applicants with more than one license, establish a standard abandonment date for applications that have been returned to the applicant as incomplete, and abolish grace periods for which no delinquency

fee is assessed upon expiration of a license; 3) changes the name of the Arbitration Review Program to the Arbitration Certification Program; 4) changes references to the Physical Therapy Examining Committee to the Physical Therapy Board; 5) specifies that the use, obtaining, administration, or prescription of a dangerous device by a registered nurse constitutes unprofessional conduct; 6) eliminates the 30-day grace period allowed upon expiration of psychology licenses, hearing aid dispenser licenses, and barbering and cosmetology licenses before a delinquency fee is imposed; 7) increases the delinquency period for locksmith licenses; 8) makes clarifying and conforming changes to the Barbering and Cosmetology Program's appeal process; 9) extends the delinquent renewal period for Security and Investigative Services licensees to three years; 10) requires private patrol officers and their employees who wear uniforms to also wear a patch on each shoulder with "private security" and the company name printed on it, and a badge or cloth patch on the upper left breast of the uniform; 11) increases the fines for non-registration of a security guard by a private patrol operator from $12 for the first 10 violations and $50 thereafter to $57 for each violation; 12) limits temporary permits for alarm company employees to 120 days and prohibits issuance of a temporary registration to an applicant for registration as an alarm company employee if the applicant has had prior criminal convictions; 13) makes technical changes to the Guide Dogs for the Blind Act; 14) allows an embalmer apprentice certificate to be revoked or suspended if the apprentice is under the influence of a controlled substance; 15) specifies additional duties for funeral directors, cremated remains disposers, and the DCA with regard to the disposition of cremated remains; 16) adds funeral establishments to the list of entities prohibited from using false or misleading advertising; 17) corrects the disclosure statement, required by the Structural Pest Control Board, which informs consumers that prior to the application of a wood preservative, a registered company should be contacted, instead of a licensed individual, if the consumer suspects pest infestation or infection; 18) makes technical clean-up changes to the Cemetery Act and the Funeral Act; 19) establishes statutory authority for the manner in which the DCA is holding and managing conserved cemetery trust funds; 20) requires any cremated remains disposer who dispenses remains by air or by boat to post a copy of his or her pilot or boating license; 21) allows automotive repair shops whose customer base is larger than one commercial, industrial, or governmental client to be exempt from having to register with the DCA; 22) prohibits an automotive repair dealer registration from being renewed, restored, or reinstated after being delinquent for three years, and requires payment of all back registration and delinquent fees when a delinquent registration is renewed; 23) deletes outdated references including a reference to the Certification Account created in the Vehicle Inspection and Repair Fund; 24) deletes

sections citing authorization for the "Better Auto Repair Program" which terminated December 31, 1987; 25) deletes the requirement that the Athletic Commission issue a performance card to all boxers who fight in California since recent federal legislation has rendered this section obsolete; and 26) adds the Division of Investigation to those agencies authorized to be given information relevant to an incident of elder or dependent adult abuse. (B&P C §§ 130, 142, 472.5, 2639, 2640, 2655.11, 2655.91, 2661.7, 2665, 2688, 2760.1, 2762, 2984, 3452, 6980.28, 7215.6, 7410, 7411, 7412, 7413, 7417, 7431.5, 7503.14, 7558.5, 7560, 7582.26, 7585.20, 7586.2, 7586.5, 7587.8, 7593.12, 7598.7, 7601, 7602, 7603, 7604, 7605, 7606, 7607, 7607.5, 7608, 7610, 7616.2, 7618, 7619.2, 7621, 7625, 7626, 7626.5, 7628, 7629, 7631, 7632, 7634, 7635, 7640, 7641, 7642, 7643, 7646, 7647, 7647.5, 7650, 7661, 7662, 7663, 7664, 7665, 7666, 7667, 7668, 7669, 7670, 7685.2, 7685.3, 7686, 7686.5, 7687, 7687.5, 7690, 7693, 7696, 7697, 7700, 7701, 7702, 7704, 7706, 7708, 7709, 7711, 7715, 7718.5, 7725, 7725.2, 7725.5, 7727, 7735, 7737.3, 7737.5, 7740, 7740.5, 8556, 9603, 9604, 9605, 9625, 9626, 9626.5, 9627, 9628, 9629, 9630, 9630.5, 9631, 9650, 9650.1, 9650.2, 9650.3, 9650.4, 9651, 9652, 9652.1, 9653, 9654, 9655, 9656, 9656.1, 9656.2, 9656.3, 9656.4, 9656.45, 9656.5, 9657, 9658, 9659, 9662, 9675, 9676, 9677, 9678, 9679, 9680, 9681, 9682, 9683, 9684, 9686, 9700, 9700.5, 9700.6, 9701, 9702.1, 9702.2, 9702.5, 9703, 9704, 9705, 9709, 9710, 9711, 9712, 9713, 9714, 9715, 9716, 9717, 9718, 9719, 9720, 9726, 9727, 9727.1, 9727.2, 9728, 9729, 9730, 9731, 9735, 9736, 9737, 9740, 9741, 9742, 9746, 9749.5, 9751, 9752, 9753, 9754, 9755, 9756, 9758, 9759, 9760, 9761, 9762, 9763, 9764, 9765, 9766, 9767, 9769, 9780, 9781, 9782, 9783, 9784, 9785, 9786, 9787, 9789, 9880.2, 9884, 9884.3, 9884.5, 9886.2, 9889.8 & 18740 and W&I C § 15633.5)

SB 289
Calderon

<u>Warranties: Motor Vehicle</u>

Failed
Assembly
Consumer
Protection

Existing law authorizes each manufacturer of motor vehicles to provide for a qualified third-party dispute resolution process for resolution of disputes brought by buyers or lessees of new motor vehicles. Participating in a dispute resolution program is voluntary. These programs may seek certification by the Department of Consumer Affairs (DCA). The Tanner Consumer Protection Act, commonly known as the "Lemon Law," presumes that a reasonable number of attempts have been made to conform a new motor vehicle to applicable express warranties if within one year or 12,000 miles: 1) the same nonconformity has been subject to repair four or more times; and/or 2) the vehicle is out of service due to repair of a nonconformity by the manufacturer for 30 days in a 12-month period. Existing law defines a new motor vehicle for purposes of the "Lemon Law" to mean a new motor vehicle which is used or bought for use primarily for personal, family, or household purposes.

This bill would have extended the applicability of the "Lemon Law"

presumption to 24 months from delivery to the buyer or 24,000 miles for a nonconformity in a new motor vehicle covered by express warranties and required motor vehicle manufacturers who do not participate in a dispute resolution process certified by the DCA to disclose that fact to the buyer. The bill would have provided that if the non-conformity is a safety defect, as defined by this bill, the "Lemon Law" presumption is met if the nonconformity is subject to two or more repairs and the buyer has provided a specified notice to the manufacturer. The bill would have revised the definition of a new motor vehicle to include a vehicle used for business purposes by a person who has not more than five motor vehicles registered in this state. (Civ C § 1793.22)

SB 1773
Calderon

Motor Vehicle: Reacquisition Agreements

Dropped

Existing law provides that certain contracts are null and void as against public policy, as specified.

This bill would have provided that a confidentiality or "gag" clause as a condition of reacquisition of a lemon vehicle by an automobile manufacturer would be null and void. (Civ C § 1793.26)

(4) Board of Architectural Examiners

AB 469
Cardoza

Limited Liability Companies and Limited Liability Partnerships: Architecture

Chapter 504
Statutes of 1998

Existing law allows licensed accountants and attorneys to form limited liability partnerships (LLPs) and foreign LLPs if certain requirements have been met, such as maintaining liability insurance.

This statute allows architects to form LLPs and foreign LLPs until January 1, 2002, if certain requirements have been met. (B&P C § 5535 and Corp C §§ 16101, 16956 & 16959

(5) Athletic Commission

AB 2802
Assembly Consumer Protection

Professions and Vocations

Chapter 970
Statutes of 1998

Please see AB 2802 on page 113 for Summary

(6) Bureau of Automotive Repair

AB 183
Richter

Consumer Affairs: Bureau of Automotive Repair: Motor Vehicle Owners' Rights Advocate

Vetoed
August 17, 1998

Existing law, the Automotive Repair Act, establishes the Bureau of Automotive Repair in the Department of Consumer Affairs under the supervision and control of the Director of Consumer Affairs.

This bill would have required the Director to appoint an advocate for the Bureau to act as the principal proponent for consumers who register automotive complaints related to the Smog Check Program. (B&P C § 328)

Veto Message

Governor Pete Wilson
To Members of the California Assembly:

I am returning Assembly Bill 183 without my signature.

This bill would create a Motor Vehicle Owners' Rights Advocate for the Bureau of Automotive Repair (BAR) to act as the principal proponent for consumers who register automotive complaints related to the Smog Check Program.

This bill is unnecessary. The Advocate is superfluous to the existing responsibilities of the BAR Chief and the Director of the Department of Consumer Affairs. There is no empirical evidence that demonstrates the need for a person solely dedicated to monitoring the resolution of complaints. Moreover, should a need arise, there is nothing to prevent the Director from assigning someone to assume these responsibilities on an ad hoc basis until the concern has been dealt with. The mandated establishment of the Advocate position would simply add an unnecessary, unfunded position and corresponding staff to review the existing complaint mediation structure when such powers already reside with the Department Director.

AB 834
Bowen

Vehicles: Leaking Fluid Inspection Program: Los Angeles County

Dropped

Existing law requires the Chief of the Bureau of Automotive Repair (BAR) to enforce and administer the Automotive Repair Act and the Smog Check program.

This bill would have required the BAR to establish an advisory committee for the purpose of establishing a voluntary leaking automotive fluids inspection program for Los Angeles County. (B&P C §§ 9889.70 & 9889.71)

*This bill was amended to become Assembly Member Aroner's **Special Election: Consolidation** bill, and was chaptered 4/29/98 in this form.*

AB 1437
Cardoza

Air Pollution: Transported Pollutants

Dropped

Existing law requires the State Air Resources Board (ARB) to assess the relative contribution of upwind emissions to downwind pollution and to determine if the contribution is overwhelming, significant, inconsequential, or some combination thereof.

This bill would have required the ARB, for each area of the state that contributes overwhelming or significant amounts of transported pollution to a downwind district, to implement a program that require each upwind district to take prescribed actions that reduce the emissions being transported into the downwind district, or make mitigation payments for those emissions to the downwind district. This bill also would have subjected the upwind districts to the Enhanced Vehicle Inspection and Maintenance Program.
(H&S C §§ 39604, 39611, 39612, 40915 & 40924)

AB 1523
Battin

<u>**Automotive Repair**</u>

Dropped

Existing law provides for the Bureau of Automotive Repair (BAR) to establish standards for certification of registered automotive repair facilities. The BAR is required to have procedures setting forth the basic requirements for application and certification in certain areas of automotive repair.

This bill would have required the procedures be in writing. (B&P C § 9889.33)

AB 1656
Ducheny

<u>**1998-99 Budget**</u>

Chapter 324
Statutes of 1998

This is the budget Act of 1998 and contains appropriations for the Department of Consumer Affairs' (DCA) boards, bureaus, commissions and programs. Additionally, this bill contains certain control language for various boards and bureaus related to loan stipulations and reporting requirements to support specified transactions.

This statute places certain provisions on funds appropriated from the Vehicle Inspection and Repair Fund and the High Polluter Repair or Removal Account for activities of the Automotive Repair Program. The statute provides for a loan from the Private Postsecondary and Vocational Education Administration Fund to the Federal Trust Fund Account for the Bureau of Private Postsecondary and Vocational Education to meet cash-flow needs. The statute prohibits expenditures associated with re-location of the Barbering and Cosmetology Program examination facilities unless the DCA first provides a cost benefit analysis report to the Joint Legislative Budget Committee and the Department of Finance. This statute provides for a transfer from the General Fund to the Special Deposit Fund in accordance with <u>Malibu</u> v. <u>Brown</u> and <u>Abramovitz</u> v. <u>Wilson</u> for repayments from the General Fund to various special funds as stipulated. The statute also establishes terms and conditions for loans between special funds within the DCA.

AB 1914
Ashburn

Air Pollution: Sales, Use, Income, Bank and Corporation Taxes

Failed Assembly Transportation

Existing law establishes a motor vehicle inspection and maintenance program administered by the Department of Consumer Affairs/Bureau of Automotive Repair. The Sales and Use Tax Law imposes a tax on the gross receipts from the sale of tangible personal property and provides various exemptions from this tax. The Personal Income Tax Law and the Bank and Corporation Tax Law authorizes various credits against the taxes imposed by these laws.

This bill would have: 1) suspended the Smog Check Program until all manufactured BAR-97 testing equipment was completely certified; 2) provided a full tax credit for the costs of the BAR-97 equipment to shop owners; and 3) provided a $50 credit to the owners of tested vehicles. (R&T C §§ 17053.56 & 23656)

AB 2311
Baugh

Income and Bank Corporation Taxes: Credit: Motor Vehicle Inspection Program

Failed Legislative Deadline

Existing law establishes a motor vehicle inspection and maintenance program (Smog Check) administered by the Department of Consumer Affairs/Bureau of Automotive Repair which includes the required use of dynamometers in the Enhanced Areas of the state. Existing law also authorizes various credits towards the taxes imposed under the Personal Income Tax Law and the Bank and Corporation Tax Law.

This bill would have provided, until January 1, 2005, a limited tax credit to Smog Check station owners to mitigate the costs of dynamometer equipment up to $50,000 per machine. This tax credit would have become effective only if the vehicle population subject to biennial inspections as of January 1, 1998 were to decrease by twenty-five percent (25%) or more. This bill would have also created an additional credit for costs over $5,000, until January 1, 2005, on any future equipment enhancement that may be required by the state. (R&T C §§ 17053, 17053.1, 23605 & 23605.1)

AB 2552
Baugh

Motor Vehicle Inspection and Maintenance Program

Failed Legislative Deadline

Existing law establishes a motor vehicle inspection and maintenance program (Smog Check) administered by the Department of Consumer Affairs/Bureau of Automotive Repair which includes the required use of dynamometers in the Enhanced Areas of the state. Existing law also authorizes various credits towards the taxes imposed under the Personal Income Tax Law and the Bank and Corporation Tax Law.

This bill would have, in addition to the tax credit provisions of AB 2311, made revisions to the Gold Shield program, the low-income repair assistance program, and allowed certain smog facilities to update or override ZIP Code information contained in the Department of Motor Vehicles' database. (H&S C §§ 44010.5, 44012, 44014.2,

44014.5, 44017.1, 44033, 44056, 44095 & 44062.1; R&T C §§ 17053, 17053.1, 23605 & 23605.1; and Veh C § 24007)

AB 2789
Thomson

Motor Vehicle Inspection and Maintenance Program

Vetoed
August 21, 1998

Existing law establishes a motor vehicle inspection and maintenance program (Smog Check) administered by the Department of Consumer Affairs/Bureau of Automotive Repair which includes the required use of dynamometers in the Enhanced Areas of the state.

This bill was the urgency budget trailer bill for the Smog Check Program which would have made revisions to the Gold Shield program and the low-income repair assistance program, allowed certain smog facilities to update or override ZIP Code information contained in the Department of Motor Vehicles' database, and would have re-designated certain cities out of the enhanced requirements of the Program. (H&S C §§ 44010.5, 44012, 44014.2, 44014.5, 44017.1, 44033, 44056, 44095, 44062.1 & 44007 and Veh C § 24007)

Veto Message

Governor Pete Wilson
To Members of the California Assembly:

I am returning Assembly Bill No. 2789 without my signature.

This bill would make a number of changes to the Smog Check II program by eliminating "ping-ponging" of cars that fail a smog test between test-only facilities and repair shops; revising the low-income and repair assistance program; and simplifying procedures for vehicles to be removed from the enhanced program testing requirements when ownership is transferred to a non-enhanced area.

Unfortunately, the bill, similar to a bill vetoed last year (AB 999), would remove the Enhanced Area designation on some areas of the state by arbitrarily defining an "urbanized" area as having a population of 100,000 or more residents. Changing the designation of these areas would result in emissions reduction shortfall which could force the state to face federal sanctions. Avoiding the sanctions would require creating inequities by shifting the burden of increased emissions reductions to industrial and stationary pollution sources or upon the other areas where the enhanced program remains active.

Nothing has changed over last year to warrant a reversal of the prior veto. It remains imperative that we continue to make desired and necessary progress to protect public health through clean air standards, avoid unnecessary exposure to federal sanctions, and ensure that California's air quality policy approach remains equitable, technologically feasible, and cost effective.

This bill does, however, contain a number of laudable changes that would have made significant improvements for all sectors of the motoring public. As such, I am directing my agencies to implement those features of this bill that will increase public convenience and acceptance to the fullest extent permissible under existing statutory authority.

AB 2795
Oller

Motor Vehicles: Smog Check Program

Failed Legislative Deadline

Existing law establishes a motor vehicle inspection and maintenance program (Smog Check) administered by the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR) which includes the required use of dynamometers in the Enhanced Areas of the state.

This bill would have repealed the Enhanced Smog Check Program reverting back to the pre-1994 program and would have permitted every motor vehicle subject to inspection to be pre-tested. This bill would have also required the BAR to buy back the dynamometer equipment from smog check station owners. (H&S C §§ 44000.5, 44011, 44012, 44013.5, 44014, 44015, 44017, 44020, 44021, 44024.5, 44033, 44036, 44045.5, 44050, 44056, 44060, 44062.1, 44081, 44081.6, 44011.3, 44003, 44010.5, 44014.2, 44014.4, 44014.5 & 44014.7 and Veh C § 4000.3)

AB 2802
Assembly Consumer Protection

Professions and Vocations

Chapter 970 Statutes of 1998

Please see AB 2802 on page 113 for Summary

SB 40
Johannessen

Vehicles: Smog Impact Fee

Failed Legislative Deadline

Existing law, with specified exceptions, requires any person registering a 1975 or subsequent model gasoline-powered motor vehicle or a 1980 or subsequent model year diesel-powered motor vehicle last registered outside this state to pay a $300 smog impact fee to the Department of Motor Vehicles at the time of registration.

This bill would have repealed those provisions. (R&T C §§ 6261, 6262 & 6263)

SB 61
Haynes

Vehicle Inspection and Maintenance

Failed Senate Transportation

Existing law requires the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR), to establish an enhanced vehicle emissions inspection and maintenance program (I/M) in urbanized areas of the state that are classified as non-attainment areas for ozone and oxides of nitrogen (NOx). As part of the I/M, the law also requires the biennial testing of 15% of the state's vehicle fleet in the enhanced areas be performed at a test-only facility. Existing law also requires the DCA/BAR to develop a voluntary certification program which may be called a "gold shield" program providing motorists the option of guaranteed repairs at a qualified station minimizing additional trips back to a test-only facility for certification.

This bill would have repealed the Enhanced Smog Check Program reverting back to the pre-1994 program. It would also have prohibited: 1) any vehicle from being subjected to any emission standard that varies from the standards set at the time of manufacture or to any tailpipe emissions standard that is stricter than the standards applicable pursuant to federal law; 2) any regulation pertaining to motor vehicle emissions from being adopted or revised by the California Air Resources Board until the regulation has been submitted and enacted through statute authorizing the adoption of the regulation by the Legislature; 3) any mandatory roadside inspections; and 4) confiscation of any vehicle. (H&S C Chapter 5 [commencing

with Section 44000] of Part 5 of Division 26 & § 43000.7 and Veh C § 9250.18)

SB 201 Kelley

Vehicles: Smog Impact Fee: Exemption

Failed Legislative Deadline

Existing law generally requires any person registering a 1975 or subsequent model year gasoline-powered motor vehicle or a 1980 or subsequent model year diesel-powered motor vehicle last registered outside this state to pay a $300 smog impact fee to the Department of Motor Vehicles at the time of registration.

This bill would have exempted from that fee a vehicle that is sold through a dealer conducting a wholesale motor vehicle auction. (R&T C § 6262)

SB 322 Craven

Auto Body Repair: Shop Certification

Failed Legislative Deadline

Existing law requires the Bureau of Automotive Repair (BAR) within the Department of Consumer Affairs to register and regulate automotive repair dealers.

This bill would have required the BAR to create the Better Auto Body Repair Shop Gold Star Program--a voluntary certification program for auto body repair facilities until January 1, 2003. (B&P C Article 12 of Chapter 20.3 of Division 3)

SB 1096 Brulte

Air Quality: Heavy-Duty Vehicles

Dropped

Existing law establishes various provisions with respect to the control and reduction of vehicular air pollution.

This would have made legislative findings and declarations regarding the reduction of heavy-duty vehicle emissions and financial assistance for that purpose. (R&T C § 17054.40)

SB 1275 Haynes

Air Pollution: Heavy-Duty Vehicles

Failed Legislative Deadline

Existing law requires the State Air Resources Board (ARB) to reduce emissions from heavy-duty motor vehicles by adopting specified regulations and by cooperating with the Department of the California Highway Patrol in conducting roadside inspections to enforce a prohibition against the use of a heavy-duty vehicle that emits excessive smoke. It also requires the ARB to adopt regulations that require owners or operators of heavy-duty diesel vehicles to perform regular inspections of their vehicles for excessive smoke.

This bill would have required the ARB, by June 30, 1997, to implement and enforce a heavy-duty vehicle roadside inspection program. (H&S C §§ 43703 & 44011.6 and R&T C §§ 17053.41 & 23641)

SB 1343
Johannessen

Air Pollution: Vehicular Emissions: Particulate Matter

Dropped

Existing law authorizes the State Air Resources Board (ARB) to adopt and implement motor vehicle emissions standards, in-use performance standards, and motor vehicle fuel specifications to control air contaminants. It also requires the ARB to endeavor to achieve the maximum degree of emissions reduction from vehicular sources.

This bill would have required the ARB to give as much consideration to air flow enhancement devices as to reconstituted fuel or fuel alternatives, as specified. (H&S C § 43013.1)

SB 1358
Costa

Air Pollution: Motor Vehicle Inspection and Maintenance

Failed Legislative Deadline

Existing law requires the state Air Resources Board to periodically analyze the phenomena of transported air pollutants and to establish mitigation requirements commensurate with the level of contribution of upwind emissions to downwind pollution. Existing law also requires the Department of Consumer Affairs/Bureau of Automotive Repair, to establish an enhanced vehicle emissions inspection and maintenance program in urbanized areas of the state that are classified as non-attainment areas for ozone and oxides of nitrogen.

This bill would have subjected certain upwind districts to the enhanced motor vehicle inspection and maintenance program.
(H&S C §§ 44003 & 44010.5)

SB 1366
Monteith

Air Pollution: Motor Vehicle Inspection and Maintenance

Dropped

Existing law requires the state Air Resources Board (ARB) to periodically analyze the phenomena of transported air pollutants and to establish mitigation requirements commensurate with the level of contribution of upwind emissions to downwind pollution. Existing law also requires the Department of Consumer Affairs/Bureau of Automotive Repair, to establish an enhanced vehicle emissions inspection and maintenance program in urbanized areas of the state that are classified as non-attainment areas for ozone and oxides of nitrogen.

This bill would have required the ARB to modify the mitigation requirements requiring upwind districts that contribute an overwhelming or significant level of transported air pollutants to revise their plans to reduce emissions, make mitigation payments, or both. The bill would have also subjected upwind districts to the enhanced motor vehicle inspection and maintenance program.
(H&S C §§ 40915, 44003, 39611 & 39611.5)

SB 1423
Mountjoy

State Air Resources Board: Department of Consumer Affairs

Failed Senate Environmental Quality

Existing law requires the Air Resources Board (ARB) to adopt standards, rules, and regulations necessary for the proper execution of the powers and duties granted to the ARB by the provisions of law relative to air quality. Existing law also authorizes the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR) to adopt regulations to carry out those duties imposed on the BAR under the Motor Vehicle Inspection Program.

This bill would have: 1) prohibited any regulation pertaining to emissions from being adopted or revised by the ARB or the DCA/BAR until the regulation had been submitted and enacted through statute authorizing the adoption of the regulation by the Legislature; 2) required the Joint Committee on Rules to adopt procedures regarding the submission and approval of relevant regulations; 3) prohibited amendment to any submitted regulation until the initial regulation had first been approved by the Legislature; 4) required that submitted regulations that failed the Legislature be sent back to the ARB or DCA/BAR for reconsideration accompanied with the Legislature's comments; and 5) sunset all current regulations as of June 1, 2000, unless the Legislature enacted a statute approving these regulations. (H&S C §§ 39601.5 & 44001.6)

SB 1636
Haynes

Air Pollution: Heavy Duty Vehicles: Smokemeter Certifications

Dropped

Existing law, the Personal Income Tax Law and the Bank and Corporation Tax Law, authorizes various credits against the taxes imposed by those laws.

This bill would have authorized a credit against those taxes for each taxable and income year beginning on or after January 1, 1998, in an amount equal to 6 1/2% of the taxpayer's gross sales, during the taxable or income year of any heavy-duty smoke meters manufactured by the taxpayer in this state that have been approved for use by the State Air Resources Board. (R&T C §§ 17053.41 & 23641)

SB 1725
Johannessen

Air Pollution: Vehicles: Retirement

Failed Legislative Deadline

Existing law requires the California Air Resources Board (ARB) to establish, by regulation, a statewide privately-operated program, to be overseen by a state agency designated by the governor, and to generate emission reduction credits through the retirement or disposal of high-emitting, light-duty vehicles.

This bill would have required the ARB to allow the sale of vehicles that are being run through a vehicle retirement program, to interested collectors. (H&S C § 44101)

SB 1726
Johannessen

Emissions Standards

Failed
Senate
Transportation

Existing law permits the California Air Resources Board (ARB) to adopt emission standards for 1977 and later model year motorcycles that are sold in the state on or after July 1, 1976, or such later date as established by the ARB by regulation.

This bill would have prohibited the ARB from adopting any emissions standards for all-terrain vehicles or off-road motorcycles that are powered by a two-stroke engine. The bill would have also provided that no regulation concerning emissions standards for motorcycles may be adopted, amended, or repealed by the ARB until it has been approved by the Legislature through statute.
(H&S C §§ 43107 & 43200)

SB 1754
Johannessen

Motor Vehicles

Chapter 938
Statutes of 1998

Existing law establishes a motor vehicle inspection and maintenance program (Smog Check) administered by the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR). It also: requires inspection of motor vehicles upon initial registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances; requires the use of dynamometer testing equipment in the enhanced program areas of the state; and, authorizes motor vehicles to be equipped with various turn signal and pilot indicators.

This statute permits a pre-test for every motor vehicle subject to a Smog Check and requires that the vehicle owner be notified of the pretest option via the information pamphlet provided by the DCA included with the notice for renewal of vehicle registration. In addition, the statute authorizes motor vehicles to be equipped with not more than two exterior-lighted data monitors that transmit information. (H&S C § 44011.3 and Veh C §§ 4000.3 & 25108)

SB 1926
Mountjoy

Water Contamination: Liability: Motor Vehicle Fuel Additives

Failed
Senate
Environmental

Existing law provides that every party is responsible not only for the result of his or her actions, but also for an injury caused to another by the want of ordinary care or skill in the management of his or her property or person.

This bill would have, among other things, made the manufacturer of methyl tertiary-butyl ether (MTBE), or a product that contains MTBE, jointly liable with the owner and operator that releases MTBE into the groundwater. (Civ C § 1714.11; H&S C §§ 25299.37.1, 43833, 43830.5, 116346 & 116671; and Wa C §13285)

SB 1959
Schiff

Professions: Licensing: Military Service

Chapter 405
Statutes of 1998

Existing law requires applicants for licensure as a barber to have completed a 1500-hour training course or a two-year apprenticeship program and pass an examination; requires applicants for licensure as a security guard to complete a two-hour training course. In addition, training courses must be completed for any weapon the guard wishes to carry, i.e., firearm, baton, tear gas; requires applicants for licensure as a private patrol operator to have had at least one year of experience as a security guard or equivalent and pass an examination; and requires applicants for a smog check technician license to complete a certified training program and pass a qualifications test.

This statute allows an applicant to substitute military experience for the 1500-hour training course required to qualify to take the barbering examination; allows a security guard applicant to substitute military training for other required training; allows a private patrol operator applicant to qualify to take the licensing examination based on military experience; and allows comparable military experience to substitute for the completion of a smog check training program. (B&P C §§ 7321.5, 7582.8 & 7583.1 and H&S C § 44031.5)

SB 2077
Mountjoy

Transportation: Air Quality Public Officials

Failed
Senate
Transportation

Existing law provides for a coordinated state, regional, and local effort to protect and enhance the ambient air quality of the state.

This bill would have encouraged certain public officials, including the head of the Bureau of Automotive Repair to drive no more than one private vehicle for every two members of their immediate family who have California driver's licenses. The bill would have also prohibited these officials from being provided with, or transported in, a publicly owned or leased vehicle. These officials would have been required to submit records to the Legislature of their personal, business, and immediate family's travel on public and private modes of transportation. (H&S C § 39006)

SB 2181
Thompson

Automotive Repair Act: Terminology

Dropped

Existing law requires owners of automotive repair businesses to register with the Department of Consumer Affairs, makes various references to the term "mechanic," and defines the term to include the performance of various automotive repair functions.

This bill would have established, until January 1, 2001, the California Automotive Repair Advisory Committee to analyze the effectiveness of the automotive repair industry, and also would have replaced the term "mechanic" with the term "automobile technician" in law. (B&P C 9880.1, 9882.5, 9884.7 and to add and repeal Article 2.5 [commencing with Section 9883] of Chapter 20.3 of Division 3)

SB 2185
Kelley

Chapter 92
Statutes of 1998

Air Pollution: Motor Vehicle Inspection and Maintenance

Existing law provides that a certificate of compliance or noncompliance for an emissions test is valid for 90 days.

This statute extends the validity of a Smog Check certificate of compliance for a licensed automobile dealer from 90 to 180 days. (H&S C § 44015)

SCA 20
Mountjoy

Failed
Senate
Transportation

Vehicle Inspection and Maintenance

Existing law requires the Department of Consumer Affairs/Bureau of Automotive Repair (DCA/BAR) to establish an enhanced vehicle emissions inspection and maintenance program (I/M) in urbanized areas of the state that are classified as non-attainment areas for ozone and oxides of nitrogen (NOx). As part of the program, the law also requires the biennial testing of 15% of the state's vehicle fleet in the enhanced areas be performed at a test-only facility. Existing law also requires the DCA/BAR to develop a voluntary certification program which may be called a "gold shield" program providing motorists the option of guaranteed repairs at a qualified station minimizing additional trips back to a test-only facility for certification.

This constitutional amendment would have repealed the Enhanced Smog Check Program reverting back to the pre-1994 program. It would also have: 1) removed all authority to address oxides of nitrogen (NOx) pollution, 2) prohibited centralized testing stations, 3) exempted vehicles twenty-five (25) or more model years old, 4) required the use of BAR90 testing equipment throughout the state, 5) prohibited the use of dynamometer testing equipment, 6) authorized the pre-testing of vehicles, 7) prohibited the use of remote sensing equipment until authorized by statute, 8) imposed a $250 cost limit on repairs, and 9) required the DCA to prepare and submit an annual report to the Legislature on the analyses and evaluations of the program and hold a public hearing prior to submitting each report. (State Constitution adding Article XIXA)

(7) Barbering and Cosmetology Program

AB 1656
Ducheny

Chapter 324
Statutes of 1998

1998-99 Budget

Please see AB 1656 on page 118 for Summary

AB 2802
Assembly
Consumer
Protection

Chapter 970
Statutes of 1998

Professions and Vocations

Please see AB 2802 on page 113 for Summary

SB 149
Rainey

Corrections

Chapter 410
Statutes of 1998

Existing law requires persons who render barbering or cosmetology services to be licensed by the Barbering and Cosmetology Program within the Department of Consumer Affairs and provides for exemption from licensure for specified persons or activities, i.e., military personnel, persons providing services without compensation, persons authorized to practice medicine, dentistry, pharmacy or nursing.

This statute exempts persons from licensure who render barbering and cosmetology services to incarcerated persons provided they have completed a barbering training course and passed an examination in the proper care of instruments and prevention of disease. Additionally, this statute specifies that barbering facilities located in correctional institutions are subject to health and safety sanitation standards. (B&P C § 7319)

SB 184
Polanco

Barbering and Cosmetology: State Board

Vetoed
September 23, 1998

Existing law sunsets the Board of Barbering and Cosmetology on July 1, 1997 and transfers its powers and duties to the Department of Consumer Affairs (DCA). Existing law also provides for the licensure and regulation of barbers and cosmetologists by the Barbering and Cosmetology Program within the DCA.

This bill would have created the Barbering and Cosmetology Technical Advisory Committee, deleted the sunset clauses in several provisions relating to barbering and cosmetology schools and instructors, and sunset the Barbering and Cosmetology Practice Act on July 1, 2005. (B&P C §§ 7301, 7302, 7303, 7348, 7358, 7362.1, 7362.2, 7362.3, 7390, 7391, 7392, 7393, 7394, 7395, 7423.5 & 7427)

Veto Message

Governor Pete Wilson
To the members of the California Senate:

I am returning Senate Bill No. 184 without my signature.

This bill would statutorily create a technical advisory committee to the Barbering and Cosmetology Program within the Department of Consumer Affairs, composed of five members appointed to four-year terms. Three members would be appointed by the Governor. One member would be appointed by the Speaker of the Assembly and one member would be appointed by the Senate Rules Committee.

The previously existing Board of Barbering and Cosmetology was reviewed by the Administration and the Joint Legislative Sunset Review Committee, who recommended that the Board and its duties be permitted to sunset and to be assumed by the Department of Consumer Affairs. This occurred and the Board ceased to exist. The provisions of SB 184 would essentially recreate the Board under a new guise.

SB 1959
Schiff

Professions: Licensing: Military Service

Chapter 405
Statutes of 1998

Please see SB 1959 on page 126 for Summary

SB 2239
Polanco

Professions and Vocations

Chapter 878
Statutes of 1998

Please see SB 2239 on page 108 for Summary

(8) Board of Behavioral Sciences

AB 276
Woods

Hypnotherapists: Hypnotherapist Registration Act

Dropped

Existing law does not require persons practicing hypnotherapy to be licensed.

This bill would have identified standards and qualifications for persons practicing hypnotherapy. (B&P C § 4550)

AB 1439
Granlund

Health Care Practitioners: Identification: Mental Health: Involuntary Commitments

Chapter 1013
Statutes of 1998

Existing law defines a health care practitioner as "any person who engages in acts which are the subject of licensure or regulation under the healing arts division of the Business and Professions Code or under any initiative act referred to in this division." Existing law also allows persons deemed to be dangerous to themselves or others to be detained for a period of 72 hours for evaluation. A determination can then be made to certify the person for a maximum of 14 days for treatment. Two parties must sign this 14-day certification, the first of who must be either a physician or a licensed psychologist. The second signature must be either from a social worker or registered nurse.

This statute requires health care practitioners to disclose their practitioner's status and specialty on nametags while working and prohibits any person other than a registered nurse or a licensed vocational nurse from using the title "nurse". This statute also requires that a social worker who provides the second signature on a 14-day certification to commit a person for mental illness or chronic alcoholism to be a licensed clinical social worker. (B&P C § 68 and W&I C § 5251)

AB 1449
Brown

Licensed Marriage, Family and Child Counselors: Name Change

Chapter 108
Statutes of 1998

Existing law provides for the licensing and regulation of marriage, family and child counselors by the Board of Behavioral Sciences (BBS).

This statute changes the title of the license issued by the BBS from **licensed marriage, family and child counselor and marriage, family, and child counselor to licensed marriage and family therapist and marriage and family therapist, effective July 1, 1999.** (B&P C § 4980.08)

AB 2508
Gallegos

Vocations: Marriage, Family and Child Counselors

Dropped

Existing law provides: 1) for the licensing and regulation of marriage, family, and child counselors (MFCC) by the Board of Behavioral Sciences (BBS); 2) that a MFCC in private practice may supervise or employ no more than two unlicensed MFCC interns at any one time; and 3) that a marriage, family, and child counseling corporation may employ no more than two registered interns for each employee or shareholder who is qualified to provide supervision. The corporation shall not employ, at any one time, more than 10 registered interns and a supervisor shall supervise no more than two interns.

This bill would have provided that a marriage, family, and child counseling partnership may employ no more than two registered interns for each employee or partner who is qualified to provide supervision. The partnership shall not employ, at any one time, more than 10 registered interns and a supervisor shall supervise no more than two interns at any one time. (B&P C § 4980.45)

AB 2721
Miller

Healing Arts Licensees: Unprofessional Conduct: Acupuncture Licensees

Chapter 971
Statutes of 1998

See AB 2721 on page 56 for Summary

SB 288
Haynes

Healing Arts: Social Workers

Failed
Assembly
Consumer
Protection

Existing law requires all applicants for licensure as a licensed clinical social worker (LCSW) to successfully pass both a written and oral examination administered by the Board of Behavioral Sciences (BBS).

This bill would have eliminated the oral examination requirement for LCSW applicants. In addition, this bill would have required the BBS to use a written examination developed by the American Association of State Social Work Boards. (B&P C §§ 4980.34, 4992.1, 4996.3 & 4996,4)

SB 958
Hughes

Behavior Analysis

Dropped

Existing law requires persons practicing psychology to be licensed by the Board of Psychology.

This would have created the Behavior Analysts Certification Act within the Business and Professions Code to certify behavior analysts, associate behavior analysts, and behavior technicians.
(B&P C § 2999)

SB 1983
Greene

Healing Arts: Boards

Chapter 589
Statutes of 1998

Existing law provides for the Board of Psychology (BOP) and the Board of Behavioral Sciences (BBS) to license and regulate licensees and registrants within those professions. The BOP and the BBS become inoperative and repealed on July 1, 1999, and January 1, 2000.

This statute extends the BOPs and BBS' inoperative and repeal dates to July 1, 2005 and January 1, 2006. This statute also amends various sections to the Business and Professions Code for each board.
(B&P C §§ 2920, 2922, 2925, 2933, 2936, 2942, 2946, 2964.3, 2966, 4980.34, 4989, 4990.1, 4990.8, 4996.18, 4996.20 & 4996.21)

(9) Cemetery Program/ Funeral Directors & Embalmers Program

AB 1314
Leach

Cremated Remains

Chapter 168
Statutes of 1998

Existing law provides for the regulation of cemeteries including provisions for the registration and regulation of cremated remains disposers (CRD). CRDs are required to be registered with the Cemetery Program and are required to submit an annual report specifying the number of cases handled and the area of scattering.

This statute requires a CRD, at the time of registration or renewal, to file an annual report that includes the names of the deceased, the date of receipt of cremated remains, and the date, location, and the manner or means of the disposition of the cremated remains. The report shall include the names and addresses of the persons who authorized the disposition. The CRD is required to dispose of the cremains within 60 days of receipt of the cremains or submit a written explanation of the reason the disposal will be delayed to the person with the right to control the disposition. The CRD is required to provide the Cemetery Program with the address and telephone number of any storage facilities being used by the CRD. **The Cemetery Program is required to conduct random inspections of the CRD operations and is authorized to inspect any storage facilities being used by the CRD**. Any CRD who stores cremains in a reckless manner that results in the loss of all or part of the cremains is guilty of a misdemeanor. (B&P C §§ 9745 & 9744.5 & 9749.3)

AB 1560
Scott

Nonendowment Care Cemeteries: Abandonment

Chapter 994
Statutes of 1998

Existing law provides that the Department of Consumer Affairs (DCA) is vested with the authority to regulate licensed cemetery authorities, cemetery brokers, and crematories and to monitor the condition of the endowment care and the special care funds held by

those licensees. The DCA is authorized to conduct audits of the endowment and special care funds and to bring action to enforce the provisions of law subject to its jurisdiction.

This statute: 1) provides that the DCA, upon petition to the court for conservatorship over the cemetery, would assume the responsibility for a **non-endowment** care cemetery; 2) provides that conservatorship of such a cemetery would be terminated after 10 years if the **endowment care fund** does not meet the minimum funds required by law; 3) requires the DCA to directly maintain the cemetery and remove coping, improvements, and embellishments that are found to be a threat or danger to the public health, safety, comfort, and welfare; and 4) defines "nonendowment care cemetery" to mean only a cemetery that is regulated by the state. (H&S C § 8825.5)

This bill was amended to address HMOs and chaptered in that form.

AB 1705
Torlakson

Cremated Remains

Chapter 614
Statutes of 1998

Existing law provides for the registration and regulation of cremated remains disposers (CRD). Currently, cremated remains may be disposed of by burial in a cemetery or stored in a niche, scattered at a dedicated cemetery or scattered over the ocean at least three miles off shore.

This statute requires a funeral director to obtain a written, signed document containing the name of the person with the right to control the disposition, the name of the deceased, the name of the funeral director, the name of the crematorium and instructions regarding the disposition of cremains from the person with the right to control the disposition. The CRD is required: 1) to dispose of the cremains within 60 days of receipt, unless a written reason for the delay is submitted to the person with the right to control the disposition; 2) post, at the place of business, a copy of his/her current pilot's license or boating license and the address of any storage facility he/she uses to store cremated remains; 3) include in the annual report the names of the deceased, date of receipt and date of disposition of the cremains, the location and manner of disposition, and the name of the person who authorized the disposition. **The Department of Consumer Affairs is required to furnish the CRD with a booklet that includes information regarding the registration and renewal process, storage requirements for cremains, any requirements to obtain permits to dispose of the cremains and other applicable state laws.** This statute will authorize the disposal of cremains over land areas of the state provided the proper authorizations are obtained from the landowners or state and local agencies. (B&P C §§ 7685.2, 9741, 9740.5, 9741.1 & 9745; and H&S C §§ 7010.7, 7054, 7116, 7117 & 103055)

AB 1709
Alquist

Cemetery and Funeral Fraud

Chapter 286
Statute of 1998

Existing law requires that at the beginning of discussions regarding prices of the funeral goods and services offered, the funeral director shall provide an itemized, detailed printed listing specifying the price for the professional services offered.

This statute requires all funeral establishments and cemetery authorities to display and make available a copy of the consumer guide for funeral and cemetery purchases to individuals who inquire about funeral or cemetery purchases. **The Department of Consumer Affairs is required to make a copy of its "Consumer Guide to Funeral and Cemetery Purchases" available to the funeral establishments and cemetery authorities in printed form and electronically on the Internet for the purposes of copying and distribution.** This statute also requires retail casket sellers to prominently display the prices and construction material of all caskets and alternative containers they offer for sale. (B&P C §§ 7685.5, 9663 & 17530.7)

AB 2802
Assembly
Consumer
Protection

Professions and Vocations

Chapter 970
Statutes of 1998

Please see AB 2802 on page 113 for Summary

SB 1360
Alpert

Human Remains: Disposition

Chapter 253
Statutes of 1998

Existing law lists the person or persons who may, in a specified order of succession, control the disposition of the remains of a deceased person if other directions have not been given by the decedent. Existing law requires a funeral director or cemetery authority in control of the decedent's remains to notify the public administrator if certain persons with the right to control the disposition of the remains cannot be found after reasonable inquiry or cannot be contacted by reasonable means.

This statute provides that if the person to whom right of control has vested under those provisions has been charged with first or second degree murder or voluntary manslaughter in connection with the decedent's death, the right of control over the disposition of the remains of the deceased person is relinquished and passed on to the next of kin in accordance with those provisions. The statute also adds to and revise the list of persons who may control the disposition of the remains of a deceased person pursuant to these provisions, and deletes the reference to the cemetery authority with regard to this notice requirement. (H&S C §§ 7100 & 7100.1 and Prob C § 7600.6)

SB 1498
Karnette

Public Cemetery Districts: Cremated Remains: Placement

Chapter 236
Statutes of 1998

Existing law authorizes a public cemetery district to maintain a cemetery or cemeteries.

This statute authorizes a district to acquire, construct, improve, maintain, and repair a columbarium for the placement of cremated human remains. The statute authorizes a district to sell burial rights in niches of a columbarium, and requires the district to establish rates for the sale of those burial rights. (H&S C § 8961.13)

SB 2078
McPherson

Veterans Cemeteries

Vetoed
September 30, 1998

Existing law provides for the burial of veterans and veterans' widows and widowers, and the care of veterans' graves.

This bill would have required the Department of Veterans Affairs (Department) to conduct a statewide feasibility study concerning state-owned and state-operated veterans cemeteries. The bill would have required the Department, when requested by the Monterey County Board of Supervisors, and would authorize the Department, when requested by any other county board of supervisors, to conduct a feasibility study, in cooperation with that board of supervisors, to determine the feasibility of establishing a state-owned and state-operated cemetery in the respective county. The bill would have required any feasibility study conducted pursuant to these provisions to be submitted to the Legislature on or before July 1, 1999.

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 2078 without my signature.

This bill would require the Department of Veterans Affairs to conduct a statewide study concerning the feasibility of state-owned and state-operated veterans cemeteries, and to submit the report to the Legislature on or before July 1, 1999.

This bill is unnecessary. The Department of Veterans Affairs has already completed a study on the feasibility of constructing a state veterans cemetery. This bill would also set an inappropriate precedent by allowing any county to mandate that the Department conduct a study on the feasibility of a state operated veterans cemetery. Completion of these studies would require the Department to redirect budgeted resources from other activities critical to the successful administration of Veterans Affairs programs.

SB 2239
Polanco

Professions and Vocations

Chapter 878
Statutes of 1998

Please see SB 2239 on page 108 for Summary

(10) Contractors' State License Board

AB 746
Miller

Liability: Construction Defects — **Dropped**

Existing law imposes liability for defective design or defective construction of residential buildings and improvements based on tort and contract law for negligence, strict liability, express contract and implied warranty. Strict liability generally has been applied to construction of residential buildings, which the courts have determined is comparable to mass-produced consumer goods. Existing law allows monetary damages for design and construction defects to be awarded for property damage, personal injury or wrongful death and imposes liability for a design or construction defect on those responsible for the defect. Existing law also provides that an action to recover damages for a latent defect related to construction upon real property must be brought within 10 years from the substantial completion of the development or work.

This bill would have provided that a builder, developer, contractor or seller of residential improvements shall not be liable for any loss or damage from a defect in design, surveying, planning, supervision or observation of construction of residential projects unless the defect is caused by a construction defect as defined. Further, it would have provided that compliance with applicable building codes in effect at the time of construction would have established a rebuttable presumption of construction in accordance with accepted trade and professional standards of care. The bill would also have reduced the statute of limitations for a latent defect in real property to six years after the completion of the development or work. (Civ C § 3269; CCP § 337.15; and Ins C § 11580)

AB 1309
Machado

Liability Insurance: Construction Defects — **Dropped**

Existing law provides that certain types of insurance policies may cover claims made during the policy period or losses that occur as a result of an action or omission by the insured during the policy period.

This bill would have provided that a general liability insurance policy issued to a contractor or real estate developer may not cover any injury or progressive damage that results from a construction defect that was reported to or discovered by the contractor or real estate developer or his or her agent prior to issuance of the policy.
(Ins C § 11589.6)

AB 1434
Shelley

Fire Prevention: State Fire Marshal: Standards for Electricians — **Dropped**

Existing law requires the State Fire Marshal (SFM) to establish and validate minimum standards for fire protection personnel and fire protection instructors at all career levels. Existing law provides for the

licensure and regulation of electrical contractors by the Contractors State License Board.

This bill would have required the SFM to establish and validate minimum standards for the competency and training of electricians through a system of testing and certification. The SFM would have been required to establish advisory committees and panels to assist in carrying out the provisions of this bill, establish fees necessary to implement the bill, and promulgate regulations to enforce the bill. (H&S C § 13142)

AB 1678
Alquist

Contractors: Application Requirements

Failed Legislative Deadline

Existing law provides for licensure and regulation of building contractors by the Contractors State License Board. The law does not impose any specific minimum education requirements on applicants for licensure as building contractors. Applicants may receive credit for technical training, apprenticeship training or education, in lieu of the required four years of practical experience at the journey level.

This bill would have required all applications for licensure as a building contractor to hold a high school diploma or equivalent.
(B&P C § 7067)

AB 2280
Papan

Contractors: Works of Improvement

Vetoed
September 21, 1998

Existing case law provides that "pay-if-paid" clauses in contracts for public and private works of improvement which provide that a subcontractor will be paid the amount specified in the contract only if the contractor is paid, are void and unenforceable because they violate the public policy that underlies the statutory anti-waiver provisions of the mechanic's lien law (Wm. R. Clarke Corp. v. Safeco Ins. Co. [1997] 15 Cal.4th 822; Capitol Steel Fabricators, Inc. v. Mega Construction Co. Inc. [1997] 58 Cal.App.4th 1049). Existing law does not require an owner to provide security for development projects, but does provide for a mechanic's lien upon a property for certain persons who have bestowed labor or furnished materials. The lien is in the amount of value of the labor completed or the materials furnished.

This bill would have required property owners who contract for a work of improvement with a contract value of more than $1 million to provide financial security for the project through a bond, letter of credit or deposit account. This bill was intended to ensure that contractors, subcontractors, material suppliers and employees are paid for completed work in the event the owner of a construction project defaults on his or her contract with the prime contractor.
(Civ C § 3110.5)

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 2280 without my signature.

This bill would require property owners who enter into construction contracts for more than $1 million to provide the general contractor financial security for the project. The security must be in the form of a surety bond equal to 50 percent of the contract, a letter of credit for 15 percent of the contract or a cash deposit of 3 months' worth of payments under the contract. The bill would also require property owners to provide the general contractor with a copy of the construction mortgage or deed of trust certified by the county recorder.

Contract matters such as payment terms and the use of security instruments are best left to the contracting parties. General contractors are free to negotiate terms that are similar to the provisions of this bill. Similarly, property owners should be able to negotiate these issues without legislative interference.

AB 2301
Wright

Contracts

Chapter 571
Statutes of 1998

Existing law, the Contractors State License Law, regulates home improvement contracts offered by home improvement contractors and their salespersons. Federal regulations require all contracts for goods or services to disclose consumer claims and defenses which may be asserted against the seller or any subsequent holder of the contract.

This statute addresses the issue of home equity fraud and is designed to protect consumers from being duped into losing their homes to liens acquired through home improvement scams by providing written disclosure that the consumer is putting their home at risk. The statute also voids contracts secured by an interest in real property for goods and services with a value of $5,000 or less and makes loans secured by a mortgage on real property for more than $5,000 to be payable to the borrower or a third-party. **Violations of this statute's provisions will be grounds for discipline by the Contractors State License Board which enforces the provisions of the Contractors State License Law.** (B&P C §§ 7159.1 & 7159.2)

AB 2445
Oller

Works of Improvement: Mechanic's Liens

Dropped

Existing law provides that any original contractor or subcontractor who files a mechanic's lien is entitled to recover only the amount due him or her according to the terms of his or her contract after making deductions for claims of other claimants. Existing law provides that, in an action where the owner of property or the owner of any interest therein petitions the court for a decree to release the property from a lien that is not enforced, the prevailing party is entitled to attorney's fees not to exceed $1,000.

This bill would have provided that in an action to foreclose a mechanic's lien, the prevailing party may be entitled to reasonable attorney's fees. (Civ Code § 3150.5)

AB 2534
Margett

Contractors: Retention Proceeds

Vetoed
September 29, 1998

Existing law specifies the requirements for disbursement of retention proceeds withheld from any payment by a public or private entity to

the original contractor for a work of improvement or withheld from any payment by the original contractors to a subcontractor. The law defines original contractor as one who has a direct contractual relationship with the owner. (Also known as the "prime" contractor.) The law requires a public agency to withhold not less than five percent of a contract price until final completion and acceptance of a project, and that progress payments on public works contracts may not be in excess of 95 percent of the actual work to be completed. The law requires an original or prime contractor to pay to any subcontractor the amount allowed for work performed not later than 10 days after receipt of a progress payment or a release of retention proceeds consistent with the terms of the contract.

This bill would have established a uniform retention rate for withheld payments between owners and prime contractors and prime contractors and subcontractors for any work of improvement for contracts entered into on or after January 1, 1999. (Civ C § 3262.7)

Veto Message

Governor Pete Wilson
To Members of the California Assembly:

I am returning Assembly Bill 2534 without my signature.

This bill would constrain general contractors to withhold only that percentage, or less, in retention proceeds from a subcontractor that is being withheld by the principal, whether public or private; and would apply these provisions to all contracts for the construction of any work of improvement entered into on or after January 1, 1999. These provisions would not apply to subcontractors who do not provide payment or performance bonds, and would not apply to retention withheld by lenders per construction loan agreements.

Earlier this year I signed AB 2084 which will effectively authorize a standard for public works projects equivalent to the universal standard proposed by this bill.

Public agencies and public utilities are held to levels of practice which are often stricter and less flexible than those which apply to the private sector. This is sometimes necessary to ensure that the public trust and public dollars are protected. Mandatory notice, competitive bid and low bid requirements fit the public but not private model. The public must strive to treat each citizen in an antiseptically equal manner (all like situated taxpayers and ratepayers must pay the same rate, all eligible contractors must be given an opportunity to submit the lowest bid.

In the private sector preferred or long term customers often receive lower prices. Those with the best credit pay less interest. Contracts can be awarded to the highest bidder or without any bid process at all. While government should often seek to imitate the private sector, the private sector should rarely seek to imitate government. More often than not when government intrudes into the private sector it imposes mandates which burden and impede the flexibility and profitability of private business.

Occasionally, it is appropriate for the state to intervene. In this instance, however, the size of retentions can be freely negotiated. In those cases where the new state standard can be equitably applied to private contracts it should be mirrored not mandated.

AB 2627
Brown

Works of Improvement

Chapter 986
Statutes of 1998

Existing law provides for a mechanic's lien upon a property for certain persons who have bestowed labor or furnished materials. The

lien is in the amount of value of the labor completed or the materials furnished. The law provides for enforcement of mechanic's liens and generally governs payment provisions contained in contracts for works of improvement. The law requires that a property owner pay the contractor on a work of improvement within 30 days following receipt of a demand for payment when there is no good faith dispute between the parties. Contractors are entitled to a penalty if any amount of the payment is withheld wrongfully. Case law provides that "pay-if-paid" clauses in contracts for public and private works of improvement which provide that a subcontractor will be paid the amount specified in the contract only if the contractor is paid, are void and unenforceable because they violate the public policy that underlies the statutory anti-waiver provisions of the mechanic's lien law (Wm. R. Clarke Corp. v. Safeco Ins. Co. [1997] 15 Cal.4th 822; Capitol Steel Fabricators, Inc. v. Mega Construction Co. Inc. [1997] 58 Cal.App.4th 1049.)

This statute authorizes a contractor who has not been paid for undisputed work to stop work on the private work project after providing a 10-day notice to the owner and subcontractors. The contractor incurs no liability for his or her action. This allows the contractor to limit his or her losses when the owner has not paid the general contractor for undisputed work performed. (Civ C § 3260.2)

SB 185
Mountjoy

Contractors State License Law: Home Solicitation Contracts

Failed Senate Business and Professions

Existing law, the Contractors State License Law, requires home improvement contracts and swimming pool contracts that exceed $500 to include in writing certain specified requirements. Among other things, the contract must contain a schedule of payments by the owner or tenant to the contractor including the amount of each payment and the requirement that the contractor furnish a release from any claim or mechanic's lien for the work covered by each payment. The law also provides various exemptions from the definition of "home solicitation contract" and various regulatory provisions related to those contracts, including the right to rescind the contract within three days. One of those exemptions is for contracts for repair services with a licensed building contractor if the contract price is less than $100.

This bill would have recast the Contractors State License Law in regard to home improvement contracts to require that only contracts that exceed $1,500 in aggregate price are subject to the schedule of payments and claim release requirements. The bill would have changed the definition of "home solicitation contracts" to exempt repair contracts with licensed building contractors for less than $1,500. (B&P C §§ 7159, 7159.1, 7159.2 & 7159.3 and Civ C § 1689.5)

SB 339
Sher

Housing: Construction Liability

Failed Legislative Deadline

Existing law requires the licensure of building contractors by the Contractors State License Board (CSLB). The law authorizes the managing association of common interest developments to exercise certain powers, including the authority to litigate in its own name without joining with individual owners in matters pertaining to damage to interests or common areas, or interests arising from that damage, which the association is obligated to maintain or repair. Existing law, with respect to the burden of proof, recognizes by statute a doctrine of negligence in specified circumstances relating to the failure of a person to exercise due care.

This bill would have provided that any person who builds, develops, constructs, or supervises the construction of a residential project that consists of three or more units or lots and is intended for sale, shall be licensed as a general building contractor during all phases of construction. The bill would have authorized the managing association of a common interest development to bring an action on behalf of its members with respect to interests that it insures on behalf of its members. Additionally, the bill would have authorized the association to bring an action on behalf of owners in a common interest development based on construction defects. The bill would have provided that the failure to comply with applicable building codes and failure to comply with other ordinances and regulations for which a permit is required, is prohibited and constitutes a presumption of negligence within the meaning of the Evidence Code. The bill would have included a declaration of intent to statutorily overturn the decision in Morris v. Horton (1994) (22 Cal. App. 4th 968). The bill would have further provided that it is a violation of the State Housing Law for any person who builds, develops, constructs or supervises the construction of specified residential projects intended for sale, to not comply with specified responsibilities involving the use of an architect or engineer during prescribed phases of the residential project's construction. Additionally, the law would have provided that in subdivisions where there is no association, the court would be required to permit homeowners to sue for the benefit of other homeowners in the subdivision when the suit seeks damages for construction defects alleged to be common in the subdivision. (B&P C § 7057.5; Civ C §§ 383 & 383.1; Evid C § 669.7; and H&S C 17928)

SB 704
Polanco

Contracting

Dropped

Existing law provides that a person who is induced into a contract for a work of improvement by false or fraudulent means by a contractor may sue and recover a penalty of $500 in addition to attorney's fees and the value of damages sustained as a result of the misrepresentation. The law provides for the licensure and regulation

of home improvement contractors by the Contractors State License Board (CSLB). The law generally requires a 20-day written preliminary notice to be given by a claimant to various parties, including the construction lender or reputed construction lender, prior to recording a mechanic's lien, filing a stop notice, or asserting a claim against a performance bond on a private work of improvement, except by the contractor or by various other parties. The law also authorizes, under the Subletting and Subcontracting Fair Practice Act (also known as the Subcontractor Listing Law), an awarding authority to cancel the contract with a prime contractor or assess a penalty if the prime contractor violates certain provisions relating to subletting and subcontractors.

This bill would have made various changes to contracting law and procedures. Key elements would have included authorizing the lowest bidder, listed subcontractors and unions representing employees of the next lowest bidder to pursue "qui tam" actions on behalf of government agencies to enforce the Subcontractor Listing Law. The bill would also have increased damages for fraudulent home improvement contracts and modified the preliminary notice provision prior to recording a mechanic's lien. Amendments of August 21, 1998 deleted these provisions and would have required the CSLB to hold a public hearing and to recommend ways to enhance consumers' financial protection when contracting for residential construction services, and to present a detailed report to the Legislature and Governor by April 1, 1999. (B&P C § 7159 and Civ C 3260.1)

SB 994
Johnson

Local Agency Contractors: Eligibility

Dropped

Existing law provides for the debarment of contractors from bidding on public works contractors for up to three years, pursuant to a determination of certain violations by the Labor Commissioner. The law sets forth the provisions pursuant to which specified local public entities may enter into public works or services agreements and provides for the licensure and regulation of building contractors by the Contractors State License Board (CSLB).

This bill would have prohibited a local entity from directly suspending, debarring or otherwise prohibiting a licensed contractor from bidding on local public works or services contracts. The bill would also have required the CSLB to respond to inquiries from local agencies regarding the license status of a contractor in an unspecified number of days. (PCC Chapter 4 [commencing with § 22120])

SB 996
Burton

Construction Site Safety

Dropped

Existing law imposes various obligations on persons related to safety at construction sites. A civil action may be taken for failure to meet that obligation or an injury related to the obligation.

This bill would have placed in the Civil Code legislative intent language that every effort should be made to ensure safety at construction sites. (Civ C § 1714.11)

SB 1792
Mountjoy

Chapter 492
Statutes of 1998

Contractor: Arbitration of Disputes

Existing law provides that the Registrar of Contractors may refer complaints against contractors to binding arbitration if: 1) material damages are greater than $5,000 but less than $25,000; 2) both the consumer and contractor agree; 3) the complaint involves a likely violation of specified sections of law; and 4) the contractor has not had any previous disciplinary actions.

This statute doubles the dollar amount for material damages which would be eligible for arbitration to less than $50,000. (B&P C § 7085 & 7085.5)

SB 2217
O'Connell

Chapter 633
Statutes of 1998

Contractors: Small Operations

Existing law, the Contractors State License Law, requires that persons acting in the capacity of a contractor in California to be licensed by the Contractors State License Board (CSLB) unless that person is specifically exempted. Among the exemptions provided for is a de minimus exemption for work costing less than $300.

This statute increases that exemption to $500. It will require unlicensed persons performing work with a maximum contract price costing less than $500 to disclose to the purchaser in writing that he or she is not licensed by the Contractors State License Board (CSLB). **The statute provides the CSLB with authority to cite unlicensed persons for violations of the disclosure requirement.**
(B&P C §§ 7028.6, 7030 & 7048)

(11) Court Reporters Board

AB 128
Morrow

Failed
Legislative
Deadline

Electronic Recording

Existing law authorized the Judicial Council to establish a demonstration project to assess the costs, benefits, and acceptability of utilizing audio and video recording as a means of producing a verbatim record of proceedings in up to 75 superior court departments and also provided for the termination of the demonstration project in each county on January 1, 1994.

This bill would have authorized the Judicial Council to adopt rules to permit any court to utilize audio and video recording as a means of producing a verbatim record. (CCP § 270)

AB 398
Floyd

Court Reporters: Fees

Dropped

Existing law provides, notwithstanding any other law, whenever a transcript is ordered in a civil case requiring the services of more than one phonographic reporter, the requesting party is required to pay a fee equal to the per diem rate for pro tempore reporter, as specified, for the services of each reporter; transcripts prepared using computer assistance and delivered in a medium other than paper are required to be compensated for at the same rate as paper transcripts, except the reporter may charge an additional fee to cover the cost of the medium or copies thereof; the fee for a transcript in a computer readable format is charged at one-third of the cost of a paper transcript plus the additional charge for the cost of the medium or copies thereof; when the computer readable transcript is requested in lieu of a paper transcript, the charge is the same as if a paper transcript had been requested; and the person purchasing a transcript may make a copy of all or part of the transcript without incurring additional charges; however, that person is prohibited from selling or providing a copy to another party.

This bill would have provided that: 1) a court ordered rough draft transcript may be provided using computer assistance; 2) a rough draft transcript prepared by using computer assistance would have been compensated at 75% of the rate charged for a paper transcript; 3) when a certified paper transcript of the same proceedings is requested, it would be compensated at 35% of the paper rate; 4) if a court requests a daily rough draft transcript that requires the services of two reporters, the fees for the reporters and the transcript would have been chargeable against the court treasury; 5) when a single reporter prepares the daily rough draft, an additional fee for technological services may have been imposed, however, the total fee would have been less than the total fee for two reporters. (Gov C § 69954.5) (See AB 1372, Chapter 183)

AB 1051
Martinez

Telecommunications Devices: Deaf or Hearing Impaired Individuals

Chapter 38
Statutes of 1998

Existing law requires the Public Utilities Commission (PUC) to establish a program that provides telecommunication devices, free of charge, to hearing impaired individuals. A licensed physician or audiologist must certify that the individual is deaf or hearing-impaired before he or she can participate in the program.

This statute adds hearing aid dispensers to the list of persons that may certify hearing-impaired individuals for participation in the PUC's program that provides equipment to facilitate the use of the telephone if that individual has been previously fitted with an amplified device by the dispenser and the dispenser has the individual's hearing records on file prior to certification. (PUC § 2881)

AB 1094
Escutia

Civil Actions

Chapter 932
Statutes of 1998

Existing law provides for the establishment of the Court Reporters Board and the Transcript Reimbursement Fund. Existing law also provides that the Court Reporters Board and the Transcript Reimbursement Fund will sunset on July 1, 1999.

Among other things, this omnibus bill from the Assembly Judiciary Committee extends the sunset date for the Transcript Reimbursement Fund. This statute makes several noncontroversial changes to existing law regarding superior and municipal courts and court procedures. (B&P C §§ 22350, 6301.1, 8030.2, 8030.4, 8030.6 & 8030.8; Civ C §§ 1793.23, 2924 & 2924.3; CCP §§ 1005, 1985.3, 1985.6, 200, 2024, 2025, 2031, 484.350, 484.70, 569, 701.040, 77 & 87; Com C §§ 8603, 9501, 9502 & 9504; El C §§ 8023, 8040 & 8201; Gov C §§ 21290, 68152, 68511.3, 75050 & 76219; H&S C 115800.1 & 33502; Pen C §§ 11165.8 & 1368; and Fam C §§ 400 & 4251)

AB 2150
Brewer

Depositions: Computer-Assisted Transcription

Chapter 974
Statutes of 1998

Existing law sets forth procedures regarding the taking of oral deposition and requires any party seeking discovery by taking the oral deposition of a person to serve a deposition notice to all parties.

This statute requires a court deposition notice to state any intention to record the testimony by stenographic method through the instant visual display of the testimony and requires that this notice be given to the deposition officer. (CCP § 2025) (See AB 1094 & SB 2145)

AB 2279
Morrissey

Shorthand Reporters

Dropped

Existing law provides for the licensure and regulation of shorthand reporters by the Court Reporters Board of California.

Among other things, this bill would have prohibited the renewal of expired, suspended, or revoked certificates if the certificate holder had failed to pay monetary sanctions imposed by a court for failure to provide timely transcripts; permitted a person appearing pro se to seek reimbursement if the person was proceeding or was eligible to proceed in forma pauperis; and extended the sunset date of the Transcript Reimbursement Fund. (B&P C §§ 8024.2, 8024.3, 8024.4, 8024.6, 8025, 8030.2, 8030.4, 8030.6, 8030.8 & 8031)

SB 1074
Burton

Court Reporters and Fees

Failed
Legislative
Deadline

Existing law: 1) provides for the services of official and official pro tempore court reporters; 2) authorizes the use of electronic recording in certain circumstances; 3) provides for the preparation of a verbatim record of all actions and proceedings in a trial court; and 4) provides

for the proceeds of certain court fees to be deposited in the Trial Court Trust Fund, with specified exceptions.

This bill would have: 1) required the services of an official court reporter or official pro tempore reporter in felony proceedings, as specified; 2) authorized electronic recording in proceedings involving family law, law and motion hearings, writs and receivers and uncontested probate proceedings; 3) provided that a permanently employed court reporter could not have his/her hours of employment as a court reporter reduced as a result of the use of non-stenographic means of making the verbatim record of the proceedings; and 4) would have added an exemption for fees for court reporting services from deposit into the Trial Court Trust Fund. (CCP §§ 269 & 274(c) and Gov C §§ 68085, 68086 & 72194.5)

SB 1980
Greene

Regulatory Boards and Committees

Chapter 991
Statutes of 1998

Please see SB 1980 on page 111 for Summary

SB 2145
Maddy

Depositions

Chapter 875
Statutes of 1998

Existing law prescribes the procedure for conducting depositions in civil actions, such as requiring the parties to serve a notice of a deposition. The deposition notice must state, among other things, any intention to record the testimony by stenographic method.

This statute requires the deposition notice to state any intention to record the deposition by stenographic method through the instant visual display of the testimony. The statute also revises the provision requiring the deposition officer to suspend the taking of testimony on demand of any party, or the deponent. (CCP § 2025) (See AB 1094 & AB 2150)

(12) Board of Dental Examiners

AB 745
B.Thompson

Outpatient Settings: General Anesthesia

Chapter 505
Statutes of 1998

Existing law prohibits a dentist from administering or supervising the administration of general anesthesia to patients on an outpatient basis unless the dentist has a permit issued by the Board of Dental Examiners (BDE) authorizing the use of general anesthesia; and provides for the licensure and regulation of physicians and surgeons by the Medical Board of California (MBC).

This statute: 1) permits a physician and surgeon to administer general anesthesia in the office of a licensed dentist, for dental patients, whether or not the dentist has been certified to perform

general anesthesia, if the licensed physician and surgeon holds a valid general anesthesia permit issued by the BDE; 2) requires payment of a fee for issuance of the permit; 3) requires onsite inspection and evaluation; 4) requires automatic suspension of the permit for a physician and surgeon who has failed an onsite inspection and evaluation, except as prescribed; 5) requires the MBC to inform the BDE whether the applicant is a licensed physician and surgeon and to verify and inform the BDE whether the applicant has successfully completed a postgraduate residency training program in anesthesiology recognized by the American Council on Graduate Medicine; 6) provides that a violation of specified provisions by a physician and surgeon may constitute unprofessional conduct under the Medical Practice Act, and is grounds for suspension or revocation of the general anesthesia permit issued by the BDE; 7) requires the BDE to refer the matter to the MBC for its consideration as unprofessional conduct and for further action under the Medical Practice Act; 8) provides that a suspension or revocation of a physician and surgeon's permit by the BDE shall not constitute a disciplinary proceeding or action except to permit the initiation of an investigation or disciplinary action by the MBC; 9) repeals its provisions on January 1, 2000; and 10) takes effect immediately as an urgency statute. (B&P C §§ 1646.7, 1646.9, 2079 & 2245)

AB 2006
Kelley

Chapter 513
Statutes of 1998

<u>Dentistry: Oral Conscious Sedation</u>

Existing law provides that a dentist may administer or order the administration of conscious sedation on patients if the dentist meets one of the following conditions: 1) holds a license in good standing and either holds a general anesthesia permit or conscious sedation permit; or 2) holds a current maxillofacial surgery permit or a special permit and either holds a general anesthesia permit or conscious sedation permit.

This statute prohibits dentists from performing the procedure known as oral conscious sedation on dental patients under 13 years of age unless they hold a general anesthesia permit, a conscious sedation permit or a certificate from the Board of Dental Examiners. (B&P C § 1647.10)

AB 2387
Baugh

Chapter 892
Statutes of 1998

<u>Medi-Cal Reimbursement: Disciplined Licensees</u>

Existing law provides for the health care of qualified low-income persons through the Medi-Cal Program, administered by the Department of Health Services (DHS), and specifies that participation in the Medi-Cal program by a provider of service is subject to suspension in order to protect the health of service recipients and the funds appropriated to the support of the program.

This statute: 1) specifies that the DHS may not reimburse any

Medi-Cal claim for surgical service or invasive procedure, *including dental surgery or invasive procedure*, that was performed by a licensee of the Medical Board of California (MBC), the Osteopathic Medical Board (OMB), or the Board of Dental Examiners (BDE), whose license has been placed on probation as a result of disciplinary action; 2) limits the reimbursement prohibition to the *type* of surgical service or other invasive procedure that gave rise to the probation; 3) provides that the reimbursement prohibition is triggered by notification to the DHS by the relevant licensing board and is applicable from the effective date of the licensee's probation until the termination of all probationary terms and conditions or until the probationary period has ended, whichever occurs first; 4) provides that the reimbursement prohibition shall not apply in any case in which the relevant licensing board determines that "compelling circumstances" warrant continued Medi-Cal reimbursement during the probationary period; 5) requires the MBC, the OMB, and the BDE to work in conjunction with the DHS to provide all information that is necessary to implement the provisions of the bill; 6) requires the MBC, the OMB, the BDE and the DHS to report annually to the Legislature no later than March 1, the number of licensees of the respective boards who have been placed on probation during the preceding calendar year, as specified; and 7) provides for the sunset of its provisions as of July 1, 2003. (W&I C § 14124.12)

AB 2721
Miller

Healing Arts Licensees: Unprofessional Conduct: Acupuncture Licensees

Chapter 971
Statutes of 1998

Please see AB 2721 on page 56 for Summary

SB 557
Leslie

Healing Arts

Vetoed
September 29, 1998

Existing law provides that any person who practices medicine without a certificate issued by the Medical Board of California is guilty of a misdemeanor; provides that it is unlawful to engage in the practice of dentistry without a valid, unexpired license or special permit issued by the Board of Dental Examiners (BDE), except as specified; requires the independent review of certain health care service plan and disability insurer coverage decisions regarding experimental or investigational therapies; and specifies the criteria to be used by health care service plans to determine whether to authorize or deny health care services.

This bill would have provided that any person who makes a decision regarding medical necessity or appropriateness that affects any diagnosis, treatment, operation, or prescription without possessing a valid, unrevoked, or unsuspended certificate under the Medical Practice Act is guilty of a misdemeanor; made it unlawful for any

person to make a decision regarding the necessity or appropriateness of any dental diagnosis, treatment, operation, or prescription without a valid unexpired license or special permit from the BDE; and contained related provisions. (B&P C §§ 1626, 2052.1 & 2052.2)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 557 without my signature.

This bill would provide that any person who makes a decision regarding medical necessity or appropriateness that affects any diagnosis, treatment, operation or prescription without a medical certificate is guilty of a misdemeanor. The bill would also provide that it is unlawful for any person to make a similar decision regarding dental care without a dental license.

Extending Medical Board authority to medical necessity or appropriateness decisions will create new civil liability for those decisions without the protection of the Medical Injury Compensation Reform Act (MICRA). The author has attempted to clarify the question of civil liability, including an August 31, 1998 Senate Journal letter. However, provisions of the bill and letter are contradictory, thus calling into question the applicability of MICRA. This bill would, unwittingly or not, allow trial lawyers to prey upon innocent consumers and decent health care professionals.

SB 2239
Polanco

Professions and Vocations

Chapter 878
Statutes of 1998

Please see SB 2239 on page 108 for Summary

(13) Committee on Dental Auxiliaries

AB 2063
Cardenas

Dental Hygienists

Chapter 580
Statutes of 1998

Existing law: 1) establishes within the jurisdiction of the Board of Dental Examiners (BDE), the Committee on Dental Auxiliaries (COMDA); 2) authorizes the BDE, with advisory input from the COMDA, to license and regulate dental hygienists; 3) requires applicants to complete an educational program for registered dental hygienist (RDH) approved by the BDE; and, 4) requires RDH applicants to perform and pass an examination required by the BDE.

This statute: 1) requires an applicant to complete a dental hygienist educational program that is accredited by the Commission on Dental Accreditation and conducted by a degree-granting, a postsecondary institution as a condition for licensure as a RDH; and 2) requires a RDH to complete and pass a national written dental hygiene examination approved by the BDE.
(B&P C § 1758)

AB 2721
Miller

Healing Arts Licensees: Unprofessional Conduct: Acupuncture Licensees

Chapter 971
Statutes of 1998

Please see AB 2721 on page 56 for Summary

SB 2239
Polanco

<u>**Professions and Vocations**</u>

Chapter 878
Statutes of 1998

Please see SB 2239 on page 108 for Summary

(14) Bureau of Electronic & Appliance Repair

SB 2075
Polanco

<u>**Appliance and Electronic Service Contracts**</u>

Chapter 1075
Statutes 1998

Existing law, the Electronic and Appliance Repair Dealer Registration Law, provides for regulation of service contracts by the Bureau of Electronic and Appliance Repair (BEAR), when the contracts are sold in conjunction with retail sales for maintenance of appliances and electronic sets including televisions, radios, computer systems, video equipment, photocopiers, facsimile machines, and related products. Sellers and administrators of these service contracts must be registered with the BEAR. The law sets the fee for registration of service contractors at not more than $75 for each place of business. The Home Protection Act provides for regulation by the Department of Insurance (DOI) of home protection contracts in which a person agrees for a fee over a specified period of time, to repair or replace a system or appliance of a home necessitated by wear or defect. Home protection companies, which issue these contracts, must be licensed by the DOI.

This statute, on or after January 1, 2000 exempts from regulation by the DOI home service contracts offered or issued by a company or an affiliate of a company regulated by the California Public Utilities Commission (CPUC) that meet specified conditions. The statute provides that these contracts are to be included in the definition of service contracts in the Business and Professions Code. The intent of this statute is to have home service contracts currently issued by CPUC-regulated utilities and their affiliates placed under the regulatory authority of the BEAR, which currently regulates service contracts sold to perform maintenance on individual electronic sets or individual appliances or repair within the retail chain of distribution. **This statute requires the BEAR to conduct an in-depth study of the evolving marketplace elated to home service contracts and report its findings to the Legislature by May 1, 1999. The report is to include a recommendation on the appropriate form of regulation for service contracts. Additionally, the BEAR must promulgate regulations to provide for regulation of service contracts issued by regulated utilities and their affiliates.**
(B&P C §§ 9855 & 9873 and Ins C § 12741)

(15) Board of Registration for Professional Engineers and Land Surveyors

AB 969
Cardenas

Professional Engineers

Chapter 59
Statutes of 1998

Existing law provides for the registration of engineers by the Board of Registration for Professional Engineers and Land Surveyors (Board); grants title protection for 16 areas of engineering, (i.e., electrical engineer, chemical engineer, etc.); and prohibits anyone other than a professional engineer to stamp or seal specified documents or use specified titles unless registered by the Board.

This statute: 1) renames the Board to the Board for Professional Engineers and Land Surveyors; 2) adds "licensed engineer" to the list of protected titles; 3) deletes corrosion, quality, and safety engineer from the list of protected titles; 4) provides that anyone previously licensed or registered as a corrosion, quality or safety engineer may continue to use that title; and 5) provides that anyone who has applied for and completed the examination in one of these three titles prior to January 1, 1999 shall be issued a registration in that title. (B&P C §§ 27, 101, 112, 130, 149, 6706.3, 6710, 6732, 6732.3, 6732.4, 6787, 8706 & 8710; Gov C § 26509; and H&S C § 25208.9)

SB 2069
Knight

Professional Engineers: Registration

Failed
Senate Business and Professions

Existing law provides for the registration of engineers by the Board of Registration for Professional Engineers and Land Surveyors (Board); grants title protection for 16 branches of engineering, (i.e., electrical engineer, chemical engineer, etc.); and authorizes the Board to define the scope of practice for each branch.

This bill would have: 1) repealed the Board's authorization to define the scope of practice for each branch of engineering; 2) authorized professional engineers to practice engineering if he or she is competent; 3) restricted the use of a branch title to individuals registered in that branch; and 4) provided that regulatory provisions do not prohibit the practice of any other legally recognized profession, trade, or service if the person is practicing within that profession, trade or science.
(B&P C §§ 6717, 6730.3 & 6730.4)

SB 2239
Polanco

Professions and Vocations

Chapter 878
Statutes of 1998

Please see SB 2239 on page 108 for Summary

(16) Board of Registration for Geologists and Geophysicists

SB 1984
Greene

State Board of Registration for Geologists and Geophysicists

Chapter 992
Statutes of 1998

Existing law: 1) requires specified qualifications for registration as a geologist that include successfully passing a written examination; 2) specifies the maximum registration and renewal fees that may be fixed by the State Board of Registration for Geologists and Geophysicists and prohibits the board from increasing those fees beyond the amount fixed by the board as of January 1, 1993.

This statute: 1) requires the written examination to incorporate a national examination for geologists, and requires passage of a supplemental California specific examination, as specified; 2) increases the maximum fee for the filing of an application for registration as a geologist or geophysicist or certification as a specialty geologist or geophysicist and for administration of the examination from $100 to $250; and 3) deletes the prohibition against increasing this fee. The statute also imposes an examination fee not to exceed $300 for each applicant for registration as a geologist and an examination fee not to exceed $100 for each applicant for registration as a geophysicist or certification as an engineering geologist or a hydro-geologist. (B&P C §§ 7841 & 7887)

(17) Board of Guide Dogs for the Blind

AB 2802
Assembly Consumer Protection

Professions and Vocations

Chapter 970
Statutes of 1998

Please see AB 2802 on page 113 for Summary

(18) Hearing Aid Dispensers Examining Committee

AB 2658
Wright

Hearing Aid Dispensers

Failed
Senate Appropriations

Existing law provides for the licensing and regulation of hearing aid dispensers by the Hearing Aid Dispensers Examining Committee (HADEC) until July 1, 1999.

This bill would have: 1) extended the HADEC's inoperative and repeal dates to July 1, 2003, and January 1, 2004; and 2) required applicants for licensure as hearing aid dispensers to possess an Associate of Arts Degree, Associate of Science Degree, or satisfactorily completed 60 units of postsecondary education from either the university, state college or community college level effective January 1, 2002. (B&P C §§ 3320, 3330 & 3354)

AB 2721
Miller

Healing Arts Licensees: Unprofessional Conduct: Acupuncture Licensees

Chapter 971
Statutes of 1998

Please see AB 2721 on page 56 for Summary

AB 2802
Assembly Consumer Protection

Professions and Vocations

Chapter 970
Statutes of 1998

Please see AB 2802 on page 113 for Summary

SB 1930
Polanco

Professional License Fees

Vetoed
September 30, 1998

Existing law provides for the licensing and regulation of various professions by boards within the Department of Consumer Affairs, and authorizes these boards to charge fees to support their regulatory programs.

This bill would have: 1) added an application and renewal fee for the Speech-Language Pathology and Audiology Board's temporary license; 2) increased various fees for the Board of Vocational Nursing and Psychiatric Technicians; 3) increased various fees for the Hearing Aid Dispensers Examining Committee; and 4) permitted the Respiratory Care Board to file property liens or use the services of a collection agency to recover specified unpaid costs.
(B&P C §§ 2534.2, 2895, 3456, 3753.8 & 3766)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 1930 without my signature.

This bill would restructure the fee schedule for the Speech-Language Pathology and Audiology board; the Board of Vocational Nursing and Psychiatric Technicians, and the Hearing Aid Dispensers Examining Committee. The new fee schedule, which applies to applications, licensure, renewals, and other related professional licensing activities, provides the licensure boards with the authority to increase fees up to a specified ceiling. Additionally, the bill provides the Respiratory Care Board with the authority to lien property or use a state or private collection agency to recover enforcement awards, and to issue administrative penalties of up to $2,500.

There is no demonstrated need to justify the various fee increases included in this bill at this time. The fiscal analysis of these provisions indicates there are sufficient revenues to continue to operate these programs at the currently approved expenditure levels.

Further, the cost recovery provisions included for the Respiratory Care Board also appear to be premature. The Board has recently enrolled in the Tax Recovery Intercept Program administered by the Franchise Tax Board, in an effort to increase cost recovery efforts. Existing authority should be more thoroughly utilized and evaluated prior to granting an expansion of this nature contained in this bill.

SB 1982
Greene

Speech and Hearing Sciences Board of California

Failed Legislative Deadline

Existing law provides for the licensing and regulation of speech-language pathologists and audiologists by the Speech-Language Pathology and Audiology Board (SPAB), for the licensing and regulation of hearing aid dispensers by the Hearing Aid Dispensers Examining Committee (HADEC) and sunsets both the SPAB and the HADEC on July 1, 1999.

This bill would have repealed the provisions governing the SPAB and the HADEC, and would have created the Speech-Language Pathology, Audiology, and Hearing Aid Dispensers Act (Act), effective July 1, 1999. The Act would have merged both the SPAB and HADEC to create the Speech and Hearing Sciences Board of California. (B&P C §§ 101, 144, 149, 205, 2530, 2539.5, 3200, 3300, 3460 & 655.2; Ins C § 10176; and W&I C § 14132.55)

(19) Bureau of Home Furnishings and Thermal Insulation

AB 2200
Migden

Cigarette Fire Safety

Failed Legislative Deadline

Existing law provides that the Bureau of Home Furnishings and Thermal Insulation (BHFTI) enforce flammability safety requirements related to upholstered furniture, bedding, and insulation.

This bill would have required the BHFTI to adopt a fire safety performance standard for cigarettes by June 1, 1999. After January 1, 2000, all cigarette manufacturers would have been required to certify that their cigarettes met the new standard before they could sell their products in California. The manufacture, distribution, or sale of cigarettes that failed to meet the standard would have been a violation punishable by a civil penalty of up to $10,000 per violation. The Attorney General would have been authorized to bring actions to enforce the standard. (B&P C Chapter 29, § 22940 et. al.)

(20) Landscape Architects Program

No bills for 1998 Session

AB 274
Floyd

Medicine: Physicians & Surgeons

Dropped

Existing law provides for the licensure and regulation of physicians and surgeons by the Medical Board of California and provides that any person who practices medicine, as described, without a valid license is guilty of a misdemeanor.

This bill would have revised the definition of the practice of medicine to include the diagnosis, treatment, or prescription for any mental condition based on a biologic brain disorder, including schizophrenia, schizoaffective disorder, manic-depressive illness, and autism.
(B&P C § 2052)

AB 745
B. Thompson

Outpatient Settings: General Anesthesia

Chapter 505
Statutes of 1998

Existing law prohibits a dentist from administering or supervising the administration of general anesthesia to patients on an outpatient basis unless the dentist has a permit issued by the Board of Dental Examiners (BDE) authorizing the use of general anesthesia; and provides for the licensure and regulation of physicians and surgeons by the Medical Board of California (MBC).

This statute: 1) permits a physician and surgeon to administer general anesthesia in the office of a licensed dentist, for dental patients, whether or not the dentist has been certified to perform general anesthesia, if the licensed physician and surgeon holds a valid general anesthesia permit issued by the BDE; 2) requires payment of a fee for issuance of the permit; 3) requires onsite inspection and evaluation; 4) requires automatic suspension of the permit for a physician and surgeon who has failed an onsite inspection and evaluation, except as prescribed; 5) requires the MBC to inform the BDE whether the applicant is a licensed physician and surgeon and to verify and inform the BDE whether the applicant has successfully completed a postgraduate residency training program in anesthesiology recognized by the American Council on Graduate Medicine; 6) provides that a violation of specified provisions by a physician and surgeon may constitute unprofessional conduct under the Medical Practice Act, and is grounds for suspension or revocation of the general anesthesia permit issued by the BDE; 7) requires the BDE to refer the matter to the MBC for its consideration as unprofessional conduct and for further action under the Medical Practice Act; 8) provides that a suspension or revocation of a physician and surgeon's permit by the BDE shall not constitute a disciplinary proceeding or action except to permit the initiation of an investigation or disciplinary action by the MBC; 9) repeals its provisions on January 1, 2000; and 10) takes effect immediately as an urgency statute. (B&P C §§ 1646.7, 1646.9, 2079 & 2245)

AB 823
Papan

Medi-Cal: Managed Care

Chapter 1009
Statutes of 1998

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons. Under existing law, Medi-Cal services may be provided to a beneficiary or eligible applicant by an individual provider, or through a prepaid managed health care plan, pilot project, or fee-for-service case management provider. Under existing law, each beneficiary or eligible applicant shall be provided with information as to health care options, including certain provider information. Under existing law, an applicant who chooses to enroll in a managed care plan, pilot project, or fee-for-services case management provider must indicate his or her choice of a primary care provider.

This statute revises the existing provisions relating to provider information, including specifying the format in which the information shall be organized; and authorizes an applicant who chooses to enroll in a managed care plan, pilot project, or fee-for-services case management provider, to indicate a choice of clinic as well as of a primary care provider. (W&I C § 14016.5)

AB 1079
Cardoza

Physicians And Surgeons

Dropped

Existing law (B&P C § 2065) authorizes a graduate of an approved medical school who is registered with the Division of Licensing and is enrolled in a postgraduate training program to engage in the practice of medicine under prescribed conditions. Under existing law, a graduate may not practice for more than *one* year in an approved first-year postgraduate training program. A graduate who has completed the first year of postgraduate training may practice medicine in an approved residency or fellowship, but must attain his or her license within one year from the beginning of the residency or fellowship.

This bill would have instead authorized the graduate to engage in the practice of medicine where required as a part of a postgraduate residency or fellowship program for a maximum of *three* years from the date the graduate enrolled in his or her first postgraduate training program. Existing law (B&P C § 2066) provides that nothing in the Medical Practice Act shall be construed to prohibit a foreign medical graduate from engaging in the practice of medicine as required as a part of a clinical service program subject to certain conditions. The graduate must receive his or her certificate by the completion of his or her *second* year of postgraduate training. This bill would have instead required the graduate to receive his or her certificate by the completion of the *third* year of postgraduate training. Existing law (B&P § 2096) requires each applicant for a physician and surgeon's license to complete at least *one* year of postgraduate training prior to licensure. This bill would have required every applicant for licensure

as a physician and surgeon who graduated on or after January 1, 2003, to complete at least *two* years of postgraduate training prior to licensure. The bill would also have made conforming changes. (B&P C §§ 2065, 2066, 2096 & 2107)

AB 1251
Battin

Human Cloning

Dropped

Existing law makes it a felony for anyone to knowingly use sperm, ova, or embryos in assisted reproduction technology for any purpose other than that indicated by the sperm, ova, or embryo provider's signature on a written consent form, or to knowingly implant sperm, ova, or embryos, through the use of assisted reproduction technology, into a recipient who is not the sperm, ova, or embryo provider, without the signed written consent of the sperm, ova, or embryo provider and the recipient.

This bill would have provided that any person who clones a human cell, or purchases or sells an ova, zygote, embryo, or fetus, for the purpose of cloning a human being, would be punished by a criminal fine. It would have made a violation an act of unprofessional conduct under the Medical Practice Act. The bill also would have required the revocation of the local business license of any business that violates this provision. The bill would have provided for the repeal of this act on January 1, 2003. (B&P C §§ 16004, 16105 & 2260.5 and H&S C § 24185)

AB 1344
Gallegos

Health Care Service Plans

Failed
Assembly Floor

Existing law provides for the licensure and regulation of health care service plans by the Commissioner of Corporations.

This bill would have stated the intent of the Legislature that jurisdiction over health care service plans be reorganized and that responsibility for the administration and enforcement of the laws governing plans be vested in an agency that would best ensure quality of care and be responsive to Californians. The bill would have stated the intent of the Legislature that jurisdiction over health care service plans be reorganized and responsibility for the administration and enforcement of the laws governing plans be vested in an agency that would best ensure quality of care and be responsive to Californians. The bill contained other related provisions.

AB 1819
Takasugi

Controlled Substances: Reporting Requirements: Physicians

Chapter 172
Statutes of 1998

Under existing law, the physician prescribing, furnishing, or administering any narcotic or controlled substance in the treatment of an addict is required to make specified reports regarding this treatment to the Department of Justice within five days after the first treatment.

This statute repeals this requirement. (H&S C § 1221)

AB 2305
Runner

Chapter 984
Statutes of 1998

<u>Health Care</u>

Existing law: 1) provides that repeated acts of clearly excessive prescribing or administering of drugs or treatment is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, or optometrist; 2) prescribes certain criminal sanctions for any person who engages in repeated acts of clearly excessive prescribing of drugs or treatment; 3) provides for the review of the quality of medical practice carried out by physician and surgeons; 4) authorizes the Medical Board of California to select and contract with necessary medical consultants who are licensed physicians and surgeons to assist the board in its programs; and 5) prohibits a health care service plan contract that covers prescription drug benefits from being issued, amended, delivered, or renewed if the plan limits or excludes coverage for a drug on the basis that the drug is prescribed for a use that is different from the use for which the drug has been approved for marketing by the federal Food and Drug Administration if the drug meets certain conditions.

This statute: 1) revises the definition of unprofessional conduct in regard to excessive prescribing or administering of drugs or treatment; 2) provides that no physician and surgeon in compliance with the California Intractable Pain Treatment Act shall be subject to disciplinary action for engaging in specified lawful conduct; 3) requires every consultant retained by the Medical Board for a given investigation of a licensee to be a specialist, as defined; 4) requires every health care service plan contract that covers prescription drug benefits to provide coverage for appropriately prescribed pain management medications for terminally ill patients when medically necessary; and 5) provides that coverage for different-use drugs shall be subject to a specified provision of existing law. (B&P C §§ 724 & 2024 and H&S C § 1367.215)

AB 2387
Baugh

Chapter 892
Statutes of 1998

<u>Medi-Cal Reimbursement: Disciplined Licensees</u>

Existing law provides for the health care of qualified low-income persons through the Medi-Cal Program, administered by the Department of Health Services (DHS), and specifies that participation in the Medi-Cal program by a provider of service is subject to suspension in order to protect the health of service recipients and the funds appropriated to the support of the program.

This statute: 1) specifies that the DHS may not reimburse any Medi-Cal claim for surgical service or invasive procedure, *including dental surgery or invasive procedure*, that was performed by a licensee of the Medical Board of California (MBC), the Osteopathic Medical Board (OMB), or the Board of Dental Examiners (BDE), whose license has been placed on probation as

a result of disciplinary action; 2) limits the reimbursement prohibition to the *type* of surgical service or other invasive procedure that gave rise to the probation; 3) provides that the reimbursement prohibition is triggered by notification to the DHS by the relevant licensing board and is applicable from the effective date of the licensee's probation until the termination of all probationary terms and conditions or until the probationary period has ended, whichever occurs first; 4) provides that the reimbursement prohibition shall not apply in any case in which the relevant licensing board determines that "compelling circumstances" warrant continued Medi-Cal reimbursement during the probationary period; 5) requires the MBC, the OMB, and the BDE to work in conjunction with the DHS to provide all information that is necessary to implement the provisions of the bill; 6) requires the MBC, the OMB, the BDE and the DHS to report annually to the Legislature no later than March 1, the number of licensees of the respective boards who have been placed on probation during the preceding calendar year, as specified; and 7) provides for the sunset of its provisions as of July 1, 2003. (W&I C § 14124.12)

AB 2389
Margett

<u>Partial-Birth Abortion: Ban</u>

Failed
Assembly
Health

Existing law contains provisions regarding abortions, including a requirement that a physician and surgeon perform the procedure; provides that a violation of various provisions by a physician and surgeon constitutes unprofessional conduct; and provides that a violation of the Medical Practice Act is a misdemeanor.

This bill would have: 1) prohibited a person from knowingly performing or attempting to perform a partial-birth abortion, except as specified; provided that a woman upon whom a partial-birth abortion is performed or attempted to be performed is not guilty of violation of the prohibition, or of complicity or conspiracy in the commission of a violation of the prohibition; provided that violation of its prohibition constitutes unprofessional conduct under the Medical Practice Act; 2) required the Division of Medical Quality (Division) of the Medical Board of California to impose a civil penalty of not less than $10,000 and not more than $25,000 for a first violation and not less than $50,000 and not more than $100,000 for a subsequent violation; 3) required the Division to suspend a licensee's right to practice for one year for a first violation and to revoke a licensee's right to practice permanently for a subsequent violation; and 4) provided that the misdemeanor provisions of the Medical Practice Act would not apply to a violation of these provisions. (B&P C § 2253.5 and H&S C § 123455)

AB 2496
Aguiar

Perfusionists

Dropped

Existing law establishes certain educational and examination requirements for persons who hold themselves out as perfusionists; states the intent of the Legislature that authority be reserved to the Division of Licensing of the Medical Board of California (MBC) to adopt examination, continuing education, and training standards for perfusionists, with appropriate consultation if certain existing standards prove inadequate after a trial period of at least three years; and provides that the performance of certain procedures are included in the definition of perfusion services.

This bill would have: 1) prohibited, commencing January 1, 2001, any person who holds himself or herself out as a perfusionist, or performs perfusion services, from doing so without a valid license as a perfusionist; 2) established procedures for the licensure of perfusionists; 3) required the MBC to establish a limit on the number of times an applicant for licensure who fails an examination may retake the examination; 4) established the requirements for retaking an examination; and 5) required the MBC to establish licensure related fees. (B&P C §§ 2590, 2591, 2592, 2593, 2596, 2597 & 2598)

AB 2693
Migden

Controlled Substances: Prescriptions

Chapter 789
Statutes of 1998

Existing law classifies certain drugs as "controlled substances" and puts them into various schedules (Schedule II includes opiates); requires each prescription for a Schedule II controlled substance to be prepared in triplicate and one of the copies of the prescription to be sent to the Department of Justice; limits the number of triplicate prescription blanks for controlled substances issued to authorized practitioners; requires prescribers to issue the prescription of controlled substances in a specified manner; and criminalizes any violation of the requirements regarding possession of triplicate prescription blanks.

This statute: 1) exempts prescriptions for terminally ill patients from requirements in existing law regarding triplicate prescriptions for "Schedule II" controlled substances, except as specified; 2) requires the prescription to be signed and dated by the prescriber and to contain the name of the person for whom the controlled substance is prescribed, the name and quantity of the controlled substance prescribed, and directions for use; 3) requires the prescription to also contain the address of the person for whom the controlled substance is prescribed and specific information about the prescriber such as address, telephone number, category of professional licensure, and federal controlled substance registration number, in compliance with existing law; and 4) requires the prescription to indicate that the presciber has certified that the patient is terminally ill by the words "11159.2 exemption." (H&S C § 11159.2)

AB 2719
Gallegos

Medicine: Accusations

Chapter 301
Statutes of 1998

Existing law requires the Division of Medical Quality (Division) of the Medical Board of California (MBC) to enforce provisions of the Medical Practice Act and authorizes the Division to investigate complaints from the public, from other licensees, from health care facilities, or from a division of the MBC; requires the Division to take action against any licensee who is charged with unprofessional conduct; and requires a hearing with respect to physician disciplinary action to be initiated by filing of an accusation by the board.

This statute requires an accusation against a physician and surgeon to be filed with the MBC within three years after the MBC discovers the act or omission alleged as grounds for disciplinary action, or within seven years after the act or omission occurs, whichever occurs first; exempts from this provision accusations alleging procurement of a license by fraud or misrepresentation, as specified; and declares that it shall go into immediate effect as an urgency statute. (B&P C § 2230.5)

AB 2721
Miller

Healing Arts Licensees: Unprofessional Conduct: Acupuncture Licensees

Chapter 971
Statutes of 1998

Please see AB 2721 on page 56 for Summary

SB 324
Rosenthal

Medicine: Physicians and Surgeons

Vetoed
September 29, 1998

Existing law provides for the licensure and regulation of physicians and surgeons by the Medical Board of California (MBC) and provides that any person who practices medicine, as described, is guilty of a misdemeanor; and specifies the criteria to be used by health care service plans in determining whether to authorize or deny health care services.

This bill would have required any person who makes a decision regarding medical necessity or appropriateness *that affects any diagnosis, treatment, operation, or prescription* to be a California-licensed physician and surgeon; provided that any person who makes such a decision without possessing, at the time of so doing, a valid license issued by the MBC, is guilty of a misdemeanor; provided that nothing in its provisions shall be construed as limiting the practice of other persons licensed, certified or registered under any other provision of law relating to the healing arts when such person is engaged in his or her authorized and licensed practice.
(B&P C § 2052.1)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 324 without my signature.

This bill would provide that any person who makes a decision regarding medical necessity or appropriateness that affects any diagnosis, treatment, operation or prescription without a medical certificate is guilty of a misdemeanor.

Extending Medical Board authority to medical necessity or appropriateness decisions will create new civil liability for those decisions without the protection of the Medical Injury Compensation Reform Act (MICRA). The author has attempted to clarify the question of civil liability, including an August 31, 1998 Senate Journal letter. However, provisions of the bill and letter are contradictory, thus calling into question the applicability of MICRA.

This bill would, unwittingly or not, allow trial lawyers to prey upon innocent consumers and decent health care professionals.

SB 385
Kopp

Medicine: Disclosure of Settlements

Dropped

Existing law requires the Medical Board of California to disclose to an inquiring member of the public information regarding the status of a license of a licensee, any malpractice judgments, any arbitration awards, or any summaries of hospital disciplinary actions, as specified.

This bill would have additionally required the disclosure of any malpractice settlements. (B&P C § 803.1)

SB 557
Leslie

Healing Arts

Vetoed
September 29, 1998

Existing law provides that any person who practices medicine without a certificate issued by the Medical Board of California is guilty of a misdemeanor; provides that it is unlawful to engage in the practice of dentistry without a valid, unexpired license or special permit issued by the Board of Dental Examiners, except as specified; requires the independent review of certain health care service plan and disability insurer coverage decisions regarding experimental or investigational therapies; and specifies the criteria to be used by health care service plans to determine whether to authorize or deny health care services.

This bill would have provided that any person who makes a decision regarding medical necessity or appropriateness that affects any diagnosis, treatment, operation, or prescription without possessing a valid, unrevoked, or unsuspended certificate under the Medical Practice Act is guilty of a misdemeanor; made it unlawful for any person to make a decision regarding the necessity or appropriateness of any dental diagnosis, treatment, operation, or prescription without a valid unexpired license or special permit from the Board of Dental Examiners; and contained related provisions. (B&P C §§ 1626, 2052.1 & 2052.2)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 557 without my signature.

This bill would provide that any person who makes a decision regarding medical necessity or appropriateness that affects any diagnosis, treatment, operation or prescription without a medical certificate is guilty of a misdemeanor. The bill would also provide that it is unlawful for any person to make a similar decision regarding dental care without a dental license.

Extending Medical Board authority to medical necessity or appropriateness decisions will create new civil liability for those decisions without the protection of the Medical Injury Compensation Reform Act (MICRA). The author has attempted to clarify the question of civil liability, including an August 31, 1998 Senate Journal letter. However, provisions of the bill and letter are contradictory, thus calling into question the applicability of MICRA. This bill would, unwittingly or not, allow trial lawyers to prey upon innocent consumers and decent health care professionals.

SB 998
Burton

Chapter 775
Statutes of 1998

Health Care

Existing law: 1) establishes certain educational and examination requirements for persons who hold themselves out as perfusionists; 2) defines "perfusion" as those functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular system, circulatory system with or without the oxygenation circuit, or any combination of those activities, and to ensure the safe management of physiologic functions by monitoring the necessary parameters of those systems pursuant to an order and under the supervision of a licensed physician or surgeon; 3) prohibits any person from holding himself or herself out as a perfusionist without having first completed a training program approved by the Commission on Accreditation of Allied Health Education Programs and the entire examination of the American Board of Cardiovascular Perfusion; 4) states legislative intent that authority be reserved to the Division of Licensing of the Medical Board of California (MBC) to adopt examination, continuing education, and training standards for perfusionists in the event that existing standards, as specified, prove inadequate; 5) provides for the regulation of health facilities by the Department of Health Services; and 6) authorizes health facilities to engage in cardiac surgery.

This statute: 1) states various findings and declarations regarding the practice of perfusion; 2) provides that during cardiovascular surgery, a perfusionist shall operate the extracorporeal equipment under the immediate supervision of the cardiovascular surgeon or anesthesiologist; and 3) provides that the determination of the qualifications and competence of a perfusionist, and the awarding of appropriate privileges, shall be the responsibility of the general acute care hospital or its medical staff. (H&S C §§ 1255.5 & 1255.6)

SB 1032
Kopp

Vetoed
September 29, 1998

Local Fiscal Relief: Property Tax Revenue Allocation

Existing law: 1) provides that property taxes shall be allocated by statute; and 2) provides that a portion of property taxes allocated to cities, counties, and special districts are to be placed into an Educational Revenue Augmentation Fund (ERAF) in each county.

This bill would have: 1) exempted the Broadmoor Police Protection District within the County of San Mateo from contributing to the ERAF shift of property tax revenues for fiscal years 1998-99 and thereafter; and 2) provided that this act be consistent with fiscal relief granted to those special districts that provide crucial public safety services. (R&T C § 97.53)

This bill originally contained provisions regarding optometrists, physicians, and surgeons. These provisions were removed from the bill.

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 1032 without my signature.

This bill would exempt the Broadmoor Police Protection District in San Mateo County from the 1992-93 and 1993-94 property tax shift to the Educational Revenue Augmentation Fund (ERAF).

While exemptions to the 1993-94 ERAF shift were provided to police protection districts, including Broadmoor, and some special districts which provide police protection activities, no exemptions were granted to these districts for the 1992-93 property tax shift. Therefore, the 1993-94 shift is redundant. No police protection district has been granted an exemption from the 1992-93 ERAF shift. Granting an exception for Broadmoor would create additional pressure from other districts seeking similar authority, resulting in a significant ongoing General Fund impact.

SB 1140
Health and Human Services

Chapter 791
Statutes of 1998

Medicine: Pain Management

Existing law sets forth types of specific courses for the Medical Board of California (MBC) to consider including in continuing education, one of which is a course in the special care needs of individuals and their families facing end-of-life issues; and requires the Board of Registered Nursing (BRN) to establish standards for continuing education and sets forth some specific types of continuing education to be encouraged.

This statute: 1) requires the Division of Licensing of the MBC, in determining its continuing education requirements, to give the highest priority to considering a course on pain management; 2) requires the MBC to periodically develop and disseminate information and educational material regarding pain management techniques and procedures to each licensed physician and surgeon and to each general acute care hospital in this state; 3) requires the MBC to consult with the Department of Health Services in developing the materials to be distributed; 4) requires the BRN, in establishing standards for continuing education, to consider including a course in the special care needs of individuals and their families facing end-of-life issues; and 5) authorizes the BRN, in establishing standards for continuing education, to include a course on pain management.
(B&P C §§ 2191, 2196.2 & 2811.5)

SB 1429
Maddy

<u>**Physician Assistants**</u>

Dropped

Existing law provides that no physician shall supervise more than *two* physician assistants except in specified emergency situations and provides that the Medical Board of California (MBC) may restrict physicians to supervising specific types of physician assistants including, but not limited to, restricting physicians from supervising physician assistants outside of the physician's field of specialty.

This bill would have allowed a physician to supervise *four* physician assistants, subject to the exceptions and restrictions specified above. (B&P C § 3516)

SB 1981
Greene

<u>**Medical Boards: Sunset Review**</u>

Chapter 736
Statutes of 1998

Existing law establishes the Medical Board of California (MBC), the California Board of Podiatric Medicine (BPM), and the Physician Assistant Examining Committee (PAEC), and provides for their termination as of July 1, 1999.

This statute: 1) extends the existence of these regulatory entities until July 1, 2003, and makes conforming changes; 2) provides that it is a misdemeanor for physicians and surgeons, podiatrists, and health care facilities to fail to comply with a request for the medical records of a patient that is accompanied by the patient's written authorization, as specified; 3) modifies the membership of the BPM; 4) repeals provisions granting a limited license to certain practitioners; 5) repeals provisions requiring a special certificate for a podiatrist to perform surgical treatment of the ankle, and instead authorizes any podiatrist certified by the BPM on and after January 1, 1984 to perform surgical treatment of the ankle; 6) revises requirements for continuing education and examination; 7) permits a licensed podiatrist to include a statement in advertising that he or she is certified or eligible or qualified for certification by a private or public board or association; 8) requires the Joint Legislative Sunset Review Committee to review the expenditure of funds for the support of educational and related programs in the field of podiatry; 9) repeals provisions regulating drugless practitioners; 10) renames the PAEC as the Physician Assistant Committee; modifies the PAEC's membership; 11) effective July 1, 2001, deletes provisions requiring the approval of applications of physicians who supervise physician assistants; 12) provides that a licensed physician assistant shall not be liable for civil damages for rendering emergency care in certain cases; 13) enables the PAEC to recognize training programs for physician assistants approved by a national accrediting organization; and 14) enacts other related provisions. (B&P C §§ 473.17, 651, 2001, 2020, 2066, 2101, 2102, 2135, 2148, 2151, 2185, 2225.5, 2428, 2460, 2462, 2472, 2473,

2475, 2496, 2497.1, 2500 et seq., 2569, 3501, 3503.5, 3504, 3505, 3513, 3514, 3514.1, 3515, 3535 & 3540)

SB 2239
Polanco

Professions and Vocations

Chapter 878
Statutes of 1998

Please see SB 2239 on page108 for Summary

(22) Board of Nursing Home Administrators

AB 2721
Miller

Healing Arts Licensees: Unprofessional Conduct: Acupuncture Licensees

Chapter 971
Statutes of 1998

Please see AB 2721 on page 56 for Summary

(23) Board of Optometry

AB 255
Thomson

Prescription Lenses: Spectacles

Chapter 8
Statutes of 1998

Existing law provides for the regulation of prescription lenses and allows specified licensed professionals to dispense, sell or furnish prescription lenses. In addition, existing law makes it unlawful for any person to dispense, replace or duplicate specified lenses without a prescription or an order from a licensed physician and surgeon or optometrist.

This statute requires that a spectacle lens prescription include specified information and an expiration date. In addition, the statute prohibits the prescription from being filled if it does not contain the specified information or if the prescription has expired. (B&P C §§ 2541.1 & 2559.6)

AB 404
Gallegos

Optometry

Failed Legislative Deadline

Existing law prohibits any person from engaging in the practice of optometry without a certificate of registration from the State Board of Optometry and prohibits an optometrist from representing himself/herself as having a special knowledge of optometry.

This bill would have: 1) repealed Section 3099 of the Business and Professions Code which prohibits an optometrist from advertising that he/she has a special knowledge of optometry; 2) allowed a licensed optometrist to advertise that his/her practice includes, or is limited to, certain areas of optometric practice; and 3) provided that only a licensed optometrist who is certified to use therapeutic pharmaceutical agents could advertise his/her certification.
(B&P C §§ 3099 & 3099.5)

AB 2721
Miller

Healing Arts Licensees: Unprofessional Conduct: Acupuncture Licensees

Chapter 971
Statutes of 1998

Please see AB 2721 on page 56 for Summary

SB 1032
Kopp

Local Fiscal Relief: Property Tax Revenue Allocation

Vetoed
September 29, 1998

Existing law: 1) provides that property taxes shall be allocated by statute; and 2) provides that a portion of property taxes allocated to cities, counties, and special districts are to be placed into an Educational Revenue Augmentation Fund (ERAF) in each county.

This bill would have: 1) exempted the Broadmoor Police Protection District within the County of San Mateo from contributing to the ERAF shift of property tax revenues for fiscal years 1998-99 and thereafter; and 2) provided that this act be consistent with fiscal relief granted to those special districts that provide crucial public safety services. (R&TC § 97.53)

This bill originally contained provisions regarding optometrists, physicians, and surgeons. These provisions were removed from the bill.

Veto Message

Governor Pete Wilson
To the Members of the California Senate:
I am returning Senate Bill No. 1032 without my signature.
This bill would exempt the Broadmoor Police Protection District in San Mateo County from the 1992-93 and 1993-94 property tax shift to the Educational Revenue Augmentation Fund (ERAF).
While exemptions to the 1993-94 ERAF shift were provided to police protection districts, including Broadmoor, and some special districts, which provide police protection activities, no exemptions were granted to these districts for the 1992-93 property tax shift. Therefore, the 1993-94 shift is redundant. No police protection district has been granted an exemption from the 1992-93 ERAF shift. Granting an exception for Broadmoor would create additional pressure from other districts seeking similar authority, resulting in a significant ongoing General Fund impact.

SB 1980
Greene

Regulatory Boards and Committees

Chapter 991
Statutes of 1998

Please see SB 1980 on page 111 for Summary

(24) Board of Pharmacy

AB 610
Margett

Marijuana

Failed Legislative Deadline

Existing law, the Compassionate Use Act of 1996 (Act), prohibits any physician from being punished, or denied any right or privilege, for

having recommended marijuana to a patient for medical purposes. Further, the Act allows, under specified conditions, for a patient or a patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient.

This bill would have: 1) addressed the accountability issues raised by the passage of Proposition 215 (Compassionate Use Act of 1996) which was approved in the November 5, 1996 election; 2) authorized marijuana for medical purposes to be grown only through a grower licensed by the Department of Agriculture under specified conditions and guidelines; and 3) required all suppliers of marijuana to obtain a special license for the sale of marijuana from the State Board of Pharmacy. (H&S C §§ 11362.61, 11362.62, 11362.63, 11362.64, 11362.65 & 11362.66)

AB 1889
Knox

Board of Pharmacy: Medication Error Rate: Study

Vetoed
September 27, 1998

Existing law provides for the licensing and regulation of the practice of pharmacy by the State Board of Pharmacy.

This bill would have: 1) required the State Board of Pharmacy (Board) to identify and conduct a study of incidents occurring in the practice of pharmacy that demonstrably endanger the health and safety of patients; 2) required the Board to issue a report of its findings from the study to the Legislature on or before December 1, 2000; and 3) appropriated $300,000 from the Board's Contingent Fund in order to fund the study. (B&P C § 4013)

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 1889 without my signature.

This bill would require the State Board of Pharmacy to conduct a study of medication error rates and negative drug interactions and would appropriate $300,000 from the Board's Contingent Fund for that purpose.

Concerns have been raised about the integrity, validity, adequacy of funding and confidentiality of the proposed study. The bill's reference to placebo prescriptions is inappropriate, a study of errors in the filling of prescriptions or the failure of pharmacists to take into account potentially harmful drug interactions should be accomplished by studying fictitious, rather than placebo prescriptions. In addition, no matter what transgressions might be discovered while conducting the contemplated study, no disciplinary, or corrective action could be taken.

The information which would be provided by this study could also be provided by various national organizations which are currently collecting data on drug prescription error rates, employing definitions different than those proposed by AB 1889. This bill is at best premature and, if adequate data is compiled by the pending studies, potentially unnecessary. In the interim, the Board has, consistent with the recommendation of the National Association of Boards of Pharmacy, encouraged pharmacies to develop in-house quality assessment procedures.

AB 2687
Gallegos

Healing Arts: Dispensing Drugs

Chapter 750
Statutes of 1998

Existing law: 1) authorizes the State Board of Pharmacy to take action against any person(s) found guilty of violating the Pharmacy Law; 2) prohibits the sale of specified drugs without a prescription by a licensed practitioner and without the dispensing of the drug by a person licensed to dispense prescription drugs; and 3) makes it a misdemeanor, which is punishable by a fine and/or imprisonment, for any unlicensed person to knowingly dispense dangerous drugs or dangerous devices, as defined.

This statute: 1) does not limit or supersede the authority of the state agencies charged with the regulation of the practice of pharmacy; 2) authorizes local health officers to receive and investigate complaints of unlicensed practice regarding the dispensing or furnishing of: a) drugs which require a prescription; b) controlled substances; or c) dangerous drugs or dangerous devices, as defined; 3) requires local health officers to obtain the assistance of, and be accompanied by, a licensed pharmacist in conducting any investigation of unlicensed practice; 4) provides that a violation of unlicensed practice would constitute a misdemeanor punishable by fines of $5,000 or $10,000 and/or imprisonment in the county jail; 5) requires the local health officers to provide the Board of Pharmacy or any other pertinent state agency with a copy of all complaints received regarding unlicensed practice; 6) authorizes local health officers to confiscate items and requires the officers to enlist the aid of local law enforcement to execute the confiscation of those items; 7) authorizes local health officers to issue orders to immediately cease and desist the unlicensed practice of dispensing or furnishing of drugs and to order the closure of the business operated, managed, or owned by the person engaging in the unlicensed practice; 8) provides a person whose facility is closed as a result of a local health officer's action to be entitled to a hearing to show cause why the closure was unwarranted; and 9) makes these provisions effective only until January 1, 2001, unless a later enacted statute deletes or extends that date.
(H&S C §§ 11352.1 & 101070)

AB 2693
Migden

Controlled Substances: Prescriptions

Chapter 789
Statutes of 1998

Existing law classifies certain drugs as "controlled substances" and puts them into various schedules (Schedule II includes opiates); requires each prescription for a Schedule II controlled substance to be prepared in triplicate and one of the copies of the prescription to be sent to the Department of Justice; limits the number of triplicate prescription blanks for controlled substances issued to authorized practitioners; requires prescribers to issue the prescription of controlled substances in a specified manner; and criminalizes any

violation of the requirements regarding possession of triplicate prescription blanks.

This statute: 1) exempts prescriptions for terminally ill patients from requirements in existing law regarding triplicate prescriptions for "Schedule II" controlled substances, except as specified; 2) requires the prescription to be signed and dated by the prescriber and to contain the name of the person for whom the controlled substance is prescribed, the name and quantity of the controlled substance prescribed, and directions for use; 3) requires the prescription to also contain the address of the person for whom the controlled substance is prescribed and specific information about the prescriber such as address, telephone number, category of professional licensure, and federal controlled substance registration number, in compliance with existing law; and 4) requires the prescription to indicate that the presciber has certified that the patient is terminally ill by the words "11159.2 exemption." (H&S C § 11159.2)

AB 2721
Miller

Healing Arts Licensees: Unprofessional Conduct: Acupuncture Licensees

Chapter 971
Statutes of 1998

Please see SB 2721 on page 56 for Summary

SB 440
Maddy

Pharmacy: Home Health Agencies: Adjusting Drug Regimen

Chapter 347
Statutes 1998

Existing law permits a pharmacist to perform certain procedures or functions as part of the care provided by a health care facility, a licensed clinic (under specified conditions), or a provider under contract with a licensed health care service plan.

This statute permits a pharmacist to perform in a home health agency the following procedures/functions in accordance with a written, patient-specific protocol approved by the treating or supervising physician: 1) order or perform routine drug therapy-related patient assessment procedures; 2) order drug therapy-related laboratory tests; 3) administer drugs and biologicals by injection pursuant to a prescriber's order; and 4) adjust the drug regimen of a patient pursuant to a specific written order or authorization made by the patient's prescriber. Any change, adjustment, or modification of an approved-preexisting treatment or drug therapy is required to be provided in writing to the treating or supervising physician within 24 hours. (B&P C §§ 4027 & 4052)

SB 1606
Lewis

Pharmacy: Automated Drug Delivery Systems

Chapter 778
Statutes 1998

Existing law: 1) provides for the licensing and regulation of the practice of pharmacy by the Board of Pharmacy; 2) provides for the licensing and regulation of health facilities by the State Department of

Health Services; 3) authorizes a pharmacy to furnish a dangerous drug or dangerous device to a skilled nursing facility or intermediate care facility for storage in a secured emergency pharmaceutical supplies container; and 4) limits the number of oral dosage form and suppository form drugs in the emergency supply to 24.

This statute: 1) exempts Automated Drug Delivery Systems (ADDS), as defined, from limitations imposed by existing law on the number or quantity of oral or suppository form drugs provided by a pharmacy to a skilled nursing or intermediate care facility, under specified conditions; 2) limits access to ADDS to the facility and contract personnel authorized by law to administer drugs; 3) requires the facility and the pharmacy to develop and implement written policies and procedures to ensure safety, accuracy, accountability, security, patient confidentiality, and maintenance of the stored drugs; 4) limits the drugs to be dispensed from ADDS; 5) requires the stocking of ADDS be performed by a pharmacist; 6) allows for the stocking of ADDS outside of the facility, under specified conditions; 7) requires the review of the drugs contained within, and the operation and maintenance of, ADDS be done in accordance with law; 8) makes ADDS the responsibility of the pharmacy; 9) exempts the drugs dispensed from ADDS from specified drug labeling requirements; and 10) commences on July 1, 1999. (H&S C §§ 1261.5 & 1261.6)

SB 2073
Watson

Fertility Drugs

Failed Legislative Deadline

Existing law: 1) provides for the regulation of the packaging and labeling of drugs by the Department of Health Services (DHS); 2) provides the Board of Pharmacy with the authority to license and regulate the practice of pharmacy; and 3) provides for the licensure of physicians and surgeons by the Medical Board of California.

This bill would have: 1) allowed patients to return or donate unused fertility drugs to a pharmacist or person who filled the original prescription of the drug; 2) authorized the DHS to require that the fertility drug be packaged and labeled in a manner that would promote the safe return of the drug; 3) allowed the pharmacist or authorized person to dispense the returned drug to another person; and 4) allowed the DHS to exempt from the aforementioned provisions a fertility drug that is inexpensive. (H&S C § 110421)

SB 2239
Polanco

Professions and Vocations

Chapter 878 Statutes of 1998

Please see SB 2239 on page 108 for Summary

(25) Physical Therapy Board of California

AB 2721
Miller

Healing Arts Licensees: Unprofessional Conduct: Acupuncture Licensees

Chapter 971
Statutes of 1998

Please see AB 2721 on page 56 for Summary

AB 2802
Assembly
Consumer

Protection Professions and Vocations

Chapter 970
Statutes of 1998

Please see AB 2802 on page 113 for Summary

ACR 145
Machado

Physical Therapy Month

Chapter R-166
Resolution
Adopted

This measure proclaims October 1998 as Physical Therapy Month.

SB 1980
Greene

Regulatory Boards and Committees

Chapter 991
Statutes of 1998

Please see SB 1980 on page 111 for Summary

(26) Physician Assistant Examining Committee

AB 2721
Miller

Healing Arts Licensees: Unprofessional Conduct: Acupuncture Licensees

Chapter 971
Statutes of 1998

Please see AB 2721 on page 56 for Summary

SB 1429
Maddy

Physician Assistants

Dropped

Existing law provides that no physician shall supervise more than *two* physician assistants except in specified emergency situations and provides that the Medical Board of California (MBC) may restrict physicians to supervising specific types of physician assistants including, but not limited to, restricting physicians from supervising physician assistants outside of the physician's field of specialty.

This bill would have allowed a physician to supervise *four* physician assistants, subject to the exceptions and restrictions specified above. (B&P C § 3516)

SB 1940
Peace

Workers' Compensation: Nurse Practitioners and Physician

Chapter 388
Statutes of 1998

Existing law: 1) provides for the certification of nurse practitioners by the Board of Registered Nursing; 2) provides for the licensure of physician assistants by the Physician Assistant Examining

Committee; 3) entitles a person injured in the course of employment to worker's compensation; and 4) provides for the provision of various services by a physician and surgeon and other specified health professionals in relation to a work-related injury.

This statute requires the administrative director of the Division of Workers' Compensation to include physician assistants and nurse practitioners in the official medical fee schedule; the fee schedule establishes reasonable maximum fees paid for medical services provided under the workers' compensation laws. (Lab C § 5307.1)

SB 1981
Greene

Medical Boards: Sunset Review

Chapter 736
Statutes of 1998

Please see SB 1981 on page 164 for Summary

SB 2239
Polanco

Professions and Vocations

Chapter 878
Statutes of 1998

Please see SB 2239 on page 108 for Summary

(27) Board of Podiatric Medicine

AB 2507
Health
Committee

Podiatric Medicine

Chapter 114
Statutes of 1998

Existing law, AB 1556 (Assembly Committee on Health), Chapter 655 of the Statutes of 1997, amended Section 2483 of the Business and Professions Code to update the terminology and requirements for curriculum at approved podiatric medical schools.

This statute amends Section 2483 to correct a drafting error contained in AB 1556. (B&P C § 2483)

AB 2721
Miller

Healing Arts Licensees: Unprofessional Conduct: Acupuncture

Chapter 971
Statutes of 1998

Please see AB 2721 on page 56 for Summary

SB 1981
Greene

Medical Boards: Sunset Review

Chapter 736
Statutes of 1998

Please see SB 1981 on page 164 for Summary

AB 1205
Wright

Private Postsecondary Education

Vetoed
September 30, 1998

Existing law defines private postsecondary educational institution as "any person doing business in California that offers to provide or provides, for a tuition, fee or other charge, any instruction, training, or education" under specified circumstances.

This bill would have: 1) revised the definition of private postsecondary educational institution; 2) allowed a pharmacy technician student enrolled in a pharmacy technician training program operated by a California public educational institution or by a private postsecondary vocational institution approved by the Bureau for Private Postsecondary and Vocational Education, to secure training in a pharmacy for the purpose of completing an externship; and 3) made other technical and clarifying amendments to the Private Postsecondary and Vocational Education Reform Act. (B&P C § 4115.5 and Ed C §§ 94739, 94867 & 94870)

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 1205 without my signature.

This bill would revise the definition of private postsecondary educational institutions and make technical and clarifying amendments to the Private Postsecondary and Vocational Education Reform Act.

AB 1205 would expand the Private Postsecondary and Vocational Education Reform Act to apply to institutions that operate administrative offices in California but do not solicit or enroll California residents in their programs. This provision elicits questions on how out of state institutions located in California are to be regulated and how California institutions should be regulated if they have offices located in another state. There is no question that an institution located in California and offering educational services to California residents is subject to regulation by the Bureau of Private Postsecondary and Vocational Education (Bureau). However, if that institution only operates an administrative office in California and does not offer any educational services to California residents, it is appropriate that regulation be provided by the state where the institution is located.

It is my understanding that the Attorney General's office is currently working with other states on the appropriate regulatory relationship between California and states, especially given that technology has allowed these schools to offer distance learning through computers and other electronic means. Signature on this bill would therefore be premature.

I would note, however, that the Bureau has a duty to take action against any school with an administrative office in California that is misrepresenting itself to potential students as an approved California educational institution.

AB 1656
Ducheny

1998-99 Budget

Chapter 324
Statutes of 1998

See AB 1656 on page 118 for Summary

AB 2529
Bustamante

Postsecondary Education

Failed Assembly Higher Education

Existing law exempts nonprofit institutions accredited by the senior or junior commission of the Western Association of Schools (WASC) from the Private Postsecondary and Vocational Education Act (Act) and exempts for-profit institutions accredited by the senior or junior commission of the WASC from the Act **only if** they exclusively award degrees upon completion of a course of study of two calendar years or more.

This bill would have provided that all institutions, nonprofit and for profit, accredited by the senior or junior commission of the WASC, would have been exempted from the Act.
(Ed C § 94739)

AB 2557
Alquist

Law Schools: Unaccredited

Vetoed
September 18, 1998

Existing law provides for the State Bar to approve and regulate accredited law schools and for the Bureau for Private Postsecondary and Vocational Education to approve and regulate nonaccredited law schools.

This bill would have required all degree-granting law schools that are subject to regulation by the Bureau for Private Postsecondary and Vocational Education to provide reasonable access, which may be via electronic means, to specified library resources. (Ed C § 94900)

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 2557 without my signature.

This bill would provide that unaccredited law schools may comply with current requirements for libraries by providing reasonable access to specified types of law books and treatises and provides that the law schools may comply with this requirement via access to electronic means, such as providing access to personal computer for on-line, Internet and CD-ROM research services.

California Rule of Court 957 establishes minimal requirements for law schools not accredited by the California Committee of Bar Examiners. This rule was promulgated by the Supreme Court. The establishment of standards for unaccredited law schools is currently a power of the Supreme Court. It is not appropriate for the Legislature to attempt to second guess the Supreme Court on what are and are not appropriate standards for unaccredited law schools. The Supreme Court has the authority to amend Rule of Court 957 and can consider whether the changes proposed in this bill are appropriate.

SB 1459
Haynes

State Bar of California: Unaccredited Law Schools

Failed Assembly Judiciary

Existing law provides for the State Bar's Committee of Bar Examiners to approve and regulate law schools that are accredited by the State Bar.

This bill would have provided that the Bureau for Private Postsecondary and Vocational Education in the Department of

Consumer Affairs replace, in all respects, the examining committee of the State Bar as the agency charged with the administration of existing law, Rule Court 957, and require the Bureau for Private Postsecondary and Vocational Education to adopt reasonable rules and regulations as necessary to ensure compliance with this section. (B&P C § 6061)

(29) Board of Psychology

AB 276
Woods

Hypnotherapists: Hypnotherapist Registration Act — **Dropped**

Existing law does not require persons practicing hypnotherapy to be licensed.

This bill would have identified standards and qualifications for persons practicing hypnotherapy. (B&P C § 4550)

AB 2721
Miller

Healing Arts Licensees: Unprofessional Conduct: Acupuncture Licensees — **Chapter 971 Statutes of 1998**

Please see AB 2721 on page 56 for Summary

AB 2802
Assembly Consumer Protection

Professions and Vocations — **Chapter 970 Statutes of 1998**

Please see AB 2802 on page 113 for Summary

SB 694
Polanco

Hepatitis C — **Chapter 867 Statutes of 1998**

Existing law contains various provisions relating to communicable disease prevention and control programs, including those conducted by the State Department of Health Services.

This statute makes various legislative findings with respect to hepatitis C and declares the intent of the Legislature to study the adequacy of the health care delivery system as it pertains to hepatitis C. The statute requires the State Department of Health Services to make available protocols and guidelines developed by the National Institutes of Health and California legislative advisory committees on hepatitis C for educating physicians and health professionals and training community service providers, as specified.
(H&S C § 122400 et seq.)

SB 958
Hughes

Behavior Analysis — **Dropped**

Existing law requires persons practicing psychology to be licensed by the Board of Psychology.

This bill would have created the Behavior Analysts Certification Act within the Business and Professions Code to certify behavior analysts, associate behavior analysts, and behavior technicians. (B&P C § 2999)

SB 983
Polanco

Psychology

Chapter 822
Statutes of 1998

Existing law provides for the licensure and regulation of psychologists by the Board of Psychology (Board), and prohibits psychologists from prescribing medication to patients/clients.

This statute requires the Board to: 1) encourage licensees to take continuing education courses in psychopharmacology and biological basis of behavior; 2) requires the Board to encourage institutions offering doctorate degrees in psychology to include these topics in their curricula; 3) develops training guidelines for psychologists whose practices include patients with medical conditions and/or mental and emotional disorders who may require psychopharmacological treatment; and 4) specifies that these requirements are intended to improve the ability of psychologists to collaborate with physicians, and are not intended to expand the scope of practice of psychologists. (B&P C §§ 2914.2 & 2914.3)

SB 1983
Greene

Healing Arts: Boards

Chapter 589
Statutes of 1998

Existing law provides for the Board of Psychology (BOP) and the Board of Behavioral Sciences (BBS) to license and regulate licensees and registrants within those professions. The BOP and the BBS becomes inoperative on July 1, 1999, and is repealed January 1, 2000.

This statute extends the BOP and the BBS inoperative and repeal dates to July 1, 2005 and January 1, 2006. This statute also amends various sections to the Business and Professions Code for each board. (B&P C §§ 2920, 2922, 2925, 2933, 2936, 2942, 2946, 2964.3, 2966, 4980.34, 4989, 4990.1, 4990.8, 4996.18, 4996.20 & 4996.21)

(30) Board of Registered Nursing

AB 695
Kuehl

Health Facilities: Nursing Staff

Failed
Senate
Appropriations

Existing law provides for: 1) the licensing and regulation of nurses by the Board of Registered Nursing; and 2) the licensing and regulation of health facilities and home health agencies, as defined, by the Department of Health Services (DHS).

This bill would have: 1) permitted unlicensed personnel, under direct clinical supervision of a direct-care registered nurse, to assist the registered nurse with those aspects of care that the registered nurse deemed safe and appropriate; 2) required general acute care hospitals, acute psychiatric hospitals, and special hospitals, as defined, to adopt written policies and procedures for training and orientation of nursing staff; 3) required the DHS to adopt regulations that would have established minimum, specific, and numerical nurse-to-patient ratios by licensed nurse classification and by hospital unit, as defined, for certain health facilities; and 4) required the DHS to review the regulations every five (5) years. (B&P C § 2725.3 and H&S C § 1276.4) (See SB 1125)

AB 892
Escutia

Nurses

Failed Legislative Deadline

Existing law: 1) authorizes the Board of Registered Nursing (Board) to collect an additional five dollar ($5) assessment fee with each biennial licensure renewal for the Registered Nurse Education Fund (this provision of the law will become inoperative on January 1, 2000, unless extended by the Legislature); and 2) requires the Office of Statewide Health Planning and Development (OSHPD) to establish the Minority Health Professions Education Foundation.

This bill would have contained numerous provisions related primarily to the Minority Health Professions Education Foundation, the Minority Health Professions Education Fund, and the Registered Nurse Education Program under the OSHPD. In addition, the bill would have extended the Board's authority to collect the $5 assessment fee for the Registered Nurse Education Fund. (B&P C § 2815.1 and H&S C §§ 128230, 128280, 128330, 128335, 128345, 128350, 128355, 128375, 128385, 128395, 128435, 128445 & 128450)

AB 2721
Miller

Healing Arts Licensees: Unprofessional Conduct: Acupuncture Licensees

Chapter 971 Statutes of 1998

Please see AB 2721 on page 56 for Summary

AB 2802
Assembly Consumer Protection

Professions and Vocations

Chapter 970 Statutes of 1998

Please see AB 2802 on page 113 for Summary

SB 305
Sher

Education: School Nurses

Vetoed
July 11, 1998

Existing law specifies the minimum qualifications for nurses working in public schools.

This bill would have required a school to notify the parent or

guardian of each of its pupils if: 1) a nurse meeting specified requirements is not generally in attendance at the school site on a minimum of two days each week of the school year; and 2) a permanent reduction in scheduled services provided by a nurse results in a level of services below the minimum described above. Notification of the reduction in services would have been required within 30 days of the reduction. (Ed C §§ 48981 & 48986)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 305 without my signature.

This bill would require a school to notify the parents or guardians of each pupil attending the school annually if a credentialed school nurse employed by the school district or county office of education is not generally in attendance at least two days of each week or when school nursing services are reduced to fewer than two days per week.

There is no doubt that school nurses provide a valuable support service to schools. School districts must decide on staffing levels for school nurses and for the array of other support services based on the needs of their communities. This bill, however, would apply undue pressure on schools to provide a level of service above an arbitrarily-set state minimum for all schools. In doing so, the bill would impose an unnecessary administrative burden on schools on behalf of one group of providers of support services.

Staffing decisions such as those referenced in this bill are a local issue, and should be decided by local governing boards in accordance with priorities of the board and the parents in the community. School districts have received nearly $3 billion in new discretionary income in the past three years, which gives them more than enough flexibility to address such needs.

In addition, the availability of trained medical personnel to a school is an issue best addressed by local governing boards based on each school's unique circumstances - for example, the school's proximity to other medical services and the availability of non-credentialed medical personnel at the school site.

SB 1125
Alpert

Health Facilities: Nursing Staff

Vetoed
September 29, 1998

Existing law provides for: 1) the licensing and regulation of nurses by the Board of Registered Nursing; and 2) the licensing and regulation of health facilities and home health agencies, as defined, by the Department of Health Services (DHS).

This bill would have: 1) permitted unlicensed personnel, under direct clinical supervision of a direct-care registered nurse, to assist the registered nurse with those aspects of care that the registered nurse deemed safe and appropriate; 2) required general acute care hospitals, acute psychiatric hospitals, and special hospitals, as defined, to adopt written policies and procedures for training and orientation of nursing staff; 3) required the DHS to adopt regulations that would have established minimum, specific, and numerical nurse-to-patient ratios by licensed nurse classification and by hospital unit, as defined, for certain health facilities; 4) required the DHS to review the regulations every five (5) years; and 5) required the Office of Statewide Health Planning and Development to prepare and submit to the Legislature a

report, as specified, on staff ratios and quality of care issues for patients in general acute care facilities in California. (B&P C §§ 1276.4 & 2725.3) (See AB 695)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 1125 without my signature.

This bill would require the Department of Health Services to establish minimum nurse to patient ratios for general acute care facilities. The bill would also require facilities to adopt associated written policies and require the Department and the Office of Statewide Planning and Development to report related information to the Legislature.

The Department completely revised regulations regarding nursing services in general acute care hospitals less than two years ago. The current regulations incorporate extensive research and input from nursing/provider organizations. The regulations allow for an individual approach to staffing different hospitals units based on the acuity of each patient's condition.

Current regulations also require that nurses be trained and determined competent prior to assignment to a hospital unit. Additionally, unlicensed personnel such as surgical technicians and orthopedic technicians, working under the supervision of a nurse or physician have been used successfully. The Board of Nursing is currently working on regulations that would clarify the nursing tasks to be carried out by unlicensed personnel.

Further requirements are redundant and unnecessary.

SB 1140
Health and Human Services

Chapter 791
Statutes of 1998

Medicine: Pain Management

Existing law sets forth types of specific courses for the Medical Board of California (MBC) to consider including in continuing education, one of which is a course in the special care needs of individuals and their families facing end-of-life issues; and requires the Board of Registered Nursing (BRN) to establish standards for continuing education and sets forth some specific types of continuing education to be encouraged.

This statute: 1) requires the Division of Licensing of the MBC, in determining its continuing education requirements, to give the highest priority to considering a course on pain management; 2) requires the MBC to periodically develop and disseminate information and educational material regarding pain management techniques and procedures to each licensed physician and surgeon and to each general acute care hospital in this state; 3) requires the MBC to consult with the Department of Health Services in developing the materials to be distributed; 4) requires the BRN, in establishing standards for continuing education, to consider including a course in the special care needs of individuals and their families facing end-of-life issues; and 5) authorizes the BRN, in establishing standards for continuing education, to include a course on pain management. (B&P C §§ 2191, 2196.2 & 2811.5)

SB 1816
Polanco

Nursing: Analysis Or Nursing Practice

Vetoed
September 11, 1998

Existing law provides the Board of Registered Nursing with the authority to regulate the practice of nursing.

This bill would have: 1) appropriated $145,000 from the Board of Registered Nursing Fund to the Board of Registered Nursing (Board) to conduct an ongoing assessment of the demographics of the nursing work force in California in relation to the population of the state; and 2) required the Board to make recommendations to the Legislature regarding education and training programs for nurses in California. (B&P C § 2810)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No. 1816 without my signature.

This bill would appropriate $145,000 from the Board of Registered Nursing Fund to the Board of Registered Nursing to conduct an assessment of the demographics of the nursing work force in California in relation to the population of the state and to make recommendations to the Legislature regarding nurse education and training programs.

The purpose of this bill is to direct more resources to nurse education programs. However, it is unclear how an assessment of the demographics of the nursing work force will accomplish this goal. The Board may make recommendations to the Legislature regarding nurse education and training programs without this demographic assessment.

SB 1940
Peace

Workers' Compensation: Nurse Practitioners and Physician

Chapter 388
Statutes of 1998

Existing law: 1) provides for the certification of nurse practitioners by the Board of Registered Nursing; 2) provides for the licensure of physician assistants by the Physician Assistant Examining Committee; 3) entitles a person injured in the course of employment to worker's compensation; and 4) provides for the provision of various services by a physician and surgeon and other specified health professionals in relation to a work-related injury.

This statute requires the administrative director of the Division of Workers' Compensation to include physician assistants and nurse practitioners in the official medical fee schedule; the fee schedule establishes reasonable maximum fees paid for medical services provided under the workers' compensation laws. (Lab C § 5307.1)

(31) Respiratory Care Board

AB 123
Wildman

Respiratory Care Practitioners

Chapter 553
Statutes of 1998

Existing law: 1) provides that, subject to certain disclosure limitations, *each member of* the Respiratory Care Board (RCB), or any licensed respiratory care practitioner (RCP) or investigative unit

working on their behalf, may inspect or require reports from hospitals and other facilities providing respiratory care, and from the respiratory care staff therein, concerning the care, treatment, services, and facilities provided therein, and may inspect patient records with respect to respiratory care; 2) requires the RCB to develop and implement rules and regulations for the continuing education (CE) of licensees, not to exceed *15* hours of CE every 2 years; 3) provides that a successfully completed examination approved by the RCB may be submitted by a licensee for CE credit; and 4) authorizes the RCB to order the suspension or revocation of, or the imposition of probationary conditions upon, a licensee for any of certain specified causes.

This statute: 1) provides that the RCB, or any licensed RCP, investigative unit, *or enforcement staff* appointed by the RCB, may make those inspections and may additionally inspect or require reports concerning *the employment of staff providing respiratory care, treatment, or services; authorizes these persons to inspect employment records relevant to an official investigation provided the written request to inspect the records specifies the portion of the records to be inspected;* 2) provides for CE not to exceed *30* hours every 2 years; 3) requires licensees, upon renewal of a license, to submit to the RCB satisfactory proof of completion of the CE requirements; 4) provides that *successful completion of* an examination approved by the RCB may be submitted by a licensee for *a designated portion of* CE credit; 5) specifies additional causes for disciplinary action against a licensee; 6) requires employers of RCPs to report to the RCB the suspension or termination for cause of any RCP in their employ; 7) defines "suspension or termination for cause" to mean suspension or termination from employment for specified reasons; 8) provides for an administrative fine of $10,000 per violation on the part of an employer who fails to submit this information to the RCB; 9) requires a licensee who has knowledge that another person may be in violation of, or has violated any of the statutes or regulations administered by the RCB, to report this information to the RCB in writing and to cooperate with the board in furnishing information or assistance as may be required; 10) requires employers to report to the RCB the name, professional licensure type, license number, and title of the person supervising the licensee who has been suspended or terminated for cause; and 11) provides that no person shall incur any civil penalty as a result of making any report required by the Respiratory Practice Act.
(B&P C §§ 3717, 3719, 3750, 3758, 3758.5, 3758.6 & 3759)

AB 2709
Wildman

<u>**Respiratory Care Practitioners**</u>

Dropped

Existing law authorizes members of the *examining committee* of the Respiratory Care Board (RCB), or respiratory practitioners or investigators working on their behalf, to inspect or require reports

from hospitals and other facilities providing respiratory care, and from the respiratory care staff therein, concerning the care, treatment, services, and facilities provided therein, and to inspect patient records with respect to respiratory care; authorizes the RCB to take disciplinary action against licensed practitioners.

This bill would have: 1) provided that members of the RCB, or practitioners, investigators, or enforcement staff appointed by the board, may make those inspections and may additionally inspect or require reports concerning the employment of staff providing respiratory care, treatment, or services; 2) authorized these persons to inspect employment records relevant to an official investigation upon submission of a written request specifying the portion of the records to be inspected; 3) removed certain restrictions against disclosure, as specified; 4) required employers of respiratory care practitioners to report the suspension or termination of practitioners for cause, as defined; 5) required licensees with knowledge or reasonable belief that another person has violated any law or regulations administered by the RCB to report this information to the RCB in writing and to cooperate with the board by providing further information or assistance as may be required; 6) provided for civil immunity under a specified provision of law in connection with the making of any report required under these provisions; 7) required employers to report to the RCB the name and other information of the supervisor of a licensee suspended or terminated for cause; 8) required the RCB, if the supervisor is also a licensee under the Respiratory Care Practice Act, to investigate whether due care was exercised by the supervisor; and 9) required the employer to report this information about the supervisor to the appropriate licensing board if the supervisor is, instead, a health professional licensed by another licensing board. (B&P C § 3717, 3758, 3758.5, 3758.6 & 3759)

AB 2721
Miller

<u>Healing Arts Licensees: Unprofessional Conduct: Acupuncture Licensees</u>

Chapter 971
Statutes of 1998

Please see AB 2721 on page 56 for Summary

SB 1663
O'Connell

<u>Child Day Care Facilities: Administering Inhaled Medication</u>

Chapter 625
Statutes of 1998

Existing law: 1) provides for the licensure and regulation of child day care facilities by the State Department of Social Services (DSS); defines a "child day care facility" as a facility that provides non-medical care to children under age 18 in need of personal services and supervision for less than a 24 hour basis; 2) provides for the regulation of physicians and surgeons by the Medical Board of California (MBC); 3) prohibits the unauthorized practice of medicine except for service in the case of emergency or the domestic administration of family remedies; 4) provides for the regulation of the practice of respiratory care by the Respiratory Care Board of

California (RCB); 5) prohibits the unlicensed practice of respiratory care, with specified exemptions; and 6) requires at least one staff member at each day care center to have 15 hours of training in certain preventive health practices, including pediatric cardiopulmonary resuscitation and pediatric first aid.

This statute: 1) provides that the administering of inhaled medication to a child by licensees and staff of a child day care center, as specified, does not constitute a violation of the current law prohibition against the unlicensed practice of respiratory care; 2) provides that notwithstanding any other provision of law, licensees and staff of child day care facilities may administer inhaled medications to a child, if certain specified conditions are met; 3) states that nothing in its provisions may be interpreted to require a certificated teacher who provides day care in a public school setting to administer inhaled medication; and 4) adds to the requirements in existing law for pediatric first aid training, a component of training in the administration of inhaled medication, with standards for this component established by the Emergency Medical Services Authority. (B&P C § 3765 and H&S C §§ 1596.798 & 1596.8661)

SB 1930
Polanco

Professional License Fees

Vetoed
September 30, 1998

Please see SB 1930 on page 152 for Summary

SB 1980
Greene

Regulatory Boards and Committees

Chapter 991
Statutes of 1998

Please see SB 1980 on page 111 for Summary

(32) Bureau of Security & Investigative Services

AB 2312
Morrissey

Security Guards: Background Checks

Failed Legislative Deadline

Existing law requires that applicants for registration as security guards submit two sets of classifiable fingerprints with their application to the Bureau of Security and Investigative Services (BSIS). These prints are used by the state Department of Justice (DOJ) to provide a criminal offense record based on state records for determining eligibility of the applicant. Existing law requires that applicants for a firearms permit issued by the BSIS submit a fingerprint card. These prints are used by the DOJ to provide a criminal offense record based on state *and federal* records for determining eligibility of the applicant.

This bill would have expanded the criminal background record check

required of applicants for registration as security guards to also include a federal criminal history provided by the Federal Bureau of Investigation. (B&P C § 7583.9)

AB 2802
Assembly Consumer Protection

Professions and Vocations

Chapter 970
Statutes of 1998

Please see AB 2802 on page 113 for Summary

SB 117
Kelley

Collateral Recovery

Chapter 582
Statutes of 1998

Existing law, the Collateral Recovery Act, requires the licensure and regulation of persons engaged in the repossession of collateral and the registration of their employees by the Bureau of Security and Investigative Services. The law defines "assignment" for purposes of the Collateral Recovery Act. The Civil Code defines charges relating to consumer loans and sets the maximum fee for repossession of a vehicle at $300. The law limits the right for a legal owner to sell a vehicle impounded by law enforcement to those owners who "in the regular course of business conducts sales of repossessed or surrendered motor vehicles."

This statute: 1) requires repossession assignments to be in writing; 2) increases the maximum limit from $300 to $500 on repossession fees for vehicles purchased with loans covered by consumer loan provisions in the Financial Code; and 3) eliminates a requirement that legal owners of repossessed vehicles *regularly conduct* sales on repossessed vehicles. **This bill adds to the provisions of law the BSIS would regulate and enforce.** (B&P C §§ 7500.1 & 7507.3; Fin C §§ 22202 & 22329; and Veh C §§ 14602.6, 14607.6 & 23596.)

SB 587
Hughes

Security Services: Hospital Guards

Dropped

Existing law provides for the licensure of private patrol operators and the registration of security guards by the Bureau of Security and Investigative Services (BSIS). Private patrol operators or security guards that carry a firearm when on duty must obtain a firearms qualification card from the BSIS.

This bill would have provided that in order to be employed as a hospital security guard, a person must meet specified training requirements totaling 80 hours, including proof of completion of courses in hospital safety and security and professional assault response, the Peace Officers Standards and Training course for reserve peace officers and being certified in CPR and basic emergency lifesaving. The bill would have created a new registration classification to be regulated by the BSIS. The bill would have imposed the same registration and renewal fees on hospital security guards that are currently imposed on security guards. The bill would have required the BSIS to develop and adopt regulations prescribing

the necessary contents and level of knowledge for successful completion of a course in hospital security and professional assault response. (B&P C § 7588 & Article 3.5 [commencing with § 7582.30] to Chapter 11.5)

SB 1440
Knight

Alarm Companies: Exemptions

Chapter 376
Statutes of 1998

Existing law requires that any person who "engages in the business or accepts employment to install, maintain, alter, sell on premises, monitor, or service alarm systems or who responds to alarm systems" must be licensed as an alarm company operator (ACO).

This statute exempts private patrol operators from the licensure requirements for ACO. The intent is to remove unnecessary dual licensure. (B&P C § 7590.3)

SB 1544
Hughes

Security Services: Hospital Security Guards

Dropped

Existing law, the Private Security Services Act, provides for the licensure of private patrol operators and the registration of security guards by the Bureau of Security and Investigative Services. Private patrol operators or security guards that carry a firearm when on duty must obtain a firearms qualification card from the BSIS.

This bill would have required *hospital security guards* to complete additional training specific to the healthcare facility setting and be registered by the Department of Health Services (DHS) in addition to existing requirements. These requirements would have been in addition to those already mandated by the Business and Professions Code for security guards. The bill would have exempted from the additional training requirements anyone who has been employed as a health care facility security guard and persons previously employed as peace officers if they can pass an examination created and administered by the DHS. The bill would have required continuing education for hospital guards to be developed by the DHS. (H&S C Article 12 [commencing with Section 1339.62] to Chapter 2 of Division 2)

SB 1626
Hughes

Peace Officers: School Security Officers: Training

Chapter 745
Statutes of 1998

Existing law requires every school peace officer, including reserve officers, to complete a 32-hour course of training approved by the Commission on Peace Officer Standards and Training (POST). The law requires every security guard to be registered with the Bureau of Security and Investigative Services (BSIS). Registration requirements include a state criminal background check and completion of a two-hour course of training in powers of arrest. Security guards who carry firearms on the job must complete a 14-hour firearms course and qualify on a firing range. The law authorizes the governing board of any school district to establish a security department and employ

security personnel to ensure the safety of students and district personnel. The law requires all school district personnel to submit to a state criminal history background check as a condition of employment. Persons who have been convicted of various serious or violent crimes, as defined, may not be employed by a school district.

This statute increases training standards and adds a national criminal background check to the requirements for school security guards employed at a K-12 public school or community college. The provisions are cross-referenced in the Business and Professions Code, which regulates contract security guards, and the Education Code, which provides authority to school districts to provide for school security as well as the Penal Code, which defines school reserve officer. **This statute requires the BSIS to develop a course of training designed for school security officers in conjunction with the POST. The BSIS is required to ensure compliance with the statutes provisions with BSIS licensed security guards including confirming training compliance and facilitating an FBI criminal background check.** (B&P C §§ 7583.45; Ed C §§ 35021.5, 38001.5 & 72330.5; and PC § 832.2)

SB 1667
Burton

Privacy: Electronic Tracking Devices

Chapter 449
Statutes of 1998

Existing law prohibits the invasion of privacy by electronic devices with certain exceptions, primarily for law enforcement activities under court supervision. The law provides for the regulation of various health care and business professionals, including private investigators and private patrol operators by the Department of Consumer Affairs' Bureau of Security and Investigative Services.

This statute prohibits the placing of an electronic tracking device on a vehicle by a person who is not the registered owner. The statute provides that a violation of its provisions is grounds for revocation for any person licensed or registered in accordance with Division 3 of the Business and Professions Code. The statute is intended to protect private individuals from having their privacy invaded by other private individuals without their knowledge. The statute permits the use of tracking devices by peace officers. (Pen C § 637.7)

SB 1959
Schiff

Professions: Licensing: Military Service

Chapter 405
Statutes of 1998

Please see SB 1959 on page 126 for Summary

SB 2044
Kelley

Private Patrol Operators

Chapter 830
Statutes of 1998

Existing law provides for the registration by the Bureau of Security and Investigative Services (BSIS) of employees of various security industries including locksmiths, repossessors, private patrol operators, and alarm companies. The law provides that registrants of the various

security industries regulated by the BSIS may be issued temporary permits by employers for periods of up to 120 days or more while a criminal background check is conducted by the Department of Justice (DOJ) based on fingerprints.

This statute was sponsored by the Department of Consumer Affairs to address the issue of temporary registration for security industry employees regulated by the BSIS. The statute states legislative findings that a large number of convicted criminals currently working as security guards on temporary registrations are a threat to the public's safety and welfare. The language also declares that this statute is an interim step toward eventual elimination of temporary permits. The statute requires written disclosure to clients by private patrol operators that security guards working with temporary registrations do not have a completed criminal background check. It requires that the temporary security guard registration have on its face a disclosure statement indicating the holder of the registration has not completed a full criminal history investigation. It also requires that all temporary registrations issued to security guards include the name, address and license number of the issuing private patrol operator or training facility. The statute requires that security guards must first have completed an application and provided a set of fingerprints before reporting for employment to a client and to submit the application and fingerprints to the BSIS within three business days. Additionally, the statute authorizes the use of electronic fingerprint systems for purposes of preparing a criminal history on applicants. **As the regulatory agency for licensed private patrol operators and registered security guards, the BSIS is charged with enforcing compliance with these new provisions. Additionally, the BSIS must work with the DOJ to establish procedures and information links to facilitate the use of electronic fingerprint systems for compliance with criminal history requirements for security guard applicants.** (B&P C §§ 7583.9, 7583.10, 7583.11 & 7583.43)

(33) Speech-Language Pathology and Audiology Examining Committee

AB 205
Machado

Chapter 1058
Statutes of 1998

Speech-Language Pathologist

Existing law provides for the licensing and regulation of speech-language pathologists and audiologists by the Speech-Language Pathology and Audiology Board (SPAB).

This statute: 1) creates a new license category, speech-language pathology assistant, within the SPAB; 2) establishes continuing education requirements for all speech-language licensees and registrants as specified; 3) establishes an application, licensing and renewal fee for speech-language pathology assistants; and 4)

requires the SPAB to adopt regulations as specified. (B&P C §§ 2530.2, 2532.6, 2534.2, 2535, 2538 & 2539 and Ed C § 56363)

AB 2721
Miller

Healing Arts Licensees: Unprofessional Conduct: Acupuncture Licensees

Chapter 971
Statutes of 1998

Please see AB 2721 on page 56 for Summary

SB 1930
Polanco

Professional License Fees

Vetoed
September 30, 1998

Please see SB 1930 on page 152 for Summary

SB 1982
Greene

Speech and Hearing Sciences Board of California

Failed Legislative Deadline

Existing law provides for the licensing and regulation of speech-language pathologists and audiologists by the Speech-Language Pathology and Audiology Board (SPAB), for the licensing and regulation of hearing aid dispensers by the Hearing Aid Dispensers Examining Committee (HADEC) and sunsets both the SPAB and the HADEC on July 1, 1999.

This bill would have repealed the provisions governing the SPAB and the HADEC, and would have created the Speech-Language Pathology, Audiology, and Hearing Aid Dispensers Act (Act), effective July 1, 1999. The Act would have merged both the SPAB and HADEC hereby creating the Speech and Hearing Sciences Board of California. (B&P C §§ 101, 144, 149, 205, 2530, 2539.5, 3200, 3300, 3460 & 655.2; Ins C § 10176; and W&I C § 14132.55)

34 Structural Pest Control Board

AB 505
Ashburn

Pest Control Activities

Failed Legislative Deadline

Existing law: 1) requires any person operating any aircraft in pest control to possess a pest-control aircraft pilot's certificate as a journeyman or an apprentice with the Department of Pesticide Regulation; 2) specifies that it is unlawful for an apprentice to conduct pest-control activities unless those activities are conducted under the direct and personal supervision of a journeyman; and 3) authorizes a county agricultural commissioner to refuse, suspend, or revoke the registration of a pest-control operator, a pest-control aircraft pilot, and a pest-control adviser or a permit to use restricted materials.

This bill would have: 1) specified that the supervision of an apprentice by a journeyman is necessary to ensure both operator and

worker safety; and 2) extended a registrant/licensee's right to request a hearing to 25 days after receiving notice from the commissioner to refuse, suspend, or revoke a registration or permit. (F&A C §§ 11512.5 & 11909)

AB 1134
Machado

Chapter 651
Statutes of 1998

Structural Pest Control

Existing law: 1) regulates the practice of structural pest control and the application of chemicals used in that practice; 2) requires that all pesticides be registered with the Department of Pesticide Regulation (DPR); and 3) does not require the registration of structural pest control devices.

This statute: 1) establishes a program within the DPR for the registration of a structural pest control device; 2) establishes the Structural Pest Control Device fund; and 3) **requires the payment of an additional fee of 25 cents for each "Inspection Report" stamp and "Notice of Work Completed" stamp purchased from the Structural Pest Control Board**. The funds derived from the additional 25 cents will be deposited into the Structural Pest Control Device Fund and a portion of the funds will be appropriated to the DPR for costs incurred by the registration of the structural pest control devices. (B&P C §§ 8646 & 8674.5 and F&A C §§ 12996, 12998, 12999, 12999.2, 12999.4, 12999.5, 15205, 15300, 15301, 15302, 15303, 15305, 15306, 15307, 15308, 15309, 15310, 15311, 15312, 15313, 15314, 15315, 15316, 15317, 15318, 15319, 15320, 15325, 15326, 15327, 15330, 15331 & 15340)

AB 2802
Assembly Consumer Protection

Chapter 970
Statutes of 1998

Professions and Vocations

Please see AB 2802 on page 113 for Summary

(35) Veterinary Medical Board

AB 2721
Miller

Chapter 971
Statutes of 1998

Healing Arts Licensees: Unprofessional Conduct: Acupuncture Licensees

Please see AB 2721 on page 56 for Summary

SB 155
Kelley

Chapter 621
Statutes of 1998

Veterinary Medicine: License Renewal: Continuing Education

Existing law requires veterinarians to be licensed by the Veterinary Medical Board (VMB), and provides that veterinarian licenses expire and must be renewed every two years.

This statute: 1) permits the VMB to only issue license renewals to licensees who have completed 36 hours of continuing education

(CE) within the preceding two years beginning January 1, 2002; 2) requires licensees to submit proof of compliance to the VMB; 3) requires applicants for re-licensure or reinstatement of a license to submit proof of CE compliance; 4) authorizes the VMB to audit licensees for compliance; 5) provides for approval of CE providers by either an approval organization or a group established by the VMB; 6) permits the VMB to establish a CE exemption policy; 7) requires the approval group to establish approval criteria to be reviewed and approved by the VMB; 8) requires the VMB to adopt regulations to implement a CE program; and 9) provides for funding of the CE program through license fees, provider fees and course approval fees. (B&P C § 4846.5)

SB 2003
Knight

Chapter 1070
Statutes of 1998

<u>Veterinary Medical Board</u>

Existing law provides for the licensure and regulation of veterinarians by the Veterinary Medical Board (VMB), and provides for reciprocity of veterinarians licensed in other states.

This statute deletes the current reciprocity requirements and instead requires the VMB, until July 1, 2002, to issue a temporary license valid for one year to reciprocity candidates to practice veterinary medicine under the supervision of a licensed veterinarian if the applicant meets the following requirements:

- **holds a current valid license in good standing in another state,**
- **has practiced veterinary medicine at least four years within the preceding five years,**
- **passed the national examination at the time of original licensure,**
- **has graduated from an approved veterinary college, or equivalent,**
- **passes an examination concerning the statutes and regulations of the Veterinary Medicine Practice Act to be administered by mail, and**
- **agrees to complete an educational curriculum approved by the VMB covering regionally specific diseases during the period of temporary licensure.**

This statute also: 1) restructures the examination requirements for new licensees to provide for a mail-out examination concerning the statutes and regulations of the Veterinary Medicine Practice Act; 2) exempts University of California veterinary medical students who have completed a course in law and ethics from the mail-out examination; 3) requires the VMB to issue a temporary license, valid for one year, to an applicant accepted into an internship or residency program that meets specified requirements; and 4) provides for the collection of fees for the temporary license and mail-out examination. (B&P C §§ 4848, 4848.3 & 4905)

SB 2102
Rosenthal

Dogs: Breeding and Sale

Failed Assembly Consumer Protection

Existing law: 1) defines a "dog breeder" as a person, firm, partnership, corporation, or other association that has sold, transferred, or given away 50 or more dogs during the preceding calendar year; 2) regulates the sale of dogs by breeders and retail pet dealers; 3) imposes civil penalties on breeders who sell ill or diseased dogs; and 4) specifies that revenue derived from taxes be allocated first by certain revenue transfers for specified purposes and then by transfer of the balance to the General Fund.

This bill would have: 1) modified the definition of a dog breeder to a person who sells eight or more dogs or earns $3000 from the sale of dogs in a 12-month period; 2) modified the civil penalties imposed on non-complying dog breeders; 3) provided that the purchaser of a dog has a right to a refund if the dog dies or must be destroyed within one year of purchase; 4) required a seller of dogs, upon court action, to provide documentation that he or she is not a dog breeder; and 5) provide that failure to provide such documentation would result in the presumption that the person is a dog breeder. (H&S C §§ 122045, 122060, 122070 & 122110)

(36) Board of Vocational Nursing and Psychiatric Technicians

AB 2721
Miller

Healing Arts Licensees: Unprofessional Conduct: Acupuncture Licensees

Chapter 971 Statutes of 1998

Please see AB 2721 on page 56 for Summary

SB 1930
Polanco

Professional License Fees

Vetoed
September 30, 1998

Please see SB 1930 on page 152 for Summary

Notes

(C) STATE AGENCIES

(1) DCA General

Bill	Summary	Disposition
AB 583 **Davis**	<u>**Residential Real Property: Trespass: Rent Skimming**</u> Existing law defines rent skimming as the use of revenue from the rental of a parcel of residential property during the first year after acquiring the property without first applying the revenue or an equal amount to payments due on all mortgages or deeds of trust encumbering the property. This statute will further define "rent skimming" to include receiving rental income from the rental of residential real property without the consent of the property owner or his/her agent. Claiming ownership or claiming or taking possession of, or causing another to enter or remain in, a residential dwelling for the purpose of renting or leasing the dwelling to another without the consent of the owner or the owner's lawful agent is a misdemeanor. (Civ C § 890 and Penal C § 602.9) *As introduced, this bill would have required Internet Service Providers to make various disclosures regarding their service to the clients. The bill was amended and the chaptered version is limited to residential real property issues.*	**Chapter 193** **Statutes of 1998**
AB 2802 **Assembly Consumer Protection**	<u>**Professions and Vocations**</u> Please see AB 2802 on page 113 for Summary	**Chapter 970** **Statutes of 1998**
SB 2238 **Polanco**	<u>**Consumer Affairs**</u> Existing law provides for the creation of various regulatory boards and commissions within the jurisdiction of the Department of Consumer Affairs (DCA). **This statute makes the following changes: 1) requires every board/bureau within the DCA, by June 30, 1999, to begin the process of adopting regulations that would require licentiates to provide notice to their clients or customers that the practitioner is licensed by the state; 2) exempts boards or bureaus who currently require this or similar notice in statue or regulation; 3) requires every board/bureau to submit a plan to the Director of the DCA, on or before December 31, 1999, describing the method used to ensure the periodic evaluation of every licensing examination**	**Chapter 879** **Statutes of 1998**

administered by the board; 4) authorizes oral and maxillofacial pathologists to perform clinical laboratory tests or examinations and requires the Department of Health Services to issue a license to every applicant who is a registered Diplomate of the American Board of Oral and Maxillofacial Pathology, as specified; 5) requires a licensee of the Board of Speech-Language Pathology and Audiology to display his/her license in the primary place of business; 6) establishes a temporary California license for a speech-language pathologist or audiologist licensed in another state, as specified; 7) specifies that, after January 1, 2001, any act of sexual abuse, or sexual relations with a patient, related to the qualifications or duties of a psychologist or psychological assistant, is deemed to be unprofessional conduct; 8) specifies that beginning January 1, 1999 until January 1, 2001, any act of sexual abuse, or sexual relations with a patient, or former patient, within two years following the termination of therapy, would be deemed unprofessional conduct; 9) requires the Board of Psychology to conduct a study concerning the efficacy of the prohibition of sexual relations or abuse with a patient or former patient and report to the Legislature by July 1, 2000; 10) specifies that a temporary license issued to a hearing aid dispenser is not renewable; 11) requires licensed marriage, family, and child counselors (MFCC), licensed educational psychologists (LEP), and licensed clinical social workers to display their licenses in a prominent manner in the primary place of practice; 12) requires a MFCC, as a condition for licensure, to obtain instruction in spousal or partner abuse assessment, detection, and intervention; 13) provides that denial of licensure, restriction, or any other disciplinary action imposed by another state, territory or possession, or any other governmental agency, is grounds for denial in this state in regard to a MFCC, an LEP, and a social worker; 14) requires an applicant for MFCC, LEP, and social worker to take and pass the current examination if the license has not been renewed within five years of its expiration; 15) eliminates the 30-day grace period for a delinquent license renewal; 16) specifies that an applicant for MFCC, LEP, or social worker pass the written examination before submitting the fee to take the oral examination and provide that the fees are nonrefundable if the applicant fails to appear for the scheduled examination; (17) creates an inactive license category for MFCCs, LEPs, and licensed clinical social workers; 18) authorizes the Board of Landscape Architects to establish rules of professional conduct applicable to landscape architect licensees; 19) replaces references to "certificate" and "registration" with the preferred "licensure" and makes other technical changes, and deletes obsolete language in regard to landscape architects; 20) specifies that disciplinary action taken by any public agency for any act substantially related to the qualifications, functions, or duties as a landscape architect would constitute grounds for disciplinary action; 21) recasts the examination fee schedule for landscape

architect examination and includes a new application fee for reviewing an applicant's eligibility to take any section of the landscape architect examination; 22) specifies that a person acting as a qualified manager for private investigator licensees may not supervise more than five licensees; 23) extends the sunset date for the Structural Fumigation Enforcement Program until January 1, 2000; 24) repeals the obsolete provisions regarding the Better Auto Repair Program which sunset in 1994 and makes other technical changes to the Automotive Repair Act; 25) revises the content of the currently required notice posted in service stations regarding the availability of refueling services for disabled consumers; 26) authorizes the Athletic Commission (Commission) to permit a person, not licensed as a professional boxer or who does not possess a sparring permit, to spar with a professional boxer; the permit would be issued only under special circumstances and require the presence of a Commission representative; 27) provides that any civil action to enforce any cause of action for immigration consultants, the cause of action would be required to be commenced within four years after the cause of action accrued; 28) specifies that a notary public, who practices as an immigration consultant, would be permitted to enter data provided by a client on immigration forms for a specified fee; 29) specifies that notaries public who provide immigration services would not be exempt from immigration consultant requirements; 30) includes offenses committed under the Medical Practice Act, the Pharmacy Practice Act, the Barbering and Cosmetology Practice Act, and the Immigration Consultant provisions under the limitation of time exemptions in the Penal Code. (B&P C §§ 1207, 1264, 2532.2, 2960, 2960.1, 3356, 4826.1, 4980.40, 4980.80, 4980.90, 4982.25, 4984.1, 4984.4, 4984.7, 4986.70, 4986.80, 4992.36, 4996.3, 4996.4, 4996.6, 4996.7, 5615, 5616, 5621, 5622, 5624, 5626, 5629, 5630, 5640, 5641, 5642, 5644, 5652, 5653, 5654, 5655, 5656, 5657, 5659, 5660, 5662, 5665, 5666, 5667, 5668, 5669, 5670, 5671, 5672, 5673, 5676, 5678.5, 5679.5, 5680, 5680.05, 5680.1, 5680.2, 5681, 7536, 8698.6, 9880.1, 9882.5, 9884.7, 13660, & 18643, add §§ 138, 2532.3, 2532.5, 4980.31, 4984.8, 4986.41, 4986.82, 4997, 5675.5, & 22448; Gov C §§ 5677, 5678, & 5679, repeal Article 10 [commencing with § 9889.30] of Chapter 20.3 of Division 3, amend §§ 8214.1, 8214.15, 8219.5 & 8223 and Pen C § 803)

SB 2239
Polanco

Professions and Vocations

Chapter 878
Statutes of 1998

Please see SB 2239 on page 108 for Summary

(2) State Agencies General

AB 19
McClintock

State Government: Realignment or Closure

Failed Assembly Consumer Protection

Existing law requires the Department of Finance (DOF), after consultation with the Bureau of State Audits and the Legislative Analyst, to conduct a survey of all state agencies, departments, offices and commissions to determine which agencies have completed strategic plans for the purpose of conducting performance reviews or to implement performance budgeting systems.

This bill would have established the Bureaucracy Realignment and Closure Commission (Commission). The purpose of the Commission was to develop a list of recommendations for submission to the Governor, that recommended the realignment or closure of state agencies in order to reduce duplication and overlapping of services and reduce expenditures. (Gov C §§ 11820, 11821, 11822, 11823, 11824, 11825, 11826, 11827, 11828, 11829, 11830, 11831, 11832 & 11833)

AB 75
Alby

Crime Prevention: Fingerprints

Chapter 452 Statutes of 1998

Existing law authorizes various employing, licensing or certifying agencies to require the submission of fingerprints to the Department of Justice (DOJ) for the purpose of conducting criminal background checks as a condition of employment, licensure or certification.

This statute establishes alternative procedures for situations in which a person is unable to provide fingerprints due to a disability, illness, accident or other circumstance beyond their control, to the Department of Justice to complete a criminal history check as required for licensure, certification or employment. This responds to incidents where persons were denied employment because of a physical anomaly that prevented them from providing fingerprints. **This statute requires all Department of Consumer Affairs boards, bureaus or programs which require submission of fingerprints for a criminal history check as a requirement of employment, licensure or certification to comply with the procedures specified in this bill for persons unable to submit fingerprints because of a medical condition or disability. This is an urgency statute and took effect September 14, 1998.** (PC § 11105.7)

AB 1393
Alquist

State and Local Government: Performance Audits

Failed Legislative Deadline

Existing law, pursuant to the Government Strategic Planning and Performance Review Act, requires the Department of Finance to develop a plan for conducting performance reviews of all state agencies.

This bill would have made the following changes: 1) clarified that the State Auditor and the Controller would work in unison on the performance audits of state agencies; 2) increased, from two years to four years, the time specified in which the performance audit reports would be completed and submitted to the Governor and other specified entities; 3) provided that within the four year period, the task force was required to establish a priority system to conduct the audits, giving priority to major agencies and departments; 4) exempted any agency that was audited as part of a qualifying or equivalent performance audit within five years of the scheduled time established by the task force; and 5) included the Chairperson of the Joint Legislative Audit Committee in the Joint Performance Audit Task Force. (Gov C §§11830, 11832, 11833, 11834, 11835, 11836, 11837 & 11838)

AB 1497
Brown

State Agencies: Performance

Dropped

Existing law requires the Department of Finance (DOF), in consultation with specified agencies, to recommend a plan for conducting performance reviews for agencies, departments, offices, and commissions that have completed strategic plans. The report also includes the current status of any performance reviews previously authorized by the Legislature. The plan is due by March 1, 1996, and every March 1, thereafter.

This bill would have extended the due date for the plan for performance reviews of state agencies until March 1, 1998.
(Gov C § 11818)

This bill was amended to address the leasing of real property and no longer concerns DCA.

AB 1637
Aguiar

Administrative Costs: State Government

Failed Assembly Appropriations

Existing law requires a state agency that collects funds from the federal government to include in its collection amounts to offset federally allowed statewide indirect costs, as determined by the Department of Finance, except where prohibited by federal statutes.

This bill would have required a state agency that collects funds, as defined, from the federal government to ensure that any indirect administrative costs, as defined by and reported to the federal government, for each fund administered by or allocated to the agency do not exceed 5% of the total amount of the specific fund, except where otherwise governed by federal statutes.
(Gov C §§ 11274.5 & 13332.015)

AB 1656
Ducheny

1998-99 Budget

Chapter 324 Statutes of 1998

Please see AB 1656 on page 118 for Summary

AB 1682
Ortiz

Public Agencies: Child Support

Vetoed
September 27, 1998

Existing law requires each employer to file specified information with the Employment Development Department (EDD) that includes reporting the hiring of any employee in specified industrial classifications whom an employer anticipates paying wages.

This bill would have required every governmental hiring entity to report to the EDD specified information for each hiree. Any governmental entity that provided a loan or other grant must supply specified information to the EDD for each recipient and the recipient's employer. The EDD could only release the information for purposes of establishing, modifying, or enforcing child support obligations, for child support collection, or the Franchise Tax Board for tax enforcement purposes. (Gov C add Chapter 14.7 [commencing with Section 7235] to Division 7 of Title 1 and UIC § 1088.8)

Veto Message

Governor Pete Wilson
To the Members of the California Assembly:

I am returning Assembly Bill No. 1682 without my signature.

This bill would require local government entities that make loans and grants to report recipient information to the New Employee Registry (NER). Local government contractors who hire independent contractors would also be required to report information regarding the independent contractor to the NER.

I signed legislation in 1992 to create the NER to assist state and local agencies in locating parents who are delinquent in their child support obligations and to enforce collection of amounts due. Last year I signed AB 67 (Escutia), Chapter 606, Statutes of 1997, which expanded the NER by requiring all California employers to report new hires to the NER, effective July 1, 1998. In addition to this recent expansion of the NER, I also signed AB 573 (Kuehl), Chapter 599, Statutes of 1997, which required a study of expanding the NER further to include independent contractors.

The AB 573 study has just been released. It concluded that because the NER is so new there is insufficient data to determine whether further expansions of the NER would be cost effective in increasing child support, and that further study is required. In fact, it is unclear that the significant costs in collecting and reporting data regarding those who are independent contractors of state contractors and those who receive state loans and grants will result in increased child support collection. Also, much of the data required by this bill is already reported to state and local enforcement agencies from other sources.

An approach which offers greater expectation of results is AB 1396 (Alquist), which I have signed. It requires state contractors to comply with state and federal child and family support obligations.

AB 1804
Havice

Criminal History Information: School Volunteers

Failed Legislative Deadline

Existing law authorizes various employing, licensing or certifying agencies to require the submission of fingerprints to the Department of Justice (DOJ) for the purpose of conducting criminal background checks as a condition of employment, licensure or certification.

As amended 6/3/98, AB 1804, among other things, would have required any licensing agency to accept a name and identifier background check in instances where an individual cannot provide

fingerprints of sufficient quality to conduct a check using fingerprints. The provision was later amended to apply only to school districts using volunteers. This provision previously applied to all applicants for employment, licensure or certification but was amended to only apply to school volunteers. (Ed C §§ 35021.2, 35021.3 & 35021.4)

AB 2012
Keeley

Public Records: Political Reform Act of 1974

Dropped

Existing provisions of the California Public Records Act require each state or local agency to make copies of public records that are not exempt from disclosure available to any person upon payment of fees covering direct costs of duplication, or a statutory fee, if applicable. A public record is defined to include information relating to the conduct of the public's business that is prepared, owned, used, or retained by a state or local agency. Existing law also requires reports and statements filed under the Political Reform Act of 1974 to be public records.

This bill would have expressly required that information produced from a public record be made available and would have also required that information produced from the reports and statements would be a public record. (Gov C §§ 6257 & 81008)

AB 2049
Firestone

Validating Proceedings

Chapter 529
Statutes of 1998

Existing law permits a public agency, or any interested person, to bring an action to determine the validity of certain government actions or obligations. Jurisdiction in these matters is established by publication of a summons in a general circulation newspaper. Existing law sets forth the content of the summons and requires that the summons contain a notice to all interested persons to appear and answer the complaint by a certain date.

This statute revises the notice contained in the summons to inform interested persons that they may contest the legality or validity of the matter by appearing and filing a written answer to the complaint, as specified. The summons is required to contain a detailed summary of the matter the public agency or other person seeks to validate and to provide a statement that persons who contest the legality or validity of the matter will not be subject to punitive action. (CCP § 861.1)

AB 2179
Wayne

State Agencies: Ethics Orientation

Chapter 364
Statutes of 1998

Existing law requires that the appropriate ethics committees of the Legislature conduct at least semiannually an orientation course for members of the Legislature and designated legislative employees on laws governing official conduct, and another orientation course for registered lobbyists on issues and laws relating to lobbying. Members of the Legislature, designated legislative employees, and registered lobbyists are required to attend these courses every two years.

This statute requires each state agency to offer at least semiannually, and certain state officials and employees to attend once every two years, an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov C, add Article 12 [commencing with § 11146] to Chapter 1 of Part 1 of Division 3 of Title 2)

AB 2503
Goldsmith

State Agencies: Continuation

Failed
Assembly
Consumer
Protection

Existing law requires the Department of Finance, in consultation with the Bureau of Audits and the Legislative Analyst, to conduct a survey of all state agencies, departments, offices, and commissions to determine which of the agencies have completed strategic plans in order to conduct performance reviews.

This bill would have required every state agency, except those directly administered by an elected state officer, governing board, or an agency established by the State Constitution, be abolished on January 1, 2005, unless the Legislature authorized the continuation prior to that date. (Gov C § 11019.9)

AB 2607
Scott

Public Records: Fees

Failed
Assembly
Governmental
Organizational

Existing law, the California Public Records Act, requires each state or local agency, upon receiving a request for a copy of a public record, to promptly make the record available upon payment of fees covering the direct costs of duplication or a statutory fee, if applicable.

This bill would have required state or local agencies to provide copies of requested public records that are stored in an electronic format a copy of the record in the form requested. This bill would also have provided that public records requested for "commercial purpose" would be subject to fees that represent the actual cost of search, retrieval, review, and segregation limited to a rate of $16 per hour for a maximum of three hours. (Gov C § 6257)

AB 2630
R. Wright

Public Records: In-Home Supportive Services and Personal Care Services

Vetoed
September 30, 1998

Existing law, the California Public Records Act, requires that public records be open to inspection at all times during the office hours of state or local agencies and provides that every person may inspect any public record, with specified exceptions.

This bill would have specified that information regarding persons paid by the state to provide in-home supportive services or personal care services, including names, addresses, and telephone numbers, be subject to public disclosure under the act at the appropriate state or local agency. In those counties in which these persons have selected an exclusive bargaining agent, this disclosure would have been

limited to the agent unless further disclosure was authorized in a collective bargaining agreement. (Gov C § 6253.2)

Veto Message

Governor Pete Wilson
To Members of the California Assembly:

I am returning Assembly Bill No. 2630 without my signature.

This bill would require that the names, addresses, and phone numbers of Individual Care Providers be subject to disclosure under the Public Records Act. Existing law does not allow phone number to be released. This bill would also require release of information to the public of only those providers in counties who are not represented by an exclusive bargaining agent.

This bill conflicts with state labor relations law by eliminating a Public authority a discretion, as an employer under current law, to release names, addresses and phone numbers about employees where the collective bargaining agreement is silent on the issue. Thus, the bill creates an unfair distinction between the release of names, addresses, and phone numbers of unionized and non-unionized care providers.

In addition, the release of phone numbers in addition to names and addresses under current law is an unwarranted invasion of privacy. Existing law which provides access to the names and addresses of care providers is sufficient for organizing and information sharing purposes.

AB 2803
Escutia

Maintenance of the Codes

Chapter 485
Statutes of 1998

Existing law directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes.

This statute restates existing provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature for consideration during 1998 and would not make any substantive change in the law. (B&P C §§ 4840, 5040, 5051, 5681, 6009.3, 7507.10, 10085.5, 10133.1, 10133.15, 10133.5, 10145, 10165, 10231, 10231.2, 10232, 10232.1, 10232.4, 10236, 10236.2, 11000.1, 11010.2, 11010.4, 11018.3, 11018.12, 17505.2, 17538, 17762, 19556, 19846A, 19847A, 19942, 22252.5, 23817.5, 24045.14, 24045.15, 25503.30 & 10223; Civ C §§ 1714.45, 2924 & 3333.4; Corp C §§ 14312, 15052 & 16956; Ed C §§ 11301, 17016, 17203.5, 17591, 17883, 19116, 27405, 44279.7, 44306, 44308, 44759.4, 52122, 52122.1, 52124, 52181, 52183, 60640, 69621, 69629 & 89010; Fam C §§ 3030, 4901, 7552, 7571, 7572 & 7575; Fin C §§ 1505, 13081 & 22050; F&G C §§ 1348.2, 2052.1, 4600, 4606 & 7151; F&A C § 12803 repeal the heading of Article 2 [commencing with Section 11241] of Chapter 2 of Part 4 of Division 5 of, to repeal the headings of Chapter 4 [commencing with Section 16701] and Chapter 5 [commencing with Section 16801] of Part 1 of Division 9, and to repeal the heading of Article 5 [commencing with Section 39461] of Chapter 8 of Part 3 of Division 15; Gov C §§ 6254, 12940, 15814.26, 15814.27, 21290, 22825.5, 51017.1, 53125, 54902.5, 73759, 75050 & 95022, to amend and renumber the heading of Chapter 2.1 [commencing with Section 68650] of Title 8, to amend and renumber Sections 68650, 68651, 68652, 68653, 68654, 68655 & 68656, to

repeal Section 29550.2, and to repeal Chapter 12.8 [commencing with Section 7070] of Division 7 of Title 1; H&N C § 651; H&S C §§ 1206, 1357.52, 1746, 44056, 44401, 102425, 111940, 40928 & 40929, amend and renumber the heading of Article 1.5 [commencing with Section 42320] of Chapter 4 of Part 4; Ins C §§ 1760.5, 10273.4, 10700, 10841 & 14029; Lab C §§ 1295.5, 1776, 1813, 3710.3, 4064, 4600.3 & 5433; M&V C § 1011; Pen C §§ 290, 290.4, 629.82, 830.3, 1054.2, 1203.1d, 11167.5 & 13764; PCC § 22050; PUC §§ 6353 & 130051.18; R&T C §§ 69.5, 95.31, 97.3, 619, 3772.5, 7273, 7284.6, 7284.7, 17053.5, 18804, 18872, 19141.6, 19271, 19533, 19721.6 & 41136; UIC § 1088.7; Veh C §§ 12514, 12523.6 & 14602.7; Wa C §§ 1811 & 13274; W&I C §§ 827.6 & 11478.2; and § 3 of Chapter 708 of the Statutes of 1997)

ACA 35
Goldsmith

Legislature: Overturning Administrative Regulations

Failed Assembly Consumer Protection

Existing law, under the California Constitution, the legislative power of this state is vested in the Legislature and the Legislature may make no law except by statute and may enact no statute except by bill.

This measure would have authorized the Legislature, by concurrent resolution, to reject and thereby render void any regulation adopted or amended by a state administrative agency. (Constitution of the State, § 23, Article IV)

SB 134
Ayala

Public Records

Dropped

Existing law makes it a felony for an officer having custody of various records and documents to willfully, or permit any other person to, steal, remove, secrete, destroy, mutilate, deface, alter, or falsify such a document or record.

This bill would have made it grounds for dismissal for a public employee to willfully provide to another person a copy of a record that is legally confidential and prohibited from disclosure, if the public employee had knowledge of the disclosure law. (Gov C § 1242)

SB 143
Kopp

Records

Chapter 620 Statutes of 1998

Existing law, the California Public Records Act, requires each state and local agency, as defined, to make its records open to public inspection at all times during office hours, except as specifically exempted from disclosure by law. The act also defines the terms "writing," "person," and "member of the public."

This statute revises the definitions of "local agency," "writing" and "public agency." The statute also provides for public inspection of public records and copying in all forms, as specified and requires public agencies to ensure that systems used to collect and hold public records be designed to ensure ease of public access. The statute

expressly states that notwithstanding the definition of "member of the public," an elected member or officer of any state or local agency is entitled to access to public records of that agency on the same basis as any other person and would state that it is declaratory of existing law. The statute incorporates changes made to the California Public Records Act by the Governor's Reorganization Plan of 1991, including adding the Department of Toxic Substances Control and the Office of Environmental Health Hazard Assessment to the list of state and local bodies that are required to establish written guidelines for accessibility of records. Additionally, the statute lists specific provisions of law that are exempt from disclosure. (Gov C §§ 6252, 6252.5, 6253, 6253.1, 6256, 6256.1, 6256.2 & 6257)

SB 178
Monteith

Administrative Adjudication: Scientific Evidence

Dropped

Existing law, the Administrative Procedure Act, establishes procedures for the conduct of adjudicatory hearings on behalf of state agencies. The subject matter of an adjudicatory hearing would include the granting or revocation of a license to practice under the Business and Professions Code; a determination of whether an individual violated governmental regulations; or determinations of misconduct by state employees, among other things. The adjudicatory hearing procedures permit the taking of testimony under oath; the right to cross-examine and confront adversary witnesses, as well as a right to representation. In an adjudicatory hearing, any relevant evidence must be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.

This bill would have specified that evidence based on scientific tests could only be admitted under specified requirements. (Gov C § 11513)

SB 209
Kopp

Judicial Review: Governmental Agency Actions

Failed Senate Judiciary

Existing law: the Administrative Procedures Act (APA), includes provisions that allow for judicial review of the actions taken by state and local agencies pursuant to adjudicatory decisions. Provisions for judicial review vary greatly from agency to agency depending on their area of jurisdiction.

This bill would have repealed existing provisions governing judicial review and recast comprehensive judicial review procedures that would standardize the process for all state and local agencies. (B&P C §§ 23090, 23090.1, 23090.2, 23090.3, 23090.4, 23090.5, 23090.6, 23090.7 & 6089; CCP §§ 526, 871, 1085, 1085.5, 1094.5, 1094.6 & 1120; Ed C §§ 44945 & 87682; Gov C §§ 800, 3520, 3542, 11340.5, 11340, 11350, 11350.3, 11420.10, 11425.50, 11523, 11524, 19576.1, 54963 & 65009; H&S C § 1339.2; Lab C §§ 1160.8, 5950, 5951,

5952, 5953, 5954, 5955, 5956 & 6000; PRC §§ 21168, 21168.5 & 25531.5; PUC § 1768; R&T C §§ 2954, 2955, 2956 & 7279.6; UIC § 1243; Veh C §§ 13559 & 14401; and W&I C § 10962)

SB 261
Kopp

Judicial Review: Governmental Agency Actions

Failed Senate Judiciary

Existing law provides procedures for judicial review of actions of state agencies and local agencies. The procedures vary from agency to agency determined by the agency's jurisdiction and the various statutes that govern their actions.

This bill would have made judicial review of specified state and local agency actions subject to provisions being added to the Code of Civil Procedure (CCP) by SB 209 (Kopp), and made conforming changes. This bill would have become operative only if SB 209 was enacted. (B&P C §§ 125.7, 125.8, 494, 809.8, 2087, 2337, 4300, 4875.6, 7071.11, 7502.4, 8662, 8698.3, 10471.5, 12015.3, 17750.18, 19463 & 19813; Civ C § 1812.203; CCP §§ 706.075, 1028.5, 1089.5 & 1245.255; Ed C §§ 35145, 72121, 81960, 87611, 90072, 92491, 94148 & 94323; El C §§ 9190, 9295 & 13313; Fin C § 8055; F&G C § 2076; F&A C §§ 5311, 5509, 11512.5, 12648, 12999.4, 12999.5, 14009, 15071.5, 18931, 19447, 21051.3, 21051.4, 24007, 35928, 43003, 46007, 47025, 59324.5, 60016, 61899 & 62665; Gov C §§ 942, 970.2, 7911, 8670.68, 8670.69,.6, 1130, 11330.3, 11150.3, 11460.80, 11517, 11529, 12987.1, 13969.1, 15444, 17559, 20126, 26370, 26470, 31725, 50770, 51154, 51286, 51294, 51294.2, 53069.4, 53595.35, 54642, 54702.8, 54740.6, 54960, 54960.1, 65584, 65590, 65751, 66499.37, 66639, 66641.7, 66802, 67620, 91537 & 92308; H&N C §§ 737 & 1183; H&S C §§ 1428, 1550.5, 25231, 25233, 25234, 25356.1, 25356.8, 25398.10, 25514.6, 33660, 33781, 34362, 35823, 37646, 37936, 40864, 42316, 44011.6, 44554, 52033, 108900, 110915, 111855, 111940, 112615, 113220, 115155, 116625, 116700, 121270, 123340, 127275 & 128775; Ins C §§ 728, 791.18, 1065.4, 1104.9, 1748.5, 1780.63, 1858.6, 11754.5 & 12414.19; Lab C § 1964; M&V C §§ 489 & 1005.1; Pen C §§ 4011.8 & 11126; PRC §§ 2774.2, 2774.4, 3236.5, 3333, 14591.5, 25534.2, 25901, 26034, 29602, 29603, 29772, 30801, 30802, 32205, 41721.5, 42854 & 50000; R&T C §§ 1611.6 & 19381; S&H C §§ 5302.5, 6467, 6468, 30238, 31171, 33400, 35417 & 35468; UIC §§ 409.2, 1338 & 3264; Veh C §§ 3058, 3068 & 22851.3; WC §§ 1126, 6357.4, 6461, 9266, 11708, 13330, 36391 & 44691; and W&I C §§ 4668, 5655, 10605, 10605.2, 10744, 11468.5, 11468.6, 14087.27, 14105.405, 14171 & 19709)

SB 489
Alpert

Public Records: Confidential Information

Chapter 1005 Statutes of 1998

Existing law, the California Public Records Act, requires that any public record be open to inspection at all times during the regular office hours of a state or local agency and provides that every person has a right to inspect any public record or writing, with specified

exceptions. Existing law relating to public records also provides for the confidentiality of certain voter registration information and certain information relating to the victims of crime. Existing law provides that the home address, telephone number, occupation, precinct number and prior registration information on a voter registration card is confidential. It prohibits that information from appearing on any computer terminal list, affidavit, duplicate affidavit, or other medium routinely available to the public at the county elections official's office.

This statute establishes a program, until January 1, 2005, under which an adult person, or a guardian on behalf of a minor, or an incapacitated person, states that he or she is a victim of domestic violence, as defined, and fears for his or her safety, and designates the Secretary of State as the agent for service of process and receipt of mail. When the Secretary of State certifies the person as a program participant, his or her actual address is confidential. The statute holds harmless the office of the Secretary of State from any liability in any action brought by any person injured or harmed as a result of the handling of first-class mail on behalf of program participants. The statute will also permit a program participant to vote in a confidential manner, as specified, and permit the participant to make marriage application information confidential. The statute specifies the grounds for termination of certification. Making a false statement in an application would be a misdemeanor. In addition, this statute permits any person filing a new affidavit of registration or re-registration to have his or her address and telephone number appearing on the affidavit or any list, roster, or index prepared from the affidavit, declared confidential upon presentation of certification that the person is a participant in the address confidentiality of victims and domestic violence program. (El C § 2166.5 and to add and repeal Chapter 3.1 [commencing with Section 6205] of Division 7 of Title 1 of the Gov C)

SB 625
Rosenthal

<u>Health Care Service Plans: Drugs</u>

Chapter 69
Statutes of 1998

Existing law provides for the regulation of health care service plans by the Department of Corporations (Department).

This statute requires health care service plans that provide prescription drug benefits to: 1) provide a copy of its most current list of prescription drugs on its formulary, as specified; 2) maintain an expeditious process by which prescribing providers may obtain authorization for a medically necessary nonformulary prescription drug, as specified; 3) file with the Department, on or before July 1, 1999, a description of its process for responding to authorization requests for nonformulary drugs, as specified; 4) provide its reasons in a notice to the enrollee for the disapproval of a request made by a prescribing provider to obtain authorization for a nonformulary drug; 5) maintain specified information to be made available upon request

to the Commissioner of the Department; and 6) describe in evidence of coverage and disclosure forms, issued on or after July 1, 1999, the process by which enrollees may obtain medically necessary nonformulary drugs, as specified. In addition, this statute requires the Department as part of its periodic onsite medical survey of each plan to review the performance of the plan in relation to prescription drug benefits. (H&S C §§ 1367.20 & 1367.24)

SB 778
Haynes

False Claims Actions

Dropped

Existing law authorizes the Attorney General to investigate and bring a civil action for false claims made against the state if money, property, or services issued are involved.

This bill would have provided that tort claims and actions against public entities and public employees, specified construction claims or arbitration claims from public works projects, claims made pursuant to other statute or law, and claims made in the course of any litigation, arbitration, or other formal adjudicatory proceedings are exempt from these provisions. (Gov C § 12654)

SB 885
Watson

AIDS: Clean Needle And Syringe Exchange Pilot Project

Failed Legislative Deadline

Existing law authorizes: 1) pharmacists, physicians, and veterinarians to furnish hypodermic needles and syringes without a prescription, license, or permit, under specified conditions; and 2) a person to obtain hypodermic needles and syringes from a pharmacist, physician, or veterinarian without a prescription under specified conditions and if specified requirements are met.

This bill would have: 1) established, defined and outlined the Clean Needle and Syringe Exchange Pilot Project under the Department of Health Services (DHS); 2) allowed the DHS to authorize a Pilot Project in the City and County of San Francisco, the City of Los Angeles, the City of San Jose, and the City of Long Beach, as well as additional Pilot Project sites under specified conditions; 3) authorized the DHS to terminate the Pilot Project if the local health officer determined that the project had a detrimental effect in terms of increased drug use and the increased spread of the human immunodeficiency virus (HIV); and 5) repealed the Pilot Project on January 1, 2000, unless extended by the Legislature. (B&P C § 4145 and H&S C § 121340)

SB 1093
Rainey

State Budget: Performance Measures

Failed Legislative Deadline

Existing law requires the Governor to submit a budget to the Legislature, itemizing state expenditures and estimating state revenues on an annual basis. The Department of Finance is required to establish guidelines to be used by each state agency to ensure that

proposed budgets reflect the agency's activities and program costs and to ensure that expenditures are based on defined objectives.

This bill would have declared that: 1) the budget should focus on the results of government service at the state and local levels; 2) state and local governmental officials are required to respect existing program evaluation requirements and performance measures; and 3) outcome measures must be realistic and commensurate with the level of revenues for each program. (Gov C § 13337.2)

SB 1181
Solis

Pharmaceutical Drugs: Narrow Therapeutic Range Drugs

Failed Legislative Deadline

Existing law allows a pharmacist filling a prescription order for a drug product, as defined, to select another drug product with the same active ingredients of the same strength, quantity, and dosage form and of the same generic drug type.

This bill would have: 1) required the Department of Health Services (DHS) to maintain and publish annually a list of narrow therapeutic range drugs and identify in the list those narrow therapeutic range drugs that are available as generic drug(s); 2) required the DHS to provide accompanying advisory information with a copy of the list to specified health care providers; 3) required the DHS to recommend that health care providers consult with one another regarding narrow therapeutic range drug changes; 4) required manufacturers of a drug, which is included on the list and is sold or distributed in the state, to submit a certification to the DHS to that effect; and 8) defined the term narrow therapeutic range drug. (H&S C § 100186)

SB 1304
O'Connell

State Budget: Zero-Based Budgeting

Dropped

Under existing law, the California Constitution requires the submission of the Governor's Budget annually by January 10, and passage of the Budget by June 15. There are also statutory requirements for every state entity to submit their budget requests for the fiscal year. The budget requests are generally based on prior year revenues and expenditures and includes projections for anticipated needs and revenues. The state entities have various options of how each budget is developed, following guidelines developed by the Department of Finance.

This bill would have: 1) between now and the 1999/2000 fiscal year, created a task force required to develop a program of training and education to facilitate the development of zero-based budgeting for the 2000/2001 fiscal year; 2) required specified members of the task force to develop guidelines and procedures for use by state agencies in developing a zero-based budget for the 2000/2001 fiscal year; 3) required the Controller to prepare a report documenting the improvements and efficiencies achieved with zero-based budgeting versus the improvements and efficiencies achieved as a result of the

use of performance standards and evaluation; and 4) provided that the provisions would not become operative until the State Constitutional Amendment 13 of the 1997/98 session was adopted by the voters. In any case, the provisions would have been repealed as of January 1, 1999 or the day following the election. (Gov C § 13337.1)

SB 1364
Ayala

Open Meetings: State Bodies

Failed Senate Governmental Organization

Existing law makes it a misdemeanor for a member of a state body to attend a meeting of the body in violation of the "Bagley-Keene Open Meeting Act," relating to open meetings of state bodies, where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under the act.

This bill would have provided instead that it is a misdemeanor for a member of a state body to attend a meeting of that body in knowing violation of the act with knowledge of the fact that the meeting is in violation of the act under that circumstance.
(Gov C §§ 11130 & 11130.7)

SB 1386
Leslie

State Computer Technology: Information Gathering

Chapter 429 Statutes of 1998

Existing law includes comprehensive provisions that govern information technology in state government, including provisions that establish the Department of Information Technology, prescribe the duties of that department, and prescribe the responsibilities of state agencies in the area of information technology.

This statute requires every state agency that utilizes any method, device, identifier, or other database application on the Internet to electronically collect personal information about any user, to prominently display specified information from at least one anticipated initial point of communication with a potential user, as specified, including notice to the user that he or she has the option of having his or her personal information discarded without reuse or distribution. The statute also prohibits a state agency from distributing or selling any electronically collected personal information about users, without the user's permission, to any third party, except as specified. The statute prohibits any state or local agency from posting the home address or telephone number of any elected or appointed official on the Internet without first obtaining the written permission of that individual. (Civ C § 1798.16; Ed C § 18030.5; and Gov C §§ 6254.20, 6254.21 & 11015.5).

SB 1426
Johannessen

State Auditor

Failed Senate Governmental Organization

Existing law requires the State Auditor to conduct financial and performance audits of any state agency, as directed by statute.

This bill would have required the State Auditor to examine and prepare a report to the Legislature on all state governmental revenue sources to determine how funds that are raised are actually expended. (Gov C § 8546.2)

SB 1589
Thompson

Chapter 328
Statutes of 1998

State Government Administration

Existing law: 1) specifies that all money in the Alcohol Beverage Control Fund derived as payments for original on-sale licenses shall be transferred to the General Fund on the order of the Controller; 2) authorizes the imposition of various fees in connection with securities-related actions by the Commissioner of Corporations; 3) appropriates $15,000,000 to the Department of Commerce for a loan to the San Diego National Sports Training Foundation to develop and build a California Olympic Training Center; 4) authorizes public agencies to develop energy conservation, co-generation, and alternate energy supply sources at facilities of those agencies, ("Public agency" for that purpose means specified local entities and any other political subdivision or public corporation in the state, except the state, the California State University, and the University of California); 5) requires those public agencies to hold a public hearing and make certain findings relative to entering into specified contracts and leases, and prescribes criteria for the evaluation of the proposals; 6) the Performance and Results Act of 1993 requires the Department of Finance to develop a performance budgeting pilot project, in accordance with specified principles, involving four state departments, including the Department of General Services and the Department of Consumer Affairs; 7) sets forth the conditions pursuant to which the Department of General Services, notwithstanding existing statutes and regulations, is required or authorized, among other things, to carry out specified functions relating to state personnel matters, to prepay vendors when it is cost-beneficial to the department, to accept gifts and donations of real property without approval by the Director of Finance, and to procure goods from the private sector even though the goods may be available through the Prison Industry Authority; 8) until the latter of the effective date of the Budget Act of 1998, or June 30, 1998, sets forth the conditions pursuant to which the Department of Consumer Affairs is required or authorized to carry out specified functions relating to state personnel matters, the procurement of goods and services, including data processing and telecommunications goods and services, and the prepayment of vendors when it is cost-beneficial; 9) exempts state agencies from a requirement that all state printing be done in the Office of State Printing, as specified, (These provisions of existing law remain in effect until the effective date of the Budget Act of 1998 or June 30, 1998, whichever occurs later); 10) authorizes the Director of General Services to purchase, exchange, or otherwise acquire real property and construct facilities in the County of Sacramento for the purpose of acquiring approximately 1,000,000 square feet of office and warehouse space for use by the Franchise Tax Board and other

state agencies; 11) limits the costs of the facilities to $218,000,000; 12) establishes the California Space and Technology Alliance to foster the development of activities in California related to space flight, (The alliance is organized as a nonprofit corporation with a board of directors composed of members selected by the alliance. Residents of San Luis Obispo and Santa Barbara Counties are required to be selected to fill 50% plus one of the director positions, with residents of other counties being selected to fill the remaining positions); 13) provides for the California Space Flight Competitive Grant Program administered by the California Space and Technology Alliance and the Highway to Space Competitive Grant Program administered by the Western Commercial Space Center, (Applications for grants under each program are evaluated according to specified criteria by an impartial review panel established by the respective entity. Each review panel compiles a final, consolidated list of grant applications ranked by degree to which each meets the criteria of the respective program, and forwards the list to the Secretary of Trade and Commerce for awarding of grant funding); 14) requires an electric corporation that sells, leases, assigns, mortgages, or otherwise disposes or encumbers the whole or any part of its electric plant, to first secure from the Public Utilities Commission an order authorizing it to do so; 15) appropriates, without regard to fiscal years, $3,500,000 from the General Fund as a loan to the Secretary of State for the purposes of implementing and administering the statewide system to facilitate removal of duplicate or prior voter registrations, to facilitate the reporting of election results and voter and candidate information, and to otherwise administer and enhance election administration; and 16) requires this loan to be repaid not later than June 30, 1999, upon those terms and conditions deemed appropriate by the Director of Finance.

This statute declares the intent of the Legislature to make the necessary statutory changes to implement the Budget Act of 1998 relative to state government administration. This statute: 1) provides that all original license fees paid on or after July 1, 1998, shall remain in the Alcohol Beverage Control Fund; 2) provides, until July 1, 2000, for the suspension of certain specified notice filing fees; 3) commencing July 1, 2000, provides for levying the maximum amount of those notice filing fees, except in any fiscal year in which the commissioner sets the fees below the maximum; 4) requires the Secretary of Trade and Commerce to remove a lien placed in connection with the loan; 5) deletes those exceptions and includes the state as a public agency for that purpose; 6) authorizes state agency heads to make those findings without a public hearing, and would authorize public agencies to use certain qualified energy companies and procedures contained in other provisions of existing law relating to energy service contracts entered into by state agencies; 7) reenacts the provisions relating to the Department of General Services and the Department of Consumer Affairs described above, but would also authorize the Department of Consumer Affairs to prepay vendors

when it is a best value to the department; 8) specifies that these provisions shall remain in effect only until the effective date of the Budget Act of 1999 or June 30, 1999, whichever occurs later; 9) authorizes the Director of General Services to retrofit existing buildings, as specified, for the purpose of acquiring and constructing office and warehouse space for use by state agencies, generally and requires the Department of General Services to determine which agencies will occupy the space; 10) states the intent of the Legislature to appropriate funds from the General Fund to repay loans made for the project if the bonds authorized for the project are not sold and limits the costs of the facilities to $211,000,000; 11) requires that one-third of the board of directors be residents of northern California, one-third residents of southern California, and one-third residents of central California; 12) provides that each review panel shall compile a preliminary list of grant applications for projects determined to be qualified under the criteria of the respective program, and submit the list to a coalition composed of the review panel, the alliance or the center, as appropriate, and the Trade and Commerce Agency, each of which would have one vote; 13) provides that each coalition shall rank grant applications on the respective preliminary list by the degree to which each meets the criteria, and provide a final, consolidated list to the Secretary of Trade and Commerce for awarding of grant funding, to the extent funds are available, under the respective program; 14) requires the commission to approve the closure or acquisition of bayside fossil fueled electric generation and associated transmission facilities that are closed pursuant to agreement with local governmental entities or acquired by those local governmental entities, using appropriated state funds in the Budget Act of 1998, as specified; and 15) extends the time period for the repayment of the loan to December 31, 2000. (B&P C § 25761; Corp C § 25608.2; Gov C §§ 4217.11, 4217.12, 4217.13, 4217.16, 4217.17, 7591.5, 14669.35, 15333.3 & 15333.4; PUC § 363 and amend Section 4 of Chapter 913 of the Statutes of 1995) **Urgency**

SB 1609
Ayala

State Funds: Public Access Telephone Numbers

Dropped

Existing law requires the Director of General Services to establish and staff the forms management center for the orderly design, implementation, and maintenance of a statewide forms management program. Existing law prescribes the duties of the director with regard to the statewide forms management program, including establishing basic state design and specification criteria to effect the standardization of public-use forms.

This bill would have required each state form to include a public access telephone number of the state agency charged with administering the form. (Gov C § 11090.5)

SB 1630
Rosenthal

Residential Care Facilities For the Elderly

Chapter 306
Statutes of 1998

Existing law provides for the licensure and regulation of residential

care facilities for the elderly by the Department of Social Services.

This statute: 1) requires each residential care facility for the elderly to place copies of all specified licensing reports issued by the Department of Social Services (Department); 2) requires the facility to inform the resident and the resident's responsible person in writing that licensing reports are available for review at the facility or the appropriate district office of the Department; 3) requires the Department to develop and maintain at each district office a file, containing specified documents, for each facility in that district; and 4) requires the aforementioned file to be available immediately upon the request of any consumer and allows the consumer to obtain copies of documents from the file upon the payment of a reasonable charge. (H&S C §§ 1569.38 & 1569.61)

SB 1652
Kopp

Secretary of State: Document Filing

Chapter 829
Statutes of 1998

Existing law requires that various documents be filed with, or be maintained by, the Secretary of State. Existing law: 1) requires specified business establishments to maintain a bond issued by a surety company and to file a copy of the bond with the Secretary of State or, in the alternative, to deposit funds with the Secretary of State; 2) requires the Secretary of State to develop and maintain a registry of distinguished women and minorities who are available to serve on corporate boards of directors; 3) authorizes the Secretary of State to charge fees for purposes of the registry program and requires that these fees be deposited into the Secretary of State's Business Fees Fund; 4) authorizes the Controller to designate and appoint, or terminate the appointment of deputy controllers and provides that the appointments and terminations are effective when filed by the Controller in the office of the Secretary of State; 5) authorizes the Santa Paula Union High School Public Library District, by resolution of the Santa Paula Union High School District board of trustees, to be governed by a separate 5-member board of trustees who hold office for a term of four years; and 6) requires the first board of trustees to classify themselves by lot with regard to the expiration of their terms.

This statute: 1) deletes the requirement that certain documents be filed or maintained by the Secretary of State and requires instead that these documents be filed with, or maintained by, a designated state agency, state officer, county clerk, county board of supervisors, or other local officer, as appropriate; 2) provides that the alternative of depositing funds in lieu of maintaining and filing a bond may not be utilized after January 1, 1999, and that persons who have deposited funds prior to that date may continue to utilize the alternative, but the deposit may not be renewed; 3) authorizes the Secretary of State to transfer information contained in the registry to a campus of the California State University or the University of California that is interested in maintaining the registry; 4) authorizes the Secretary of State to transfer funds deposited in the Secretary of State's Business Fees

Fund to the university selected to maintain the registry, thereby constituting an appropriation; 5) provides that appointments and termination of appointments are effective when signed by the Controller; and 6) specifies that persons elected to the board of trustees in 1997 shall hold office for a term of five years and would change the year that the term expires for each member of the first board of trustees. (B&P C §§ 312, 6715, 16728, 22391 & 22443.1; Civ C §§ 1789.24, 1812.54, 1812.66, 1812.105, 1812.129, 1812.503, 1812.510, 1812.515, 1812.525 & 1812.600; CCP §§ 995.710 & 1279; Corp C § 318; Ed C §§12511, 18342 & 19420; Gov C §§ 113, 126, 12302, 12402, 23600, 23713, 25004, 34460, 61230, 65584.3, 68083 & 68116; H&S C §§ 2224, 2226, 4739.5, 6501, 13830,13876, 32137, 33102 & 34116; PRC §§ 9626, 29728, 29731 & 30150; PUC §§ 7578, 11895, 22258 & 30205; to repeal Wa C §§ 7579, 29254, 30944 & 100464; WC § 27123, S&H C §§30321.5, 30322, 30323, 31006, 34501, 71598, to repeal Section 34503; and Chapter 545 of the Statutes of 1943 §§ 10 & 10.2)

SB 1707
Rainey

Chapter 540
Statutes of 1998

Safekeeping of Property

Existing law requires the delivery of lost or unclaimed property having a value of $100 or more to the police or sheriff's department, which is required to restore the property to the owner if he or she claims the property within 90 days. Existing law also requires, when property is taken from an arrested defendant, the officer taking it to, at that time, give duplicate receipts therefor, one for the defendant and one for the clerk of the court to which the depositions and statement are to be sent.

This statute requires a public agency, when it obtains possession of personal property from a person for temporary safekeeping, to take responsibility for the storage, documentation, and disposition of the property and provide the person from whom the property was taken with a receipt and instructions for the retrieval of the property, as specified. The statute also requires the public agency to make reasonable efforts to contact the owner if the public agency has knowledge that the person from whom the property was taken is not the owner, and, if the owner is identified, to send to the owner, by first-class mail, a receipt and instructions for retrieval of the property. The statute provides that the receipt and instructions are to notify the person that the property must be claimed within 60 days after the public agency obtains possession or the property will be disposed of, as specified, unless the person notifies the public agency in writing that he or she is in custody and unable to retrieve the property within 60 days, or have an authorized person retrieve the property, resulting in the public agency holding the property for not longer than 10 additional months. (Civ C § 2080.10)

SB 1759
Ayala

Chapter 1759
Statutes of 1998

Liens and Encumbrances

Existing law authorizes persons to place a lien or encumbrance

against real or personal property and sets forth the procedures applicable to an action.

This statute prohibits a person from filing a lawsuit or lien against a public officer or employee, knowing it is false, with the intent to harass the officer or employee and hinder the officer or employee in discharging their official duties. Further, the statute prohibits a credit reporting agency from reporting a lien or encumbrance which has been struck or released by a court order. The statute also authorizes the employee or officer's employing agency to provide legal counsel in a fraudulent lien action. The statute is intended to discourage increasingly common acts of legal and financial harassment of public officers and employees by anti-government groups in an attempt to evade or overturn existing law. (Civ C § 1785.135 & Article 6 [commencing with Section 765.010] to Chapter 4 of Title 10 of Part 2 and Gov C §§ 6223 & 27201)

SB 1876
Kopp

Public Employee Liability

Vetoed
July 20, 1998

Existing law provides that, except as otherwise provided by statute, a public employee is not liable for an injury resulting from his or her act or omission where the act or omission was the result of the exercise of the discretion vested in the employee, whether or not that discretion is abused.

This bill would have provided that for the purposes of discretionary immunity, the representation by a public defender of a client shall be deemed an exercise of discretion for the purposes of any legal malpractice action that may result from that representation. (Gov C § 820.3)

Veto Message

Governor Pete Wilson
To the Members of the California Senate:

I am returning Senate Bill No.1876 without my signature.

This bill would provide that representation by a public defender of a client is an exercise of discretion, thereby granting them immunity from malpractice actions.

Current law generally provides that a public employee is not liable for an injury resulting from an act or omission where the act or omission was the result of an exercise of discretion vested in the employee, whether or not that discretion is abused. An appellate court recently held that discretionary immunity does not apply to a public defender in the performance of his or her duties.

This measure would extend immunity to public defenders against malpractice actions brought by those clients they represent. This bill could lower accountability and promote negligence in the defense of those accused of criminal acts.

Public defenders are not like prosecutors or judges whose jobs are to represent the interests of society and to see that justice is served. Immunity is properly accorded those governmental officials to enable them to carry out those responsibilities. In contrast, the public defender's sole responsibility is to serve the interests of his or her client by opposing the government. In that respect, public defenders are more closely aligned and should be compared with privately retained counsel.

Privately retained attorneys in criminal cases are not immunized from

malpractice claims. Quite the contrary. They are subject to actions for negligence for failure to use ordinary judgment, skill, care and diligence. Public defenders should be held to the same standards as private attorneys since they perform the same function and have identical responsibilities. To require less is to accept less.

SB 1920
Karnette

Drugs: Prescription: Disposal

Failed Legislative Deadline

Existing law: 1) provides for the labeling of prescription drugs; and 2) provides that the Board of Pharmacy be responsible for the enforcement of federal and state laws pertaining to the acquiring, storing, distributing, and dispensing of dangerous drugs and devices as they relate to pharmacies, pharmacists, drug wholesalers, clinics, non-resident pharmacies, medical device retailers, and out-of-state distributors.

This bill would have: 1) required the Department of Health Services to establish guidelines for the proper and safe disposal of prescription drugs; and 2) required that the guidelines be printed on the labels of the prescription drugs. (H&S C §§ 110111 & 111361)

SB 2164
Rosenthal

Pharmaceutical Benefit Management Companies

Failed Legislative Deadline

Existing law: 1) provides for the licensure and regulation of pharmacists by the Board of Pharmacy (BOP) and for the licensure and regulation of physicians and surgeons by the Medical Board of California (MBC); 2) provides for the regulation of health care service plans by the Department of Corporations (Department); and 3) does not provide for the regulation of Pharmaceutical Benefit Management Companies (PBMs).

This bill would have: 1) required the Department to oversee/review the business practices of PBMs; 2) defined a PBM; 3) required PBMs to submit to the Department a copy of their current list of prescription drugs on their formularies, as specified; 4) required PBMs to maintain specified information as part of their books and records to be made available to the Department upon request; 5) required the Department to review as necessary and appropriate the information made available to the Department by the PBM's to ensure compliance with the provisions of SB 2164; 6) required PBMs to annually notify their contract beneficiaries residing in California of their right to submit grievances to the PBMs; 7) required PBMs to provide to the Department on a quarterly basis copies of all grievances received by the PBMs and a report on the status of the complaints; 8) required the Department in coordination with the BOP and the MBC to notify pharmacists and physicians of their right to file complaints with the Department against PBMs; 9) required the Department to conduct or contract for a periodic on-site survey of each PBM at least once every three years and publicly report on the PBM's compliance with the provisions of SB 2164; 10) required the Department to investigate whether any PBM meets the definition of a "health care service plan" or a "specialized health care service plan contract;" 11) required the

Department to establish a Pharmaceutical Benefit Management Council to help develop quality of care guidelines for PBMs; and 12) required each PBM to pay an annual fee to reimburse the Department for anticipated costs in administering and enforcing the provisions of SB 2164. (H&S C § 1415)

SCA 13
O'Connell

State Budget: Zero-Based Budgeting

Dropped

Under existing law, the California Constitution requires the submission of the Governor's Budget annually by January 10 and passage of the Budget by June 15. There are also statutory requirements for every state entity to submit their budget requests for the fiscal year. The budget requests are generally based on prior year revenues and expenditures and include projections for anticipated needs and revenues. The state entities have various options of how each budget is developed, following guidelines developed by the Department of Finance.

This bill would have amended the California Constitution to: 1) require that the annual state budget be developed with a base of zero dollars for each state agency and adding dollar amounts as necessary to fund the activities and operations appropriate for that agency; 2) set performance standards for state agencies; 3) develop a mechanism to evaluate the performance standards to ascertain the effectiveness and efficiency of each agency; 4) require each state agency to: a) identify each of its activities, b) specify the legal authority for those activities, and c) itemize the budgetary requirements for conducting those activities; 5) require the agency budget process to begin with the smallest significant operational unit that has programmatic responsibilities and authority distinct from other units in the organizational structure and has no subdivisions with any responsibility; 6) require that the amount of each appropriation made in the Budget Bill be determined by using a prescribed budgeting methodology; and 7) require the statute to set forth performance standards to be applied to state agencies and a method for evaluating the extent to which those standards are satisfied. (Senate Constitutional Amendment) (CA Con Article IV § 12)

APPENDIX

III. APPENDIX

A. BILL NUMBER INDEX

Bill #	Chapter #	Page #
AB 19		196
AB 50		1
AB 61		1
AB 75	452	196
AB 123	553	180
AB 128		11, 142
AB 162	647	42
AB 183		43, 117
AB 185	62	12
AB 204	440	110
AB 205	1058	187
AB 224		43
AB 225		2
AB 247	224	92
AB 255	8	165
AB 274		154
AB 276		129, 175
AB 284	672	81
AB 302	148	92
AB 332		44
AB 375		93
AB 398		143
AB 404		165
AB 410		111
AB 434		44
AB 436		93
AB 469	504	116
AB 487	13	81
AB 505		188
AB 508	611	107
AB 565		12
AB 580		81
AB 583	193	71, 193
AB 589		45
AB 610		166
AB 630		72
AB 635	356	12
AB 647		82
AB 695		176
AB 714		45
AB 737		13
AB 745	505	145, 154
AB 746		74, 135
AB 771	240	13
AB 804		13
AB 818		46
AB 823	1009	46, 155
AB 834		47, 117
AB 843		13
AB 886		14
AB 892		177
AB 906		82
AB 911	649	82
AB 918		14
AB 919		14
AB 969	59	150
AB 1016	25	94
AB 1051	38	143
AB 1079		155
AB 1094	932	14, 144
AB 1096	671	74
AB 1134	651	189
AB 1156		83
AB 1161		83
AB 1181	31	47
AB 1199	167	15
AB 1205		173
AB 1208	999	47
AB 1220		48
AB 1235		94
AB 1236		94
AB 1251		48, 156
AB 1299		84
AB 1309		135
AB 1314	168	131
AB 1323		15
AB 1324		15
AB 1333		49
AB 1344		49, 156
AB 1371		15
AB 1374	798	16
AB 1393		196
AB 1424	799	84
AB 1431		49
AB 1434		50, 135
AB 1435		40
AB 1437		50, 117
AB 1439	1013	50, 129
AB 1449	108	129
AB 1462		16
AB 1471		16
AB 1497		197
AB 1500		16
AB 1517		84
AB 1523		51, 118
AB 1560	994	131
AB 1614	351	85
AB 1617		17
AB 1629	863	2
AB 1637		197
AB 1638		40
AB 1656	324	118, 127
		173, 197
AB 1669		20
AB 1676	865	2

Bill #	Chapter #	Page #
AB 1678		136
AB 1682		198
AB 1703	243	95
AB 1705	614	132
AB 1709	286	133
AB 1716		21
AB 1731	358	51
AB 1758		51
AB 1798		21
AB 1804		198
AB 1810	445	3
AB 1819	172	156
AB 1830	595	3
AB 1848	352	75, 112
AB 1865	559	95
AB 1872	446	4
AB 1876		96
AB 1884	981	22
AB 1889		167
AB 1893		85
AB 1912		22
AB 1914		52, 119
AB 1934		22
AB 1947		40
AB 1958		96
AB 1973	465	86
AB 1977	361	86
AB 1994	802	87
AB 2006	513	146
AB 2012		199
AB 2039	469	41
AB 2049	529	199
AB 2063	580	148
AB 2069	682	22
AB 2071		23
AB 2086	915	23
AB 2088	804	4
AB 2120	175	111
AB 2134	473	87
AB 2142	1036	87

Bill #	Chapter #	Page #
AB 2150	974	23, 144
AB 2179	364	199
AB 2200		52, 73
		153
AB 2207	721	23
AB 2239		23
AB 2245		96
AB 2265		4
AB 2269		24
AB 2277		75, 112
AB 2279		144
AB 2280		24, 136
AB 2293	112	96
AB 2301	571	76, 137
AB 2305	984	157
AB 2311		52, 119
AB 2312		183
AB 2387	892	146, 157
AB 2389		53, 158
AB 2410	1063	76, 113
AB 2445		25, 137
AB 2496		53, 159
AB 2503		200
AB 2504		5
AB 2507	114	172
AB 2508		130
AB 2511		5
AB 2529		174
AB 2534		97, 137
AB 2542		54
AB 2552		54, 119
AB 2553		98
AB 2556		55
AB 2557		25, 174
AB 2558	128	98
AB 2607		200
AB 2618		5
AB 2627	986	98, 138
AB 2630		200
AB 2640		5

Bill #	Chapter #	Page #
AB 2642		41
AB 2658		151
AB 2662		88
AB 2687	750	168
AB 2693	789	55, 159
		168
AB 2695		88
AB 2702	195	26
AB 2704	196	99
AB 2709		181
AB 2716	534	88
AB 2719	301	160
AB 2721	971	56, 107
		130, 147
		148, 152
		160, 165
		166, 169
		171, 172
		175, 177
		182, 188
		189, 191
AB 2728		91
AB 2733		99
AB 2771	872	107
AB 2789		57, 120
AB 2795		57, 120
AB 2802	970	113, 116
		121, 127
		133, 151
		152, 171
		175, 177
		184, 189
		193
AB 2803	485	201
ACA 35		202
ACA 38		58
ACR 145	166	171
AJR 020		76
SB 14		100
SB 19	618	26

Bill #	Chapter #	Page #
SB 40		58, 121
SB 61		58, 121
SB 117	582	184
SB 134		73, 202
SB 143	620	202
SB 149	410	128
SB 155	621	189
SB 178		203
SB 184		128
SB 185		77, 139
SB 201		59, 122
SB 209		203
SB 213		26
SB 232		27
SB 261		204
SB 262	1000	27
SB 288		130
SB 289		6, 77
		115
SB 305		177
SB 322		59, 122
SB 324		160
SB 339		140
SB 346		41
SB 378	1041	89
SB 385		161
SB 405	663	89
SB 406		59
SB 439		90
SB 440	347	169
SB 489	1005	204
SB 524		92
SB 546		100
SB 557		147, 161
SB 587		78, 184
SB 597	599	6
SB 606		92
SB 625	69	205
SB 666		60
SB 694	867	175

Bill #	Chapter #	Page #
SB 700		100
SB 704		140
SB 709		28
SB 778		28, 206
SB 845	29	28
SB 863		111
SB 885		206
SB 891		101
SB 930		41
SB 958		130, 175
SB 961		90
SB 977	1042	61
SB 983	822	176
SB 994		141
SB 996		61, 141
SB 998	775	61, 162
SB 1032		162, 166
SB 1070		90
SB 1074		144
SB 1084		62
SB 1086	45	7
SB 1093		206
SB 1096		122
SB 1125		178
SB 1140	791	163, 179
SB 1148		91
SB 1181		207
SB 1255	20	62
SB 1275		63, 122
SB 1289	41	108
SB 1292		63
SB 1304		207
SB 1331	373	63
SB 1340		28
SB 1343		123
SB 1358		64, 123
SB 1360	253	133
SB 1364		208
SB 1366		64, 123
SB 1371		29

Bill #	Chapter #	Page #
SB 1374	488	7
SB 1378		29
SB 1379		29
SB 1386	429	208
SB 1411		7
SB 1414		8
SB 1417	190	101
SB 1418	1079	30
SB 1423		65, 124
SB 1426		208
SB 1429		164, 171
SB 1440	376	185
SB 1442	120	102
SB 1454	988	42
SB 1459		30, 174
SB 1471	261	102
SB 1476	354	8
SB 1487	103	30
SB 1498	236	133
SB 1511	121	31
SB 1512	104	42
SB 1536		31
SB 1539	305	65
SB 1544		185
SB 1550		102
SB 1556	200	31
SB 1589	328	209
SB 1606	778	169
SB 1609		211
SB 1622		8
SB 1623		32
SB 1626	745	103, 185
SB 1630	306	211
SB 1636		66, 124
SB 1651		104
SB 1652	829	212
SB 1663	625	66, 182
SB 1667	449	73, 186
SB 1685		9
SB 1691		67

Bill #	Chapter #	Page #
SB 1707	540	213
SB 1722		67
SB 1725		68, 124
SB 1726		68, 125
SB 1754	938	68, 125
SB 1759	1759	213
SB 1767	605	104
SB 1768	587	34
SB 1773		78, 116
SB 1780	280	10
SB 1792	492	78, 142
SB 1796	825	34
SB 1800	897	69
SB 1816		180
SB 1822		69
SB 1825	973	35
SB 1836	348	10
SB 1841	77	35
SB 1876		36, 214

Bill #	Chapter #	Page #
SB 1920		215
SB 1926		69, 125
SB 1927	630	36
SB 1930		152, 183
		188, 191
SB 1940	388	171, 180
SB 1951	523	70
SB 1959	405	126, 128
SB 1959	405	186
SB 1970	692	105
SB 1980	991	111, 145
		166, 171
		183
SB 1981	736	164, 172
SB 1982		153, 188
SB 1983	589	131, 176
SB 1984	992	151
SB 1989	645	72

Bill #	Chapter #	Page #
SB 2003	1070	190
SB 2024	494	10
SB 2044	830	79, 186
SB 2166	739	72
SB 2175	924	11
SB 2181		70, 126
SB 2185	92	71, 127
SB 2214		39
SB 2215	786	106
SB 2217	633	80, 142
SB 2238	879	193
SB 2239	878	108, 129
		134, 148
		149, 150
		165, 170
		172, 195
SCA 3		39
SCA 13		216
SCA 20		71
SCA 20		127

B. CHAPTERED BILL INDEX

Chapter #	Bill #	Page #
8	AB 255	165
13	AB 487	81
20	SB 1255	62
25	AB 1016	94
29	SB 845	28
31	AB 1181	47
38	AB 1051	143
41	SB 1289	108
45	SB 1086	7
59	AB 969	150
62	AB 185	12
69	SB 625	205
77	SB 1841	35
92	SB 2185	71, 127
103	SB 1487	30
104	SB 1512	42
108	AB 1449	129
112	AB 2293	96
114	AB 2507	172
120	SB 1442	102
121	SB 1511	31
128	AB 2558	98
148	AB 302	92
R166	ACR 145	171
167	AB 1199	15
168	AB 1314	131
172	AB 1819	156
175	AB 2120	111
190	SB 1417	101
193	AB 583	71, 193
195	AB 2702	26
196	AB 2704	99
200	SB 1556	31
224	AB 247	92
236	SB 1498	133
240	AB 771	13
243	AB 1703	95
253	SB 1360	133
261	SB 1471	102
280	SB 1780	10
286	AB 1709	133
301	AB 2719	160
305	SB 1539	65
306	SB 1630	211
324	AB 1656	118, 127
		173, 197
328	SB 1589	209
347	SB 440	169
348	SB 1836	10
351	AB 1614	85
352	AB 1848	75, 112
354	SB 1476	8
356	AB 635	12
358	AB 1731	51
361	AB 1977	86
364	AB 2179	199
373	SB 1331	63
376	SB 1440	185
388	SB 1940	171, 180
405	SB 1959	126, 128
		186
410	SB 149	128
429	SB 1386	208
440	AB 204	110
445	AB 1810	3
446	AB 1872	4
449	SB 1667	73, 186
452	AB 75	196
465	AB 1973	86
469	AB 2039	41
473	AB 2134	87
485	AB 2803	201
488	SB 1374	7
492	SB 1792	78, 142
494	SB 2024	10
504	AB 469	116
505	AB 745	145, 154
513	AB 2006	146
523	SB 1951	70
529	AB 2049	199
534	AB 2716	88
540	SB 1707	213
553	AB 123	180
559	AB 1865	95
571	AB 2301	76, 137
580	AB 2063	148
582	SB 117	184
587	SB 1768	34
589	SB 1983	131, 176
595	AB 1830	3
599	SB 597	6
605	SB 1767	104
611	AB 508	107
614	AB 1705	132
618	SB 19	26
620	SB 143	202
621	SB 155	189
625	SB 1663	66, 182
630	SB 1927	36
633	SB 2217	80, 142
645	SB 1989	72
647	AB 162	42
649	AB 911	82
651	AB 1134	189
663	SB 405	89
671	AB 1096	74
672	AB 284	81
682	AB 2069	22
692	SB 1970	105
721	AB 2207	23
736	SB 1981	164, 172

B. CHAPTERED BILL INDEX

Chapter #	Bill #	Page #
739	SB 2166	72
745	SB 1626	103, 185
750	AB 2687	168
775	SB 998	61, 162
778	SB 1606	169
786	SB 2215	106
789	AB 2693	55, 159
		168
791	SB 1140	163, 179
798	AB 1374	16
799	AB 1424	84
802	AB 1994	87
804	AB 2088	4
822	SB 983	176
825	SB 1796	34
829	SB 1652	212
830	SB 2044	79, 186
863	AB 1629	2
865	AB 1676	2
867	SB 694	175
872	AB 2771	107
875	SB 2145	39, 145
878	SB 2239	108, 129
		134, 148
		149, 150
		165, 170
		172, 195

Chapter #	Bill #	Page #
879	SB 2238	193
892	AB 2387	146, 157
897	SB 1800	69
915	AB 2086	23
924	SB 2175	11
931	SB 2139	37
932	AB 1094	14, 144
938	SB 1754	68, 125
970	AB 2802	113, 116
		121, 127
		133, 151
		152, 171
		175, 177
		184, 189
		193
971	AB 2721	56, 107
		130, 147
		148, 152
		160, 165
		166, 169
		171, 172
		175, 177
		182, 188
		189, 191
973	SB 1825	35
974	AB 2150	23, 144
981	AB 1884	22

Chapter #	Bill #	Page #
984	AB 2305	157
986	AB 2627	98, 138
988	SB 1454	42
991	SB 1980	111, 145
		166, 171
		183
992	SB 1984	151
994	AB 1560	131
999	AB 1208	47
1000	SB 262	27
1005	SB 489	204
1009	AB 823	46, 155
1013	AB 1439	50, 129
1036	AB 2142	87
1041	SB 378	89
1042	SB 977	61
1058	AB 205	187
1063	AB 2410	76, 113
1070	SB 2003	190
1075	SB 2075	79, 149
1079	SB 1418	30
1759	SB 1759	213

C. DEPARTMENT OF CONSUMER AFFAIRS DIRECTORY

ACCOUNTANCY, BOARD OF
Carol Sigmann, Executive Officer
2000 Evergreen Street, Suite 250
Sacramento, CA 95815
(916) 263-3680

ACUPUNCTURE BOARD
Marilyn Nielsen, Executive Officer
1424 Howe Avenue, Suite 37
Sacramento, CA 95825-3233
(916) 263-2680

ARBITRATION CERTIFICATION PROGRAM
Rachel Chavez, Program Manager
400 R Street, Suite 3040
Sacramento, CA 95814
(916) 323-3406

ARCHITECTURAL EXAMINERS, CALIFORNIA BOARD OF
Steve Sands, Executive Officer
400 R Street, Suite 4000
Sacramento, CA 95814
(916) 445-3394

LANDSCAPE ARCHITECTS PROGRAM
Steve Sands, Executive Officer
400 R Street, Suite 4000
Sacramento, CA 95814
(916) 445-4954

ATHLETIC COMMISSION
Rob Lynch, Executive Officer
1424 Howe Avenue, Suite 33
Sacramento, CA 95825-3217
(916) 263-2195

AUTOMOTIVE REPAIR, BUREAU OF
Marty Keller, Chief
400 R Street, Suite 3000
Sacramento, CA 95814
(916) 445-7964

BARBERING AND COSMETOLOGY PROGRAM
Pamela Reed, Administrator
400 R Street, Suite 4080
Sacramento, CA 95814
(916) 327-6250

BEHAVIORAL SCIENCES, BOARD OF
Sherry Mehl, Executive Officer
400 R Street, Suite 3150
Sacramento, CA 95814
(916) 445-4933

CEMETERY PROGRAM
G.V. Ayers, Chief
400 R Street, Suite 3040
Sacramento, CA 95814
(916) 322-7737

CONTRACTORS STATE LICENSE BOARD
C. Lance Barnett, Registrar
9835 Goethe Road
Sacramento, CA 95827
(916) 255-3900

COURT REPORTERS BOARD OF CALIFORNIA
Richard Black, Executive Officer
2535 Capitol Oaks Drive, Suite 230
Sacramento, CA 95833
(916) 263-3660

DENTAL EXAMINERS, BOARD OF
Georgetta Coleman, Executive Officer
1432 Howe Avenue, Suite 85
Sacramento, CA 95825-3241
(916) 263-2300

DENTAL AUXILIARIES, COMMITTEE ON
Karen Wyant, Executive Officer
1428 Howe Avenue, Suite 58
Sacramento, CA 95825-3235
(916) 263-2595

ELECTRONIC AND APPLIANCE REPAIR, BUREAU OF
Karen Hatchel, Chief
400 R Street, Suite 3040
Sacramento, CA 95814
(916) 445-4752

ENGINEERS AND LAND SURVEYORS, BOARD FOR PROFESSIONAL
Cindi Christenson, Executive Officer
2535 Capitol Oaks Drive, Suite 300
Sacramento, CA 95833
(916) 263-2230

FUNERAL DIRECTORS AND EMBALMERS PROGRAM
G.V. Ayers, Chief
400 R Street, Suite 3040
Sacramento, CA 95814
(916) 322-7737

GEOLOGISTS AND GEOPHYSICISTS, BOARD OF REGISTRATION FOR
Dalton Pollard, Executive Officer
2535 Capitol Oaks Drive, Suite 300A
Sacramento, CA 95833
(916) 263-2113

GUIDE DOGS FOR THE BLIND, BOARD OF
Pat Urena, Executive Officer
830 K Street, Room 222
Sacramento, CA 95814
(916) 445-9041

HEARING AID DISPENSERS EXAMINING COMMITTEE
Peggy Richardson, Executive Officer
1420 Howe Avenue, Suite 12
Sacramento, CA 95825-3230
(916) 263-2288

HOME FURNISHINGS AND THERMAL INSULATION, BUREAU OF
Karen Hatchel, Chief
400 R Street, Suite 3040
Sacramento, CA 95814
(916) 324-3835

MEDICAL BOARD OF CALIFORNIA
Ron Joseph, Executive Director
1430 Howe Avenue
Sacramento, CA 95825
(916) 263-2388

REGISTERED DISPENSING OPTICIANS AND RESEARCH PSYCHOANALYSTS
Carol Smith, Office Technician
1426 Howe Avenue, Suite 54
Sacramento, CA 95825-3236
(916) 263-2634

MIDWIFERY
Gloria Macias, Staff Services Analyst
1426 Howe Avenue, Suite 54
Sacramento, CA 95825-3236
(916) 263-2393

MEDICAL ASSISTANT: (916) 263-2496

NURSING HOME ADMINISTRATORS, BOARD OF
Kim Smith, Executive Officer
1420 Howe Avenue, Suite 2
Sacramento, CA 95825-3227
(916) 263-2685

OPTOMETRY, BOARD OF
Karen Ollinger, Executive Officer
400 R Street, Suite 1070
Sacramento, CA 95814
(916) 445-8663

PHARMACY, BOARD OF
Patricia Harris, Executive Officer
400 R Street, Suite 4070
Sacramento, CA 95814
(916) 445-5014

PHYSICAL THERAPY BOARD OF CALIFORNIA
Steve Hartzell, Executive Officer
1434 Howe Avenue, Suite 92
Sacramento, CA 95825-3291
(916) 263-2550

PHYSICIAN ASSISTANT EXAMINING COMMITTEE
Ray Dale, Executive Officer
1424 Howe Avenue, Suite 35
Sacramento, CA 95825-3237
(916) 263-2670

PODIATRIC MEDICINE, BOARD OF
Jim Rathlesberger, Executive Officer
1420 Howe Avenue, Suite 8
Sacramento, CA 95825-3229
(916) 263-2647

PRIVATE POSTSECONDARY AND VOCATIONAL EDUCATION, BUREAU OF
John Griffin, Chief
1027 10th Street, 4th Floor
Sacramento, CA 95814
(916) 445-7933

PSYCHOLOGY, BOARD OF
Thomas O'Connor, Executive Officer
1422 Howe Avenue, Suite 22
Sacramento, CA 95825-3200
(916) 263-2699

REGISTERED NURSING, BOARD OF
Ruth Ann Terry, Executive Officer
400 R Street, Suite 4030
Sacramento, CA 95814
(916) 322-3350

RESPIRATORY CARE BOARD
Cathleen McCoy, Executive Officer
1426 Howe Avenue, Suite 48
Sacramento, CA 95825-3234
(916) 263-2626

SECURITY AND INVESTIGATIVE SERVICES, BUREAU OF
John A. Nickols, Chief
400 R Street, Suite 3040
Sacramento, CA 95814
(916) 322-7530

SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY EXAMINING COMMITTEE
Marilee Monagan, Executive Officer
1434 Howe Avenue, Suite 86
Sacramento, CA 95825-3240
(916) 263-2666

STRUCTURAL PEST CONTROL BOARD
Donna Kingwell, Executive Officer
1422 Howe Avenue, Suite 3
Sacramento, CA 95825-3280
(916) 263-2540

VETERINARY MEDICAL BOARD
Susan Geranen, Executive Officer
1420 Howe Avenue, Suite 6
Sacramento, CA 95825-3228
(916) 263-2610

REGISTERED VETERINARY TECHNICIAN EXAMINING COMMITTEE
Susan Geranen, Executive Officer
1420 Howe Avenue, Suite 6
Sacramento, CA 95825-3228

VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS, BOARD OF
Teresa Bello-Jones, Executive Officer
2535 Capitol Oaks Drive, Suite 205
Sacramento, CA 95833
(916) 263-7800

Notes

D. KEY - CALIFORNIA CODE ABBREVIATIONS

A listing of code sections affected by a chaptered bill follows the summary of that bill.

The following abbreviations of codes are used:

Abbreviation	Code
B&P C	Business and Professions Code
Civ C	Civil Code
CCP	Code of Civil Procedure
Com C	Commercial Code
Corp C	Corporation Code
Ed C	Education Code
El C	Election Code
Evid C	Evidence Code
Fam C	Family Code
Fin C	Financial Code
F&A C	Food & Agricultural Code
F&G C	Fish & Game Code
Gov C	Government Code
H&N C	Harbors & Navigation Code
H&S C	Health & Safety Code
Ins C	Insurance Code
Lab C	Labor Code
M&V C	Military & Veterans Code
Pen C	Penal Code
Prob C	Probate Code
PCC	Public Contract Code
PRC	Public Resources Code
PUC	Public Utilities Code
R&T C	Revenue & Taxation Code
S&H C	Street & Highway Code
UIC	Unemployment Insurance Code
Veh C	Vehicle Code
W&I C	Welfare & Institutions Code
Wa C	Water Code