

Study J-1300

July 14, 1997

Memorandum 97-40**Trial Court Unification by County: Selected Other Codes Draft (A – F)**

Attached to this memorandum is an initial staff draft of revisions to miscellaneous codes required by trial court unification, based on materials submitted by Professor Kelso. The following codes are included:

- Business and Professions
- Civil
- Commercial (no changes)
- Corporations (no changes)
- Education
- Elections
- Evidence
- Family
- Financial
- Fish and Game
- Food and Agricultural

Generally speaking, the changes are of a conforming nature, and are dependent on Commission decisions on structuring and terminology in the Code of Civil Procedure, Penal Code, and Government Code. A number of the revisions cannot be completed until the Commission has made decisions concerning treatment of judicial districts. See Memorandum 97-52.

A few technical issues are raised in Staff Notes following provisions in the attached draft.

Respectfully submitted,

Nathaniel Sterling
Executive Secretary

PROPOSED LEGISLATION

BUSINESS AND PROFESSIONS CODE	1
Bus. & Prof. Code § 6301 (amended). Board of law library trustees	1
Bus. & Prof. Code § 6301.1 (amended). Board of law library trustees of San Diego County	1
Bus. & Prof. Code § 7028.2 (amended). Venue for criminal complaint	2
CIVIL CODE	2
Civ. Code § 798.61 (amended). Abandoned mobilehomes	2
Civ. Code § 1719 (amended). Checks passed on insufficient funds	5
Civ. Code § 3342.5 (amended). Dog bites	8
EDUCATION CODE	9
Educ. Code § 44944 (amended). Dismissal or suspension proceeding	9
Educ. Code § 45312 (amended). Hearing or investigation by hearing officer	12
Educ. Code § 48295 (amended). Jurisdiction	13
Educ. Code § 87675 (amended). Arbitration proceedings	13
Educ. Code § 87679 (amended). Conduct of proceedings	14
Educ. Code § 88131 (amended). Hearing or investigation by hearing officer	14
FAMILY CODE	15
Fam. Code § 4845 (amended). Evidence	15
FINANCIAL CODE	15
Fin. Code § 1785 (amended). Foreign bank	15
Fin. Code § 1824 (amended). Appeal	16
Fin. Code § 1893 (amended). Possession by commissioner	17
Fin. Code § 3102 (amended). Appeal	17
Fin. Code § 16154 (amended). Appeal	18
Fin. Code § 17335 (amended). Appeal	18
Fin. Code § 18415.2 (amended). Appeal	18
Fin. Code § 18495 (amended). Appeal	18
Fin. Code § 31713 (amended). Possession by commissioner	19
Fin. Code § 34113 (amended). Possession by commissioner	19
FISH AND GAME CODE	20
Fish & Game Code § 210 (amended). Regulations	20
Fish & Game Code § 309 (amended). Depositions	21
Fish & Game Code § 5934 (amended). Depositions	21
Fish & Game Code § 12150 (amended). Hunting accidents	22
Fish & Game Code § 12151 (amended). Domestic animals	22
FOOD AND AGRICULTURE CODE	23
Food & Ag. Code § 7581 (amended). Court jurisdiction	23
Food & Ag. Code § 12647 (amended). Court jurisdiction	23
Food & Ag. Code § 27601 (amended). Abatement of nuisance	24
Food & Ag. Code § 30801 (amended). Dog licenses	24
Food & Ag. Code § 31503 (amended). Damage by dog	25
Food & Ag. Code § 31621 (amended). Dangerous or vicious dog	25
Food & Ag. Code § 31622 (amended). Proceedings concerning dog	26
Food & Ag. Code § 52514 (amended). Court jurisdiction	27
Food & Ag. Code § 53564 (amended). Court jurisdiction	28
Food & Ag. Code § 55784 (amended). Witness fees and mileage	28

Food & Ag. Code § 56473 (amended). Witness fees and mileage	28
JUSTICE COURT CONFORMING REVISIONS	29
Bus. & Prof. Code § 6152 (amended). Runners and cappers	29
Bus. & Prof. Code § 6302.5 (amended). Board of law library trustees of Los Angeles County	29
Bus. & Prof. Code § 6321 (amended). Filing fee	30
Bus. & Prof. Code § 6322 (amended). First appearance fee	30
Bus. & Prof. Code § 25762 (amended). Fines and forfeitures of bail	30
Civ. Code § 1181 (amended). Proof or acknowledgment of instrument	31
Civ. Code § 1780 (amended). Action for unlawful method, act, or practice	31
Civ. Code § 1812.10 (amended). Action on contract or installment account	32
Civ. Code § 2984.4 (amended). Action on contract or purchase order	33
Educ. Code § 48294 (amended). Payment of fines	34
Elec. Code § 325 (amended). Judicial district	34
Elec. Code § 327 (amended). Judicial officer	34
Elec. Code § 8203 (amended). Incumbents	35
Elec. Code § 13111 (amended). Names on ballot	35
Elec. Code § 13107 (amended). Ballot designations	37
Evid. Code § 300 (amended). Application of code	38
Fam. Code § 400 (amended). Persons authorized to perform marriages	39
Fish & Game Code § 2357 (amended). Trout affidavit	39
Fish & Game Code § 4341 (amended). Deer tag	39
Food & Ag. Code § 25564 (amended). Abatement of nuisance	40
Food & Ag. Code § 29733 (amended). Abatement of nuisance	40
Food & Ag. Code § 43039 (amended). Abatement of nuisance	40
Food & Ag. Code § 59289 (amended). Diversion or destruction of lot	41
APPELLATE DIVISION CONFORMING REVISIONS	41
Bus. & Prof. Code § 17209 (amended). Notice to Attorney General and county district attorney	41
Bus. & Prof. Code § 17536.5 (amended). Notice to Attorney General and county district attorney	41

BUSINESS AND PROFESSIONS CODE

Bus. & Prof. Code § 6301 (amended). Board of law library trustees

6301. A board of law library trustees is constituted as follows:

(a) In a county where there are no more than three judges of the superior court, each of such judges is ex officio a trustee; in a county where there are more than three judges of the superior court, the judges of the court shall elect three of their number to serve as trustees. However, where there are no more than three judges of the superior court, the judges may at their option select only one of their number to serve as a trustee, and in such event they shall appoint two additional trustees who are members of the bar of the county.

Any judge who is an ex officio or elected member may at ~~his~~ the judge's option designate a member of the bar of the county to act for ~~him~~ the judge as trustee.

(b) In a county with ~~no more than one or two municipal and justice courts~~ the judges of such court or courts shall elect one of their number to serve as trustee. In a county with three or more municipal ~~and justice courts~~ the judges of such courts may elect two of their number to serve as trustees. In a county in which there is no municipal court, the judges of the superior court may elect two of their number, or appoint two members of the bar of the county, to serve as trustees, in addition to the trustees elected pursuant to subdivision (a).

(c) The chairman of the board of supervisors is ex officio a trustee, but the board of supervisors at the request of the chairman may appoint a member of the bar of the county or any other member of the board of supervisors of the county to serve as trustee in place of said chairman. The appointment of the person selected in lieu of the chairman of the board of supervisors shall expire when a new chairman of the board of supervisors is selected, and such appointment shall not be subject to the provisions of Section 6302.

(d) The board of supervisors shall appoint as many additional trustees, who are members of the bar of the county, as may be necessary to constitute a board of six members in any county where the municipal ~~and justice courts~~ have elected one member, or of seven members in any county where the municipal ~~and justice courts~~ or the judges of the superior court have elected two members to serve as trustees pursuant to subdivision (b).

Comment. Section 6301 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Bus. & Prof. Code § 6301.1 (amended). Board of law library trustees of San Diego County

6301.1. Notwithstanding Section 6301, in San Diego County the board of law library trustees shall be constituted, as follows:


1 (a) Two judges of the superior court, to be elected by and from judges in the
2 San Diego County Judicial District. Each superior court judge so elected shall
3 serve a three-year term.

4 (b) Two judges from the municipal courts of the county. The courts may, by
5 joint agreement, determine the pattern of representation on the board. Each
6 municipal court judge so elected shall serve a three-year term. If the superior and
7 municipal courts in San Diego County become unified, the two judges authorized
8 by this subdivision shall be selected in the manner provided in subdivision (a).

9 (c) The board of supervisors shall appoint three attorneys resident in the county
10 to the board of law library trustees, to serve overlapping three-year terms. In order
11 to stagger the three appointments, the board of supervisors shall, in January of
12 1997, appoint one attorney to a one-year term, one attorney to a two-year term,
13 and one attorney to a three-year term; and as each term expires, the new
14 appointee shall thereafter serve three-year terms. At least one attorney appointed
15 pursuant to this subdivision shall be a member of the San Diego Bar Association.

16 (d) In the event a trustee cannot serve a full term, the appointing authority for
17 that individual shall appoint another qualified person to complete that term.
18 Interim appointments may be made by the board of law library trustees in
19 accordance with Section 6305.

20 **Comment.** Section 6301.1 is amended to accommodate unification of the municipal and
21 superior courts in the county. Cal. Const. art. VI, § 5(e).

22  **Staff Note.** The reference in subdivision (a) to the “San Diego County Judicial
23 District” appears to be erroneous. There is a “San Diego Judicial District”, which is a
24 municipal court district within San Diego County. Is “San Diego County Superior Court”
25 intended here?

26 **Bus. & Prof. Code § 7028.2 (amended). Venue for criminal complaint**

27 7028.2. A criminal complaint pursuant to this chapter may be brought by the
28 Attorney General or by the district attorney or prosecuting attorney of any city,
29 ~~in the municipal court of any county in the state with jurisdiction over the~~
30 contractor or employer, by reason of the contractor’s or employer’s act, or failure
31 to act, within that jurisdiction . Any penalty assessed by the court shall be paid to
32 the office of the prosecutor bringing the complaint.

33 **Comment.** Section 7028.2 is amended to accommodate unification of the municipal and
34 superior courts in a county. Cal. Const. art. VI, § 5(e). A misdemeanor complaint may be
35 brought in the municipal court or in the superior court in a county in which there is no
36 municipal court. Penal Code § 1462.

37 **CIVIL CODE**

38 **Civ. Code § 798.61 (amended). Abandoned mobilehomes**

39 798.61. (a)(1) As used in this section, “abandoned mobilehome” means a
40 mobilehome about which all of the following are true:

1 (A) It is located in a mobilehome park on a site for which no rent has been paid
2 to the management for the preceding 60 days.

3 (B) It is unoccupied.

4 (C) A reasonable person would believe it to be abandoned.

5 (2) For purposes of this section:

6 (A) "Mobilehome" shall include a trailer coach, as defined in Section 635 of the
7 Vehicle Code, or a recreational vehicle, as defined in Section 18010 of the Health
8 and Safety Code, if the trailer coach or recreational vehicle also satisfies the
9 requirements of paragraph (1), including being located on any site within a
10 mobilehome park, even if the site is in a separate designated section pursuant to
11 Section 18215 of the Health and Safety Code.

12 (B) "Abandoned mobilehome" shall include a mobilehome which is
13 uninhabitable because of its total or partial destruction which cannot be
14 rehabilitated, if the mobilehome also satisfies the requirements of paragraph (1).

15 (b) After determining a mobilehome in a mobilehome park to be an abandoned
16 mobilehome, the management shall post a notice of belief of abandonment on the
17 mobilehome for not less than 30 days, and shall deposit copies of the notice in the
18 United States mail, postage prepaid, addressed to the homeowner at the last
19 known address and to any known registered owner, if different from the
20 homeowner, and to any known holder of a security interest in the abandoned
21 mobilehome. This notice shall be mailed by registered or certified mail with a
22 return receipt requested.

23 (c) Thirty or more days following posting pursuant to subdivision (b), the
24 management may file a petition in ~~the municipal or justice court~~ for the judicial
25 district in which the mobilehome park is located for a judicial declaration of
26 abandonment of the mobilehome. A petition under this subdivision is a Chapter
27 5.1 civil matter. Copies of the petition shall be served upon the homeowner, any
28 known registered owner, and any known person having a lien or security interest
29 of record in the mobilehome by posting a copy on the mobilehome and mailing
30 copies to those persons at their last known addresses by registered or certified
31 mail with a return receipt requested in the United States mail, postage prepaid.

32 (d)(1) Hearing on the petition shall be given precedence over other matters on
33 the court's calendar.

34 (2) If, at the hearing, the petitioner shows by a preponderance of the evidence
35 that the criteria for an abandoned mobilehome has been satisfied and no party
36 establishes an interest therein at the hearing, the court shall enter a judgment of
37 abandonment, determine the amount of charges to which the petitioner is entitled,
38 and award attorney's fees and costs to the petitioner. For purposes of this
39 subdivision an interest in the mobilehome shall be established by evidence of a
40 right to possession of the mobilehome or a security or ownership interest in the
41 mobilehome.

1 (3) A default may be entered by the court clerk upon request of the petitioner,
2 and a default judgment shall be thereupon entered, if no responsive pleading is
3 filed within 15 days after service of the petition by mail.

4 (e)(1) Within 10 days following a judgment of abandonment, the management
5 shall enter the abandoned mobilehome and complete an inventory of the contents
6 and submit the inventory to the court.

7 (2) During this period the management shall post and mail notice of intent to sell
8 the abandoned mobilehome and its contents under this section, and announcing
9 the date of sale, in the same manner as provided for the notice of determination of
10 abandonment under subdivision (b).

11 (3) At any time prior to sale of a mobilehome under this section, any person
12 having a right to possession of the mobilehome may recover and remove it from
13 the premises upon payment to the management of all rent or other charges due,
14 including reasonable costs of storage and other costs awarded by the court.
15 Upon receipt of this payment and removal of the mobilehome from the premises
16 pursuant to this paragraph, the management shall immediately file an
17 acknowledgment of satisfaction of judgment pursuant to Section 724.030 of the
18 Code of Civil Procedure.

19 (f) Following the judgment of abandonment, but not less than 10 days
20 following the notice of sale specified in subdivision (e), the management may
21 conduct a public sale of the abandoned mobilehome and its contents. The
22 management may bid at the sale and shall have the right to offset its bids to the
23 extent of the total amount due it under this section. The proceeds of the sale shall
24 be retained by the management, but any unclaimed amount thus retained over
25 and above the amount to which the management is entitled under this section
26 shall be deemed abandoned property and shall be paid into the treasury of the
27 county in which the sale took place within 30 days of the date of the sale. The
28 former homeowner or any other owner may claim any or all of that unclaimed
29 amount within one year from the date of payment to the county by making
30 application to the county treasurer or other official designated by the county. If
31 the county pays any or all of that unclaimed amount to a claimant, neither the
32 county nor any officer or employee of the county is liable to any other claimant
33 as to the amount paid.


34 (g) Within 30 days of the date of the sale, the management shall submit to the
35 court an accounting of the moneys received from the sale and the disposition of
36 the money and the items contained in the inventory submitted to the court
37 pursuant to subdivision (e).

38 (h) The management shall provide the purchaser at the sale with a copy of the
39 judgment of abandonment and evidence of the sale, as shall be specified by the
40 State Department of Housing and Community Development or the Department of
41 Motor Vehicles, which shall register title in the abandoned mobilehome to the
42 purchaser upon presentation thereof. The sale shall pass title to the purchaser free
43 of any prior interest, including any security interest or lien, except the lien

1 provided for in Section 18116.1 of the Health and Safety Code, in the abandoned
2 mobilehome.

3 **Comment.** Section 798.61 is amended to accommodate unification of the municipal and
4 superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect
5 elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

6 A Chapter 5.1 civil matter is within the original jurisdiction of the municipal court or of the
7 superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10
8 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also
9 Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for
10 Chapter 5.1 civil matters).

11  **Staff Note.** If judicial districts are maintained for superior court branches, this section
12 will require further revision. See Memorandum 97-52 (judicial districts).

13 **Civ. Code § 1719 (amended). Checks passed on insufficient funds**

14 1719. (a)(1) Notwithstanding any penal sanctions that may apply, any person
15 who passes a check on insufficient funds shall be liable to the payee for the
16 amount of the check and a service charge payable to the payee for an amount not
17 to exceed twenty-five dollars (\$25) for the first check passed on insufficient
18 funds and an amount not to exceed thirty-five dollars (\$35) for each subsequent
19 check to that payee passed on insufficient funds.

20 (2) Notwithstanding any penal sanctions that may apply, any person who
21 passes a check on insufficient funds shall be liable to the payee for damages equal
22 to treble the amount of the check if a written demand for payment is mailed by
23 certified mail to the person who had passed a check on insufficient funds and the
24 written demand informs this person of (A) the provisions of this section, (B) the
25 amount of the check, and (C) the amount of the service charge payable to the
26 payee. The person who had passed a check on insufficient funds shall have 30
27 days from the date the written demand was mailed to pay the amount of the
28 check, the amount of the service charge payable to the payee, and the costs to
29 mail the written demand for payment. If this person fails to pay in full the amount
30 of the check, the service charge payable to the payee, and the costs to mail the
31 written demand within this period, this person shall then be liable instead for the
32 amount of the check, minus any partial payments made toward the amount of the
33 check or the service charge within 30 days of the written demand, and damages
34 equal to treble that amount, which shall not be less than one hundred dollars
35 (\$100) nor more than one thousand five hundred dollars (\$1,500). When a person
36 becomes liable for treble damages for a check that is the subject of a written
37 demand, that person shall no longer be liable for any service charge for that check
38 and any costs to mail the written demand.

39 (3) Notwithstanding paragraphs (1) and (2), a person shall not be liable for the
40 service charge, costs to mail the written demand, or treble damages if he or she
41 stops payment in order to resolve a good faith dispute with the payee. The payee
42 is entitled to the service charge, costs to mail the written demand, or treble
43 damages only upon proving by clear and convincing evidence that there was no
44 good faith dispute, as defined in subdivision (b).

(4) Notwithstanding paragraph (1), a person shall not be liable under that paragraph for the service charge if, at any time, he or she presents the payee with written confirmation by his or her financial institution that the check was returned to the payee by the financial institution due to an error on the part of the financial institution.

(5) Notwithstanding paragraph (1), a person shall not be liable under that paragraph for the service charge if the person presents the payee with written confirmation that his or her account had insufficient funds as a result of a delay in the regularly scheduled transfer of, or the posting of, a direct deposit of a social security or government benefit assistance payment.

(6) As used in this subdivision, to “pass a check on insufficient funds” means to make, utter, draw, or deliver any check, draft, or order for the payment of money upon any bank, depository, person, firm, or corporation that refuses to honor the check, draft, or order for any of the following reasons:

(A) Lack of funds or credit in the account to pay the check.

(B) The person who wrote the check does not have an account with the drawee.

(C) The person who wrote the check instructed the drawee to stop payment on the check.

(b) For purposes of this section, in the case of a stop payment, the existence of a “good faith dispute” shall be determined by the trier of fact. A “good faith dispute” is one in which the court finds that the drawer had a reasonable belief of his or her legal entitlement to withhold payment. Grounds for the entitlement include, but are not limited to, the following: services were not rendered, goods were not delivered, goods or services purchased are faulty, not as promised, or otherwise unsatisfactory, or there was an overcharge.

(c) In the case of a stop payment, the notice to the drawer required by this section shall be in substantially the following form:

NOTICE

To _____

(name of drawer)

_____ is the payee of a check you wrote

(name of payee)

for \$ _____. The check was not paid because

(amount)

you stopped payment, and the payee demands payment. You may have a good faith dispute as to whether you owe the full amount. If you do not have a good faith dispute with the payee and fail to pay the payee the full amount of the check in cash, a service charge of an amount not to exceed twenty-five dollars (\$25) for the first check passed on insufficient funds and an amount not to exceed thirty-five dollars (\$35) for each subsequent check passed on insufficient funds, and the costs to mail this notice within 30 days after this notice was mailed, you could be sued and held responsible to pay at least both of the following:

(1) The amount of the check.

(2) Damages of at least one hundred dollars (\$100) or, if higher, three times the amount of the check up to one thousand five hundred dollars (\$1,500).

If the court determines that you do have a good faith dispute with the payee, you will not have to pay the service charge, treble damages, or mailing cost.

If you stopped payment because you have a good faith dispute with the payee, you should try to work out your dispute with the payee. You can contact the payee at:

(name of payee)

(street address)

(telephone number)

You may wish to contact a lawyer to discuss your legal rights and responsibilities.

(name of sender of notice)

(d) In the case of a stop payment, a court may not award damages or costs under this section unless the court receives into evidence a copy of the written demand which, in that case, shall have been sent to the drawer and a signed certified mail receipt showing delivery, or attempted delivery if refused, of the written demand to the drawer's last known address.

(e) A cause of action under this section may be brought in small claims court by the original payee, if it does not exceed the jurisdiction of that court, or in any other appropriate court. The payee shall, in order to recover damages because the drawer instructed the drawee to stop payment, show to the satisfaction of the trier of fact that there was a reasonable effort on the part of the payee to reconcile and resolve the dispute prior to pursuing the dispute through the courts.

(f) A cause of action under this section may be brought in ~~municipal court~~ by a holder of the check or an assignee of the payee. A cause of action under this section is a Chapter 5.1 civil matter. However, if the assignee is acting on behalf of the payee, for a flat fee or a percentage fee, the assignee may not charge the payee a greater flat fee or percentage fee for that portion of the amount collected that represents treble damages than is charged the payee for collecting the face amount of the check, draft, or order. This subdivision shall not apply to an action brought in the small claims court division.

(g) Notwithstanding subdivision (a), if the payee is a ~~municipal~~ the court, the written demand for payment described in subdivision (a) may be mailed to the drawer by a ~~municipal~~ the court clerk. Notwithstanding subdivision (d), in the case of a stop payment where the demand is mailed by a ~~municipal~~ the court clerk, a court may not award damages or costs pursuant to subdivision (d), unless the court receives into evidence a copy of the written demand, and a certificate of mailing by a ~~municipal~~ the court clerk in the form provided for in subdivision (4) of Section 1013a of the Code of Civil Procedure for service in civil actions. For

1 purposes of this subdivision, in courts where a single court clerk serves more than
2 one court, the clerk shall be deemed the court clerk of each court.

3 (h) The requirements of this section in regard to remedies are mandatory upon a
4 court.

5 (i) The assignee of the payee or a holder of the check may demand, recover, or
6 enforce the service charge, damages, and costs specified in this section to the
7 same extent as the original payee.

8 (j)(1) A drawer is liable for damages and costs only if all of the requirements of
9 this section have been satisfied.

10 (2) The drawer shall in no event be liable more than once under this section on
11 each check for a service charge, damages, or costs.

12 (k) Nothing in this section is intended to condition, curtail, or otherwise
13 prejudice the rights, claims, remedies, and defenses under Division 3 (commencing
14 with Section 3101) of the Commercial Code of a drawer, payee, assignee, or
15 holder, including a holder in due course as defined in Section 3302 of the
16 Commercial Code, in connection with the enforcement of this section.

17 **Comment.** Subdivisions (f) and (g) of Section 1719 are amended to accommodate
18 unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

19 A Chapter 5.1 civil matter is within the original jurisdiction of the municipal court or of the
20 superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10
21 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also
22 Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for
23 Chapter 5.1 civil matters).

24 Subdivision (f) is also amended to correct the reference to the small claims court, which is a
25 division of the municipal court or, in a county in which there is no municipal court, a division
26 of the superior court. Code Civ. Proc. § 116.210 (small claims division).

27 **Civ. Code § 3342.5 (amended). Dog bites**

28 3342.5. (a) The owner of any dog which has bitten a human being shall have
29 the duty to take such reasonable steps as are necessary to remove any danger
30 presented to other persons from bites by the animal.

31 (b) Whenever a dog has bitten a human being on at least two separate
32 occasions, any person, the district attorney, or city attorney may bring an action
33 ~~in the municipal court~~ against the owner of the animal to determine whether
34 conditions of the treatment or confinement of the dog or other circumstances
35 existing at the time of the bites have been changed so as to remove the danger to
36 other persons presented by such animal. This action shall be brought in the
37 county where a bite occurred. The court, after hearing, may make any order it
38 deems appropriate to prevent the recurrence of such an incident, including, but
39 not limited to, the removal of the animal from the area or its destruction if
40 necessary.

41 (c) Whenever a dog trained to fight, attack, or kill has bitten a human being,
42 causing substantial physical injury, any person, including the district attorney, or
43 city attorney may bring an action ~~in the municipal court~~ against the owner of the
44 animal to determine whether conditions of the treatment or confinement of the

1 dog or other circumstances existing at the time of the bites have been changed so
2 as to remove the danger to other persons presented by the animal. This action
3 shall be brought in the county where a bite occurred. The court, after hearing,
4 may make any order it deems appropriate to prevent the recurrence of such an
5 incident, including, but not limited to, the removal of the animal from the area or
6 its destruction if necessary.

7 (d) Nothing in this section shall authorize the bringing of an action pursuant to
8 subdivision (b) based on a bite or bites inflicted upon a trespasser, or by a dog
9 used in military or police work if the bite or bites occurred while the dog was
10 actually performing in that capacity.

11 (e) Nothing in this section shall be construed to prevent legislation in the field
12 of dog control by any city, county, or city and county.

13 (g) (f) Nothing in this section shall be construed to affect the liability of the
14 owner of a dog under Section 3342 or any other provision of the law.

15 (g) An action under this section is a Chapter 5.1 civil matter.

16 **Comment.** Section 3342.5 is amended to accommodate unification of the municipal and
17 superior courts in a county. Cal. Const. art. VI, § 5(e).

18 A Chapter 5.1 civil matter is within the original jurisdiction of the municipal court or of the
19 superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10
20 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also
21 Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for
22 Chapter 5.1 civil matters).

23 EDUCATION CODE

24 **Educ. Code § 44944 (amended). Dismissal or suspension proceeding**

25 44944. (a) In a dismissal or suspension proceeding initiated pursuant to Section
26 44934, if a hearing is requested by the employee, the hearing shall be commenced
27 within 60 days from the date of the employee's demand for a hearing. The
28 hearing shall be initiated, conducted, and a decision made in accordance with
29 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of
30 the Government Code. However, the hearing date shall be established after
31 consultation with the employee and the governing board, or their representatives,
32 and the Commission on Professional Competence shall have all the power
33 granted to an agency in that chapter, except that the right of discovery of the
34 parties shall not be limited to those matters set forth in Section 11507.6 of the
35 Government Code but shall include the rights and duties of any party in a civil
36 action general civil matter brought in a superior court. Notwithstanding any
37 provision to the contrary, and except for the taking of oral depositions, no
38 discovery shall occur later than 30 calendar days after the employee is served
39 with a copy of the accusation pursuant to Section 11505 of the Government
40 Code. In all cases, discovery shall be completed prior to seven calendar days
41 before the date upon which the hearing commences. If any continuance is
42 granted pursuant to Section 11524 of the Government Code, the time limitation

1 for commencement of the hearing as provided in this subdivision shall be
2 extended for a period of time equal to such continuance. However, the extension
3 shall not include that period of time attributable to an unlawful refusal by either
4 party to allow the discovery provided for in this section.

5 If the right of discovery granted under the preceding paragraph is denied by
6 either the employee or the governing board, all the remedies in Section 2034 of
7 the Code of Civil Procedure shall be available to the party seeking discovery and
8 the court of proper jurisdiction, to entertain his or her motion, shall be the superior
9 court of the county in which the hearing will be held.

10 The time periods in this section and of Chapter 5 (commencing with Section
11 11500) of Part 1 of Division 3 of Title 2 of the Government Code and of Article 3
12 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of
13 Civil Procedure shall not be applied so as to deny discovery in a hearing
14 conducted pursuant to this section.

15 The superior court of the county in which the hearing will be held may, upon
16 motion of the party seeking discovery, suspend the hearing so as to comply with
17 the requirement of the preceding paragraph.

18 No witness shall be permitted to testify at the hearing except upon oath or
19 affirmation. No testimony shall be given or evidence introduced relating to
20 matters which occurred more than four years prior to the date of the filing of the
21 notice. Evidence of records regularly kept by the governing board concerning
22 the employee may be introduced, but no decision relating to the dismissal or
23 suspension of any employee shall be made based on charges or evidence of any
24 nature relating to matters occurring more than four years prior to the filing of the
25 notice.

26 (b) The hearing provided for in this section shall be conducted by a Commission
27 on Professional Competence. One member of the commission shall be selected by
28 the employee, one member shall be selected by the governing board, and one
29 member shall be an administrative law judge of the Office of Administrative
30 Hearings who shall be chairperson and a voting member of the commission and
31 shall be responsible for assuring that the legal rights of the parties are protected at
32 the hearing. If either the governing board or the employee for any reason fails to
33 select a commission member at least seven calendar days prior to the date of the
34 hearing, the failure shall constitute a waiver of the right to selection, and the
35 county board of education or its specific designee shall immediately make the
36 selection. When the county board of education is also the governing board of the
37 school district or has by statute been granted the powers of a governing board,
38 the selection shall be made by the Superintendent of Public Instruction, who shall
39 be reimbursed by the school district for all costs incident to the selection.

40 The member selected by the governing board and the member selected by the
41 employee shall not be related to the employee and shall not be employees of the
42 district initiating the dismissal or suspension and shall hold a currently valid

1 credential and have at least five years' experience within the past 10 years in the
2 discipline of the employee.

3 (c) The decision of the Commission on Professional Competence shall be made
4 by a majority vote, and the commission shall prepare a written decision containing
5 findings of fact, determinations of issues, and a disposition which shall be, solely:

6 (1) That the employee should be dismissed.

7 (2) That the employee should be suspended for a specific period of time without
8 pay.

9 (3) That the employee should not be dismissed or suspended.

10 The decision of the Commission on Professional Competence that the employee
11 should not be dismissed or suspended shall not be based on nonsubstantive
12 procedural errors committed by the school district or governing board unless the
13 errors are prejudicial errors.

14 The commission shall not have the power to dispose of the charge of dismissal
15 by imposing probation or other alternative sanctions. The imposition of
16 suspension pursuant to paragraph (2) shall be available only in a suspension
17 proceeding authorized pursuant to subdivision (b) of Section 44932 or Section
18 44933.

19 The decision of the Commission on Professional Competence shall be deemed
20 to be the final decision of the governing board.

21 The board may adopt from time to time such rules and procedures not
22 inconsistent with provisions of this section as may be necessary to effectuate this
23 section.

24 The governing board and the employee shall have the right to be represented
25 by counsel.

26 (d)(1) If the member selected by the governing board or the member selected by
27 the employee is employed by any school district in this state the member shall,
28 during any service on a Commission on Professional Competence, continue to
29 receive salary, fringe benefits, accumulated sick leave, and other leaves and
30 benefits from the district in which the member is employed, but shall receive no
31 additional compensation or honorariums for service on the commission.

32 (2) If service on a Commission on Professional Competence occurs during
33 summer recess or vacation periods, the member shall receive compensation
34 proportionate to that received during the current or immediately preceding
35 contract period from the member's employing district, whichever amount is
36 greater.

37 (e) If the Commission on Professional Competence determines that the
38 employee should be dismissed or suspended, the governing board and the
39 employee shall share equally the expenses of the hearing, including the cost of
40 the administrative law judge. The state shall pay any costs incurred under
41 paragraph (2) of subdivision (d), the reasonable expenses, as determined by the
42 administrative law judge, of the member selected by the governing board and the
43 member selected by the employee, including, but not limited to payments or

1 obligations incurred for travel, meals, and lodging, and the cost of the substitute
2 or substitutes, if any, for the member selected by the governing board and the
3 member selected by the employee. The Controller shall pay all claims submitted
4 pursuant to this paragraph from the General Fund, and may prescribe reasonable
5 rules, regulations, and forms for the submission of the claims. The employee and
6 the governing board shall pay their own attorney fees.

7 If the Commission on Professional Competence determines that the employee
8 should not be dismissed or suspended, the governing board shall pay the
9 expenses of the hearing, including the cost of the administrative law judge, any
10 costs incurred under paragraph (2) of subdivision (d), the reasonable expenses, as
11 determined by the administrative law judge, of the member selected by the
12 governing board and the member selected by the employee, including, but not
13 limited to payments or obligations incurred for travel, meals, and lodging, the cost
14 of the substitute or substitutes, if any, for the member selected by the governing
15 board and the member selected by the employee, and reasonable attorney fees
16 incurred by the employee.

17 As used in this section, “reasonable expenses” shall not be deemed
18 “compensation” within the meaning of subdivision (d).

19 If either the governing board or the employee petitions a court of competent
20 jurisdiction for review of the decision of the commission, the payment of expenses
21 to members of the commission required by this subdivision shall not be stayed.

22 In the event that the decision of the commission is finally reversed or vacated
23 by a court of competent jurisdiction, then either the state, having paid the
24 commission members’ expenses, shall be entitled to reimbursement from the
25 governing board for those expenses, or the governing board, having paid the
26 expenses, shall be entitled to reimbursement from the state.

27 Additionally, either the employee, having paid a portion of the expenses of the
28 hearing, including the cost of the administrative law judge, shall be entitled to
29 reimbursement from the governing board for the expenses, or the governing
30 board, having paid its portion and the employee’s portion of the expenses of the
31 hearing, including the cost of the administrative law judge, shall be entitled to
32 reimbursement from the employee for that portion of the expenses.

33 (f) The hearing provided for in this section shall be conducted in a place
34 selected by agreement among the members of the commission. In the absence of
35 agreement, the place shall be selected by the administrative law judge.

36 **Comment.** Section 44944 is amended to limit reference to discovery rights and duties in
37 matters brought within the original jurisdiction of the superior court as a result of trial court
38 unification. A general civil matter is a civil matter other than a Chapter 5.1 civil matter. Code
39 Civ. Proc. § 85(b).

40 **Educ. Code § 45312 (amended). Hearing or investigation by hearing officer**

41 45312. The commission may authorize a hearing officer or other representative
42 to conduct any hearing or investigation which the commission itself is authorized
43 by this article to conduct. Any such authorized person conducting such hearing

1 or investigation may administer oaths, subpoena and require the attendance of
2 witnesses and the production of books or papers, and cause the depositions of
3 witnesses to be taken in the manner prescribed by law for like depositions in civil
4 cases general civil matters in the superior court of this state. The commission may
5 instruct such authorized representative to present findings or recommendations.
6 The commission may accept, reject or amend any of the findings or
7 recommendations of the said authorized representative. Any rejection or
8 amendment of findings or recommendations shall be based either on a review of
9 the transcript of the hearing or investigation or upon the results of such
10 supplementary hearing or investigation as the commission may order.

11 The commission may employ by contract or as professional experts or otherwise
12 any such hearing officers or other representatives and may adopt and amend such
13 rules and procedures as may be necessary to effectuate this section.

14 **Comment.** Section 45312 is amended to limit reference to depositions in matters brought
15 within the original jurisdiction of the superior court as a result of trial court unification. A
16 general civil matter is a civil matter other than a Chapter 5.1 civil matter. Code Civ. Proc. §
17 85(b).

18 **Educ. Code § 48295 (amended). Jurisdiction**

19 48295. Any judge of a municipal ~~or justice court~~, or of the superior court in a
20 county in which there is no municipal court, in which the school district is
21 located, or in which the offense is committed, has jurisdiction of offenses
22 committed under this article. A juvenile court has jurisdiction of a violation of
23 Section 48293 as provided by Section 601.4 of the Welfare and Institutions
24 Code.

25 **Comment.** Section 48295 is amended to accommodate unification of the municipal and
26 superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect
27 elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

28 ☞ **Staff Note.** This section presents a judicial district issue more than a jurisdictional issue.
29 See Memorandum 97-52 (judicial districts).

30 **Educ. Code § 87675 (amended). Arbitration proceedings**

31 87675. The arbitrator shall conduct proceedings in accordance with Chapter 5
32 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
33 Government Code, except that the right of discovery of the parties shall not be
34 limited to those matters set forth in Section 11507.6 of the Government Code but
35 shall include the rights and duties of any party in a ~~civil action~~ general civil matter
36 brought in a superior court. In all cases, discovery shall be completed prior to one
37 week before the date set for hearing. The arbitrator shall determine whether there
38 is cause to dismiss or penalize the employee. If the arbitrator finds cause, the
39 arbitrator shall determine whether the employee shall be dismissed, the precise
40 penalty to be imposed, and whether the decision should be imposed immediately
41 or postponed pursuant to Section 87672.

1 No witness shall be permitted to testify at the hearing except upon oath or
2 affirmation. No testimony shall be given or evidence introduced relating to
3 matters that occurred more than four years prior to the date of the filing of the
4 notice. Evidence of records regularly kept by the governing board concerning
5 the employee may be introduced, but no decision relating to the dismissal or
6 suspension of any employee shall be made based on charges or evidence of any
7 nature relating to matters occurring more than four years prior to the filing of the
8 notice.

9 **Comment.** Section 87675 is amended to limit reference to discovery rights and duties in
10 matters brought within the original jurisdiction of the superior court as a result of trial court
11 unification. A general civil matter is a civil matter other than a Chapter 5.1 civil matter. Code
12 Civ. Proc. § 85(b).

13 **Educ. Code § 87679 (amended). Conduct of proceedings**

14 87679. The administrative law judge shall conduct proceedings in accordance
15 with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2
16 of the Government Code, except that the right of discovery of the parties shall
17 not be limited to those matters set forth in Section 11507.6 of the Government
18 Code but shall include the rights and duties of any party in a civil action general
19 civil matter brought in a superior court. In all cases, discovery shall be completed
20 prior to one week before the date set for hearing. The written notice delivered to
21 the employee pursuant to Section 87672 shall be deemed an accusation. The
22 written objection of the employee delivered pursuant to Section 87673 shall be
23 deemed the notice of defense.

24 **Comment.** Section 87679 is amended to limit reference to discovery rights and duties in
25 matters brought within the original jurisdiction of the superior court as a result of trial court
26 unification. A general civil matter is a civil matter other than a Chapter 5.1 civil matter. Code
27 Civ. Proc. § 85(b).

28 **Educ. Code § 88131 (amended). Hearing or investigation by hearing officer**

29 88131. The commission may authorize a hearing officer or other representative
30 to conduct any hearing or investigation which the commission itself is authorized
31 by this article to conduct. Any such authorized person conducting such hearing
32 or investigation may administer oaths, subpoena and require the attendance of
33 witnesses and the production of books or papers, and cause the depositions of
34 witnesses to be taken in the manner prescribed by law for like depositions in civil
35 cases a general civil matter in the superior court of this state. The commission may
36 instruct such authorized representative to present findings or recommendations.
37 The commission may accept, reject or amend any of the findings or
38 recommendations of the said authorized representative. Any rejection or
39 amendment of findings or recommendations shall be based either on a review of
40 the transcript of the hearing or investigation or upon the results of such
41 supplementary hearing or investigation as the commission may order.

1 The commission may employ by contract or as professional experts or otherwise
2 any such hearing officers or other representatives and may adopt and amend such
3 rules and procedures as may be necessary to effectuate this section.

4 **Comment.** Section 88131 is amended to limit reference to depositions in matters brought
5 within the original jurisdiction of the superior court as a result of trial court unification. A
6 general civil matter is a civil matter other than a Chapter 5.1 civil matter. Code Civ. Proc. §
7 85(b).


8 FAMILY CODE

9 **Fam. Code § 4845 (amended). Evidence**

10 4845. (a) In a hearing for the civil enforcement of this chapter, the court is
11 governed by the rules of evidence applicable in a ~~civil court action~~ general civil
12 matter in the superior court. If the action is based on a support order issued by
13 another court, a certified copy of the order shall be received as evidence of the
14 duty of support, subject only to any defenses or modification available to a
15 defendant in a proceeding to enforce a foreign support judgment.

16 (b) The determination or enforcement of a duty of support owed to one obligee
17 is unaffected by any interference by another obligee with rights of custody or
18 visitation granted by a court.

19 **Comment.** Section 4845 is amended to limit reference to rules of evidence in matters
20 brought within the original jurisdiction of the superior court as a result of trial court
21 unification. A general civil matter is a civil matter other than a Chapter 5.1 civil matter. Code
22 Civ. Proc. § 85(b).

23  **Staff Note.** Probably the distinction need not be made between rules of evidence
24 applicable in general civil matters and in Chapter 5.1 civil matters. But just in case ...

25 FINANCIAL CODE

26 **Fin. Code § 1785 (amended). Foreign bank**

27 1785. (a) If the commissioner finds that any of the factors set forth in Section
28 1781 is true with respect to any foreign (other nation) bank which is licensed to
29 transact business in this state and that it is necessary for the protection of the
30 interests of the creditors of such bank's business in this state or for the protection
31 of the public interest that he or she take immediate possession of the property and
32 business of the bank, the commissioner may by order forthwith take possession of
33 the property and business of the bank and retain possession until the bank
34 resumes business in this state or is finally liquidated. The bank may, with the
35 consent of the commissioner, resume business in this state upon such conditions
36 as the commissioner may prescribe.

37 (b) (1) Whenever the commissioner takes possession of the property and
38 business of a foreign (other nation) bank pursuant to subdivision (a), such bank
39 may, within 10 days, apply to the superior court in the county in which the
40 primary office of the bank is located to enjoin further proceedings. The court may,

1 after citing the commissioner to show cause why further proceedings should not
2 be enjoined and after a hearing, dismiss such application or enjoin the
3 commissioner from further proceedings and order him or her to surrender the
4 property and business of the bank to the bank or make such further order as may
5 be just.

6 (2) The judgment of the court may be appealed by the commissioner or by the
7 bank in the manner provided by law for appeals from the judgment of a superior
8 court in a general civil matter. In case the commissioner appeals the judgment of
9 the court, such appeal shall operate as a stay of the judgment, and the
10 commissioner shall not be required to post any bond.

11 (c) Whenever the commissioner takes possession of the property and business
12 of a foreign (other nation) bank pursuant to subdivision (a), the commissioner
13 shall conserve or liquidate the property and business of such bank pursuant to
14 Articles 1 (commencing with Section 3100), 3 (commencing with Section 3160)
15 and 6 (commencing with Section 3220) of Chapter 17, and the provisions of such
16 articles (except Sections 3100, 3101, 3102, and 3126) shall apply as if the bank
17 were a bank organized under the laws of this state.

18 (d) When the commissioner has completed the liquidation of the property and
19 business of a foreign (other nation) bank, the commissioner shall transfer any
20 remaining assets to such bank in accordance with such orders as the court may
21 issue. However, in case the bank has an office in another state of the United
22 States which is in liquidation and the assets of such office appear to be
23 insufficient to pay in full the creditors of the office, the court shall order the
24 commissioner to transfer to the liquidator of the office such amount of any such
25 remaining assets as appears to be necessary to cover such insufficiency; if there
26 are two or more such offices and the amount of remaining assets is less than the
27 aggregate amount of insufficiencies with respect to the offices, the court shall
28 order the commissioner to distribute the remaining assets among the liquidators of
29 such offices in such manner as the court finds equitable.

30 **Comment.** Section 1785 is amended to accommodate unification of the municipal and
31 superior courts in a county. Cal. Const. art. VI, § 5(e). It is amended to limit reference to
32 appeals in matters brought within the original jurisdiction of the superior court as a result of
33 trial court unification. A general civil matter is a civil matter other than a Chapter 5.1 civil
34 matter. Code Civ. Proc. § 85(b).

35 **Fin. Code § 1824 (amended). Appeal**

36 1824. An appeal may be taken from the judgment of the court by the
37 commissioner or by the licensee in the manner provided by law for appeals from
38 the judgment of a superior court in a general civil matter.

39 **Comment.** Section 1824 is amended to accommodate unification of the municipal and
40 superior courts in a county. Cal. Const. art. VI, § 5(e). It is amended to limit reference to
41 appeals in matters brought within the original jurisdiction of the superior court as a result of
42 trial court unification. A general civil matter is a civil matter other than a Chapter 5.1 civil
43 matter. Code Civ. Proc. § 85(b).

Fin. Code § 1893 (amended). Possession by commissioner

1893. (a) If the commissioner finds that any of the factors set forth in Section 1889 is true with respect to any licensee and that it is necessary for the protection of the interests of purchasers or holders of traveler's checks issued by the licensee or for the protection of the public interest that the commissioner take immediate possession of the property and business of the licensee, the commissioner may by order forthwith take possession of the property and business of the licensee and retain possession until the licensee resumes business or is finally liquidated. The licensee may, with the consent of the commissioner, resume business upon such conditions as the commissioner may prescribe.

(b) Whenever the commissioner takes possession of the property and business of a licensee pursuant to subdivision (a), the licensee may, within 10 days, apply to the superior court in any county of this state in which an office of the licensee is located (or, in case the licensee has no office in this state, in the County of Sacramento, in the City and County of San Francisco, or in the County of Los Angeles) to enjoin further proceedings. The court may, after citing the commissioner to show cause why further proceedings should not be enjoined and after a hearing, dismiss the application or enjoin the commissioner from further proceedings and order the commissioner to surrender the property and business of the licensee to the licensee or make such further order as may be just. The judgment of the superior court may be appealed by the commissioner or by the licensee in the manner provided by law for appeals from the judgment of a superior court in a general civil matter.

(c) Whenever the commissioner takes possession of the property and business of a licensee pursuant to subdivision (a), the commissioner shall conserve or liquidate the property and business of the licensee pursuant to Article 1 (commencing with Section 3100) of Chapter 17, and the provisions of that article (except Sections 3100, 3101, and 3102) apply as if the licensee were a bank.

Comment. Section 1893 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is amended to limit reference to appeals in matters brought within the original jurisdiction of the superior court as a result of trial court unification. A general civil matter is a civil matter other than a Chapter 5.1 civil matter. Code Civ. Proc. § 85(b).

Fin. Code § 3102 (amended). Appeal

3102. An appeal may be taken from the judgment of the court by the commissioner or by the bank in the manner provided by law for appeals from the judgment of a superior court in a general civil matter.

Comment. Section 3102 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is amended to limit reference to appeals in matters brought within the original jurisdiction of the superior court as a result of trial court unification. A general civil matter is a civil matter other than a Chapter 5.1 civil matter. Code Civ. Proc. § 85(b).

Fin. Code § 16154 (amended). Appeal

16154. An appeal may be taken from the judgment of the court by the commissioner or by the corporation in the manner provided by law for appeals from the judgment of a superior court in a general civil matter. An appeal from the judgment of the court shall not operate as a stay of the judgment unless the court, on good cause, so orders. No bond need be given if an appeal is taken by the commissioner but if the appeal is taken by the corporation a bond shall be given as required by Sections 917.2 and 917.5 of the Code of Civil Procedure as condition to any stay.

Comment. Section 16154 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is amended to limit reference to appeals in matters brought within the original jurisdiction of the superior court as a result of trial court unification. A general civil matter is a civil matter other than a Chapter 5.1 civil matter. Code Civ. Proc. § 85(b).

Fin. Code § 17335 (amended). Appeal

17335. An appeal may be taken from the judgment of the court by the commissioner or by Fidelity Corporation in the manner provided by law for appeals from the judgment of a superior court in a general civil matter. An appeal from the judgment of the court does not operate as a stay of the judgment unless the court, on good cause, so orders. No bond need be given if the appeal is taken by the commissioner, but if the appeal is taken by Fidelity Corporation a bond shall be given as required by Sections 917.2 and 917.5 of the Code of Civil Procedure as a condition to any stay.

Comment. Section 17335 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is amended to limit reference to appeals in matters brought within the original jurisdiction of the superior court as a result of trial court unification. A general civil matter is a civil matter other than a Chapter 5.1 civil matter. Code Civ. Proc. § 85(b).

Fin. Code § 18415.2 (amended). Appeal

18415.2. An appeal may be taken from the judgment of the court by the commissioner or by the industrial loan company in the manner provided by law for appeals from the judgment of a superior court in a general civil matter.

Comment. Section 18415.2 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is amended to limit reference to appeals in matters brought within the original jurisdiction of the superior court as a result of trial court unification. A general civil matter is a civil matter other than a Chapter 5.1 civil matter. Code Civ. Proc. § 85(b).

Fin. Code § 18495 (amended). Appeal

18495. An appeal may be taken from the judgment of the court by the commissioner or by Guaranty Corporation in the manner provided by law for appeals from the judgment of a superior court in a general civil matter. An appeal from the judgment of the court does not operate as a stay of the judgment unless the court, on good cause, so orders.

1 **Comment.** Section 18495 is amended to accommodate unification of the municipal and
2 superior courts in a county. Cal. Const. art. VI, § 5(e). It is amended to limit reference to
3 appeals in matters brought within the original jurisdiction of the superior court as a result of
4 trial court unification. A general civil matter is a civil matter other than a Chapter 5.1 civil
5 matter. Code Civ. Proc. § 85(b).

6 **Fin. Code § 31713 (amended). Possession by commissioner**

7 31713. (a) If the commissioner finds that any of the factors set forth in Section
8 31709 is true with respect to any licensee and that it is necessary for the
9 protection of the interests of the licensee or for the protection of the public
10 interest that the commissioner take immediate possession of the property and
11 business of the licensee, the commissioner may forthwith take possession of the
12 property and business of the licensee and retain possession until the licensee
13 resumes business or is finally liquidated. The licensee may, with the consent of the
14 commissioner, resume business upon such conditions as he or she may prescribe.

15 (b) Whenever the commissioner takes possession of the property and business
16 of a licensee pursuant to subdivision (a), the licensee may apply within 10 days to
17 the superior court in the county in which the head office of the licensee is located
18 to enjoin further proceedings. The court, after citing the commissioner to show
19 cause why further proceedings should not be enjoined and after a hearing, may
20 dismiss the application or enjoin the commissioner from further proceedings and
21 order the commissioner to surrender the property and business of the licensee to
22 the licensee or make such further order as may be just.

23 (c) An appeal may be taken from the judgment of the superior court by the
24 commissioner or by the licensee in the manner provided by law for appeals from
25 the judgment of a superior court in a general civil matter. An appeal from the
26 judgment of the superior court shall operate as a stay of the judgment. No bond
27 need be given if the appeal is taken by the commissioner, but if the appeal is
28 taken by the licensee, a bond shall be given as required by the Code of Civil
29 Procedure.

30 (d) Whenever the commissioner takes possession of the property and business
31 of a licensee pursuant to subdivision (a), the commissioner shall conserve or
32 liquidate the property and business of the licensee pursuant to Article 1
33 (commencing with Section 3100), Chapter 17, Division 1, and the provisions of
34 that article (except Sections 3100, 3101, and 3102) shall apply as if the licensee
35 were a bank.

36 **Comment.** Section 31713 is amended to accommodate unification of the municipal and
37 superior courts in a county. Cal. Const. art. VI, § 5(e). It is amended to limit reference to
38 appeals in matters brought within the original jurisdiction of the superior court as a result of
39 trial court unification. A general civil matter is a civil matter other than a Chapter 5.1 civil
40 matter. Code Civ. Proc. § 85(b).

41 **Fin. Code § 34113 (amended). Possession by commissioner**

42 34113. (a) If the commissioner finds that any of the factors set forth in Section
43 34109 is true with respect to any licensee and that it is necessary for the

1 protection of the interests of purchasers or holders of payment instruments issued
2 by the licensee or for the protection of the public interest that the commissioner
3 take immediate possession of the property and business of the licensee, the
4 commissioner may by order forthwith take possession of the property and
5 business of the licensee and retain possession until the licensee resumes business
6 or is finally liquidated. The licensee may, with the consent of the commissioner,
7 resume business upon such conditions as the commissioner may prescribe.

8 (b) Whenever the commissioner takes possession of the property and business
9 of a licensee pursuant to subdivision (a), the licensee may, within 10 days, apply
10 to the superior court in any county of this state in which an office of the licensee
11 is located (or, in case the licensee has no office in this state, in the County of
12 Sacramento, in the City and County of San Francisco, or in the County of Los
13 Angeles) to enjoin further proceedings. The court may, after citing the
14 commissioner to show cause why further proceedings should not be enjoined and
15 after a hearing, dismiss the application or enjoin the commissioner from further
16 proceedings and order the commissioner to surrender the property and business
17 of the licensee to the licensee or make such further order as may be just. The
18 judgment of the superior court may be appealed by the commissioner or by the
19 licensee in the manner provided by law for appeals from the judgment of a
20 superior court in a general civil matter.

21 (c) Whenever the commissioner takes possession of the property and business
22 of a licensee pursuant to subdivision (a), the commissioner shall conserve or
23 liquidate the property and business of the licensee pursuant to Article 1
24 (commencing with Section 3100), Chapter 17, Division 1, and the provisions of
25 the article (except Sections 3100, 3101, and 3102) apply as if the licensee were a
26 bank.

27 **Comment.** Section 34113 is amended to accommodate unification of the municipal and
28 superior courts in a county. Cal. Const. art. VI, § 5(e). It is amended to limit reference to
29 appeals in matters brought within the original jurisdiction of the superior court as a result of
30 trial court unification. A general civil matter is a civil matter other than a Chapter 5.1 civil
31 matter. Code Civ. Proc. § 85(b).

32 FISH AND GAME CODE

33 **Fish & Game Code § 210 (amended). Regulations**

34 210. (a) The commission shall provide copies of the regulations added, amended,
35 or repealed pursuant to subdivision (e) of Section 206, subdivision (e) of Section
36 207, and subdivision (d) of Section 208 to each county clerk, each district
37 attorney, and each judge of a municipal court ~~or justice court in the state~~ or of the
38 superior court in a county in which there is no municipal court.

39 (b) The commission and the department may do anything that is deemed
40 necessary and proper to publicize and distribute regulations so that persons likely
41 to be affected will be informed of them. The failure of the commission to provide

1 any notice of its regulations, other than by filing them in accordance with Section
2 215, shall not impair the validity of the regulations.

3 (c) The department or the license agent may give a copy of the current
4 applicable published regulations to each person issued a license at the time the
5 license is issued.

6 (d) Notwithstanding any other provision of law, the commission and the
7 department may contract with private entities to print regulations and other
8 regulatory and public information. Printing contracts authorized by this
9 subdivision and for which no state funds are expended are not subject to Chapter
10 2 (commencing with Section (10290) of Part 2 of Division 2 of the Public
11 Contract Code, except for Article 2 (commencing with Section 10295) of Chapter
12 2.

13 **Comment.** Section 210 is amended to accommodate unification of the municipal and
14 superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect
15 elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

16 **Fish & Game Code § 309 (amended). Depositions**

17 309. The commission or any person appointed by it to conduct a hearing may,
18 in any investigation or hearing, cause the deposition of witnesses, residing within
19 or without the state, to be taken in the manner prescribed by law for deposition in
20 ~~civil actions~~ general civil matters in the superior courts of this state, and may
21 compel the attendance of witnesses and the production of documents and papers.
22 The commission shall adopt regulations which afford procedural and substantive
23 due process to any person, whose license or permit is subject to revocation or
24 suspension. Except upon conviction of a violation of this code or a regulation
25 adopted pursuant to this code relating to the licensed or permitted activity and
26 notwithstanding any other provision of this code, the commission shall not
27 revoke or suspend any license or permit until the regulations required by this
28 section have been adopted and approved by the Office of Administrative Law
29 pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3
30 of Title 2 of the Government Code.

31 **Comment.** Section 309 is amended to accommodate unification of the municipal and
32 superior courts in a county. Cal. Const. art. VI, § 5(e). It is amended to limit reference to
33 depositions in matters brought within the original jurisdiction of the superior court as a result
34 of trial court unification. A general civil matter is a civil matter other than a Chapter 5.1 civil
35 matter. Code Civ. Proc. § 85(b).

36 **Fish & Game Code § 5934 (amended). Depositions**

37 5934. The commission or any party may, in any hearing, cause the deposition of
38 witnesses to be taken in the manner prescribed by law for depositions in civil
39 ~~actions~~ general civil matters in the superior courts of this State.

40 **Comment.** Section 5934 is amended to accommodate unification of the municipal and
41 superior courts in a county. Cal. Const. art. VI, § 5(e). It is amended to limit reference to
42 depositions in matters brought within the original jurisdiction of the superior court as a result

1 of trial court unification. A general civil matter is a civil matter other than a Chapter 5.1 civil
2 matter. Code Civ. Proc. § 85(b).

3 **Fish & Game Code § 12150 (amended). Hunting accidents**

4 12150. Whenever any person, while taking a bird or mammal, kills or wounds
5 any human being and that fact is ascertained by the department, the department
6 shall notify the district attorney of the county in which the act occurred. The
7 district attorney may thereupon bring an action in the municipal ~~or justice~~ court
8 of the judicial district in which the act occurred or in the superior court in a
9 county in which there is no municipal court for the purpose of determining the
10 cause of the killing or the wounding. Such proceedings shall be conducted in the
11 same manner as an action to try a misdemeanor and the defendant may request
12 that all findings of fact shall be made by a jury. The court shall inform the
13 defendant of the nature of the proceedings and of his the defendant's right to
14 have a jury.

15 If it is found that such person did the killing or wounding but that it was not
16 intentional or negligent, the court shall dismiss the proceeding. Otherwise, if it is
17 found that such person did the killing or wounding intentionally, by an act of
18 gross negligence, or while under the influence of alcohol, the court shall issue an
19 order permanently prohibiting him the defendant from taking any bird or mammal.

20 If it is found that such person was negligent, but not grossly negligent, the
21 court shall issue an order prohibiting him the defendant from taking any bird or
22 mammal for a period specified at the discretion of the court but not less than five
23 years.

24 **Comment.** Section 12150 is amended to accommodate unification of the municipal and
25 superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect
26 elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

27 ☞ **Staff Note.** The judicial district issue needs to be addressed in a unified county. See
28 Memorandum 97-52 (judicial districts).


29 **Fish & Game Code § 12151 (amended). Domestic animals**

30 12151. Whenever any person, while taking a bird or mammal, kills or wounds
31 any domestic animal belonging to another and that fact is ascertained by the
32 department, the department shall notify the district attorney of the county in
33 which the act occurred. The district attorney may thereupon bring an action in
34 the municipal ~~or justice~~ court of the judicial district in which the act occurred or in
35 the superior court in a county in which there is no municipal court for the
36 purpose of determining the cause of the killing or wounding. Such proceedings
37 shall be conducted in the same manner as an action to try a misdemeanor and the
38 defendant may request that all findings of fact shall be made by a jury. The court
39 shall inform the defendant of the nature of the proceedings and of his the
40 defendant's right to have a jury.

41 If it is found that such person did the killing or wounding but that it was not
42 intentional or negligent, the court shall dismiss the proceeding. Otherwise, if it is

found that such person did the killing or wounding intentionally or negligently, the court shall issue an order prohibiting ~~him~~ the defendant from taking any bird or mammal for a period of five years.

Comment. Section 12151 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

 **Staff Note.** The judicial district issue needs to be addressed in a unified county. See Memorandum 97-52 (judicial districts).

FOOD AND AGRICULTURE CODE

Food & Ag. Code § 7581 (amended). Court jurisdiction


7581. ~~In actions~~ Actions which arise pursuant to this article:

~~(a) Municipal courts shall have original jurisdiction where the value of the property seized amounts to five thousand dollars (\$5,000) or less.~~

~~(b) Justice courts shall have original jurisdiction where the value amounts to five hundred dollars (\$500) or less~~ are Chapter 5.1 civil matters.

Comment. Section 7581 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A Chapter 5.1 civil matter is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for Chapter 5.1 civil matters).

 **Staff Note.** The existing statutory amounts (i.e., \$5,000 and \$500) were enacted in 1967 and never amended to reflect changes in the jurisdictional amount in controversy for municipal and justice court jurisdiction. Professor Kelso recommends increasing the amount to the current \$25,000 municipal court jurisdictional amount.

Food & Ag. Code § 12647 (amended). Court jurisdiction


12647. ~~In actions~~ Actions which arise pursuant to this article:

~~(a) Municipal courts shall have original jurisdiction where the value of the property seized amounts to five thousand dollars (\$5,000) or less.~~

~~(b) Justice courts shall have original jurisdiction where the value amounts to five hundred dollars (\$500) or less~~ are Chapter 5.1 civil matters.

Comment. Section 12647 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A Chapter 5.1 civil matter is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for Chapter 5.1 civil matters).

 **Staff Note.** The existing statutory amounts (i.e., \$5,000 and \$500) were enacted in 1967 and never amended to reflect changes in the jurisdictional amount in controversy for municipal and justice court jurisdiction. Professor Kelso recommends increasing the amount to the current \$25,000 municipal court jurisdictional amount.

Food & Ag. Code § 27601 (amended). Abatement of nuisance

27601. Upon the request of the director or an authorized representative, the district attorney of the county in which the eggs and their containers which are a public nuisance are found, shall maintain, in the name of the people of the State of California, a civil action to abate and prevent the public nuisance.

Upon judgment and by order of the court, the eggs and their containers which are a public nuisance shall be condemned and destroyed in the manner which is directed by the court, or reconditioned, re-marked, denatured, or otherwise processed, or released upon the conditions as the court in its discretion may impose to ensure that the nuisance is abated.

If the owner fails to comply with the order of the court within the time specified in the order, the court may order disposal of the eggs and their containers or their sale, under the terms and conditions as the court may prescribe, by the enforcement officer, or by the sheriff or marshal.

If the court orders the sale of any of the eggs and their containers which can be salvaged, the costs of disposal shall be deducted from the proceeds of sale and the balance paid into court for the owner.

~~In actions~~ Actions arising pursuant to this chapter or any regulation adopted pursuant to this chapter ~~the following limits shall apply:~~

~~(a) Municipal courts shall have original jurisdiction where the value of the property seized amounts to five thousand dollars (\$5,000) or less.~~

~~(b) Justice courts shall have original jurisdiction where the value amounts to five hundred dollars (\$500) or less are Chapter 5.1 civil matters.~~

A public nuisance described in this section may only be abated in any action or proceeding pursuant to the remedies provided by this chapter. This chapter provides the exclusive source of costs and civil penalties which may be assessed by reason of the public nuisance against the owner of eggs and their containers which are found to be a public nuisance.

Comment. Section 27601 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A Chapter 5.1 civil matter is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for Chapter 5.1 civil matters).

☞ **Staff Note.** The existing statutory amounts (i.e., \$5,000 and \$500) were enacted in 1967 and never amended to reflect changes in the jurisdictional amount in controversy for municipal and justice court jurisdiction. Professor Kelso recommends increasing the amount to the current \$25,000 municipal court jurisdictional amount.

Food & Ag. Code § 30801 (amended). Dog licenses

30801. (a) A board of supervisors may provide for the issuance of serially numbered metallic dog licenses pursuant to this section. The dog licenses shall be:

(1) Stamped with the name of the county and the year of issue.

(2) Unless the board of supervisors designates the animal control department to issue the licenses, issued by the county clerk directly or through judges of justice or municipal courts or the superior court in a county in which there is no municipal court, to owners of dogs, that make application.

(b) The licenses shall be issued for a period of not to exceed two years.

(c) In addition to the authority provided in subdivisions (a) and (b), a license may be issued, as provided by this section, by a board of supervisors for a period not to exceed three years for dogs that have attained the age of 12 months, or older, and who have been vaccinated against rabies. The person to whom the license is to be issued pursuant to this subdivision may choose a license period as established by the board of supervisors of up to one, two, or three years. However, when issuing a license pursuant to this subdivision, the license period shall not extend beyond the remaining period of validity for the current rabies vaccination.

Comment. Section 30801 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Food & Ag. Code § 31503 (amended). Damage by dog

31503. If any person sustains any loss or damage to any livestock or poultry which is caused by a dog, or if any livestock of any person is necessarily destroyed because of having been bitten by a dog, the person may file a complaint with any judge of the justice ~~or municipal court~~ of the county within which the damage occurred or of the superior court in a county in which there is no municipal court. An action under this section is a Chapter 5.1 civil matter.

Comment. Section 31503 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A Chapter 5.1 civil matter is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for Chapter 5.1 civil matters).


Food & Ag. Code § 31621 (amended). Dangerous or vicious dog

31621. If an animal control officer or a law enforcement officer has investigated and determined that there exists probable cause to believe that a dog is potentially dangerous or vicious, the chief officer of the public pound or animal control department or his or her immediate supervisor or the head of the local law enforcement agency, or his or her designee, shall petition the municipal court within the judicial district wherein the dog is owned or kept or the superior court in a county in which there is no municipal court for a hearing for the purpose of determining whether or not the dog in question should be declared potentially dangerous or vicious. A proceeding under this section is a Chapter 5.1 civil matter. A city or county may establish an administrative hearing procedure to

1 hear and dispose of petitions filed pursuant to this chapter. Whenever possible,
2 any complaint received from a member of the public which serves as the
3 evidentiary basis for the animal control officer or law enforcement officer to find
4 probable cause shall be sworn to and verified by the complainant and shall be
5 attached to the petition. The chief officer of the public pound or animal control
6 department or head of the local law enforcement agency shall notify the owner or
7 keeper of the dog that a hearing will be held by the municipal court, the superior
8 court, or the hearing entity, as the case may be, at which time he or she may
9 present evidence as to why the dog should not be declared potentially dangerous
10 or vicious. The owner or keeper of the dog shall be served with notice of the
11 hearing and a copy of the petition, either personally or by first-class mail with
12 return receipt requested. The hearing shall be held promptly within no less than
13 five working days nor more than 10 working days after service of notice upon
14 the owner or keeper of the dog. The hearing shall be open to the public. The
15 court may admit into evidence all relevant evidence, including incident reports
16 and the affidavits of witnesses, limit the scope of discovery, and may shorten the
17 time to produce records or witnesses. A jury shall not be available. The court may
18 find, upon a preponderance of the evidence, that the dog is potentially dangerous
19 or vicious and make other orders authorized by this chapter.

20 **Comment.** Section 31621 is amended to accommodate unification of the municipal and
21 superior courts in a county. Cal. Const. art. VI, § 5(e).

22 A Chapter 5.1 civil matter is within the original jurisdiction of the municipal court or of the
23 superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10
24 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also
25 Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for
26 Chapter 5.1 civil matters).

27  **Staff Note.** The judicial district issue requires resolution. See Memorandum 97-52
28 (judicial districts).

29 **Food & Ag. Code § 31622 (amended). Proceedings concerning dog**

30 31622. (a) After the hearing conducted pursuant to Section 31621, the owner
31 or keeper of the dog shall be notified in writing of the determination and orders
32 issued, either personally or by first-class mail postage prepaid by the court or
33 hearing entity. If a determination is made that the dog is potentially dangerous or
34 vicious, the owner or keeper shall comply with Article 3 (commencing with
35 Section 31641) in accordance with a time schedule established by the chief
36 officer of the public pound or animal control department or the head of the local
37 law enforcement agency, but in no case more than 30 days after the date of the
38 determination or 35 days if notice of the determination is mailed to the owner or
39 keeper of the dog. If the petitioner or the owner or keeper of the dog contests the
40 determination, he or she may, within five days of the receipt of the notice of
41 determination, appeal the decision of the court or hearing entity of original
42 jurisdiction to a court authorized to hear the appeal. The fee for filing an appeal
43 shall be twenty dollars (\$20), payable to the county clerk. If the original hearing

held pursuant to Section 31621 was before a hearing entity other than the municipal a court of the jurisdiction, appeal shall be to the municipal court or superior court in a county in which there is no municipal court. If the original hearing was held in the municipal a court, appeal shall be to the superior court within the judicial district wherein the dog is owned or kept and shall be heard by a judge other than the judge who originally heard the matter. The petitioner or the owner or keeper of the dog shall serve personally or by first-class mail, postage prepaid, notice of the appeal upon the other party.

(b) The court hearing the appeal shall conduct a hearing de novo, without a jury, and make its own determination as to potential danger and viciousness and make other orders authorized by this chapter, based upon the evidence presented. The hearing shall be conducted in the same manner and within the time periods set forth in Section 31621 and subdivision (a). The court may admit all relevant evidence, including incident reports and the affidavits of witnesses, limit the scope of discovery, and may shorten the time to produce records or witnesses. The issue shall be decided upon the preponderance of the evidence. If the court rules the dog to be potentially dangerous or vicious, the court may establish a time schedule to ensure compliance with this chapter, but in no case more than 30 days subsequent to the date of the court's determination or 35 days if the service of the judgment is by first-class mail.

Comment. Section 31622 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

☞ **Staff Note.** Professor Kelso proposes that if the original hearing was before a court, the appeal would be to the appellate division of the superior court, which would treat it as an appeal in a Chapter 5.1 civil matter.

The judicial district issue requires resolution. See Memorandum 97-52 (judicial districts).

Food & Ag. Code § 52514 (amended). Court jurisdiction

52514. In actions Actions arising pursuant to this article, ~~the following courts shall have original jurisdiction:~~

(a) ~~Municipal courts shall have original jurisdiction where the value of the property seized amounts to three thousand dollars (\$3,000) or less.~~

(b) ~~Justice courts shall have original jurisdiction where the value amounts to five hundred dollars (\$500) or less are Chapter 5.1 civil matters.~~

Comment. Section 52514 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A Chapter 5.1 civil matter is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for Chapter 5.1 civil matters).

☞ **Staff Note.** The existing statutory amounts (i.e., \$3,000 and \$500) were enacted in 1967 and never amended to reflect changes in the jurisdictional amount in controversy for municipal and justice court jurisdiction. Professor Kelso recommends increasing the amount to the current \$25,000 municipal court jurisdictional amount.

Food & Ag. Code § 53564 (amended). Court jurisdiction

53564. ~~In actions~~ Actions arising pursuant to this article, ~~the following courts shall have original jurisdiction:~~

(a) ~~Municipal courts shall have original jurisdiction where the value of the property seized amounts to five thousand dollars (\$5,000) or less.~~

(b) ~~Justice courts shall have original jurisdiction where the value amounts to five hundred dollars (\$500) or less~~ are Chapter 5.1 civil matters.

Comment. Section 53564 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A Chapter 5.1 civil matter is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for Chapter 5.1 civil matters).

☞ **Staff Note.** The existing statutory amounts (i.e., \$5,000 and \$500) were enacted in 1967 and never amended to reflect changes in the jurisdictional amount in controversy for municipal and justice court jurisdiction. Professor Kelso recommends increasing the amount to the current \$25,000 municipal court jurisdictional amount.

Food & Ag. Code § 55784 (amended). Witness fees and mileage

55784. Every witness who appears pursuant to a subpoena, except a party or an officer or employee of the state or any political subdivision of the state, shall receive fees. Every witness who appears pursuant to a subpoena, except a party, shall receive mileage in the same amount and under the same circumstances as is prescribed by law for witnesses in ~~civil actions~~ a general civil matter in a superior court.

Comment. Section 55784 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is amended to limit reference to subpoenas in matters brought within the original jurisdiction of the superior court as a result of trial court unification. A general civil matter is a civil matter other than a Chapter 5.1 civil matter. Code Civ. Proc. § 85(b).

Food & Ag. Code § 56473 (amended). Witness fees and mileage

56473. Every witness who appears pursuant to a subpoena, except a party or an officer or employee of the state or any political subdivision of the state, shall receive fees. Every witness who appears pursuant to subpoena, except a party, shall receive mileage in the same amount and under the same circumstances as prescribed by law for witnesses in ~~civil actions~~ a general civil matter in a superior court.

Comment. Section 56473 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It is amended to limit reference to subpoenas in matters brought within the original jurisdiction of the superior court as a result of trial court unification. A general civil matter is a civil matter other than a Chapter 5.1 civil matter. Code Civ. Proc. § 85(b).

JUSTICE COURT CONFORMING REVISIONS

Bus. & Prof. Code § 6152 (amended). Runners and cappers

6152. (a) It is unlawful for:

(1) Any person, in ~~his~~ an individual capacity or in ~~his~~ a capacity as a public or private employee, or for any firm, corporation, partnership or association to act as a runner or capper for any such attorneys or to solicit any business for any such attorneys in and about the state prisons, county jails, city jails, city prisons, or other places of detention of persons, city receiving hospitals, city and county receiving hospitals, county hospitals, ~~justice courts~~, municipal courts, superior courts, or in any public institution or in any public place or upon any public street or highway or in and about private hospitals, sanitariums or in and about any private institution or upon private property of any character whatsoever.

(2) Any person to solicit another person to commit or join in the commission of a violation of subdivision (a).

(b) A general release from a liability claim obtained from any person during the period of the first physical confinement, whether as an inpatient or outpatient, in a clinic or health facility, as defined in Sections 1203 and 1250 of the Health and Safety Code, as a result of the injury alleged to have given rise to such claim and primarily for treatment of such injury, is presumed fraudulent if such release is executed within 15 days after the commencement of such confinement or prior to release from such confinement, whichever occurs first.

(c) Nothing in this section shall be construed to prevent the recommendation of professional employment where such recommendation is not prohibited by the Rules of Professional Conduct of the State Bar of California.

(d) Nothing in this section shall be construed to mean that a public defender or assigned counsel may not make known his or her services as a criminal defense attorney to persons unable to afford legal counsel whether such persons are in custody or otherwise.

Comment. Section 6152 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Bus. & Prof. Code § 6302.5 (amended). Board of law library trustees of Los Angeles County

6302.5. Notwithstanding any other provision of law, in Los Angeles County appointments made by judges of the superior court, or municipal court, ~~and justice court~~ shall be for a term of four years, and appointments made by the board of supervisors of the county shall be for a term of two years.

Trustees who are incumbents on the effective date of this section shall be considered to have started their terms on the effective date of this section.

At the first regular meeting following the effective date of this section, the members appointed by the judiciary shall classify themselves by lot so that three

1 members shall serve for four years, and two members for two years. Thereafter the
2 term of office of each member so appointed shall be four years.

3 At the first regular meeting following the effective date of this section, the
4 members appointed by the board of supervisors shall classify themselves by lot so
5 that one member shall serve for two years, and one member for one year.
6 Thereafter the term of office of each member so appointed shall be two years.

7 **Comment.** Section 6302.5 is amended to reflect elimination of the justice court. Cal. Const.
8 art. VI, §§ 1, 5(b).

9 **Bus. & Prof. Code § 6321 (amended). Filing fee**

10 6321. On the commencement in, or the removal to, the superior court of any
11 county in this State, of any civil action, proceeding, or appeal, and on the
12 commencement in, or removal to, the municipal court ~~or justice court~~ in any
13 county, of any civil action or proceeding, the party instituting such proceeding, or
14 filing the first papers, shall pay to the clerk of the court, for the law library, on
15 filing the first papers, the sum of the dollar (\$1) as costs, in addition to the fees
16 fixed by law.

17 **Comment.** Section 6321 is amended to reflect elimination of the justice court. Cal. Const.
18 art. VI, §§ 1, 5(b).

19 **Bus. & Prof. Code § 6322 (amended). First appearance fee**

20 6322. Thereafter, any defendant, respondent, adverse party, or intervening
21 party, on his first appearance in a superior, ~~or municipal, or justice~~ or municipal
22 court, or any number of such defendants, respondents, or parties, appearing
23 jointly, shall pay to the clerk of the court, for the law library, the sum of one dollar
24 (\$1) as costs, in addition to the fees fixed by law.

25 **Comment.** Section 6322 is amended to reflect elimination of the justice court. Cal. Const.
26 art. VI, §§ 1, 5(b).

27 **Bus. & Prof. Code § 25762 (amended). Fines and forfeitures of bail**

28 25762. All fines and forfeitures of bail imposed for a violation of this division
29 and collected in any court other than a municipal court ~~or a justice court~~ shall be
30 paid to the county treasurer of the county in which the court is held.

31 All fines and forfeitures of bail imposed for violation of this division and
32 collected upon conviction or upon forfeiture of bail, together with money
33 deposited as bail, in any municipal court ~~or justice court~~ shall be deposited with
34 the county treasurer of the county in which such court is situated and the money
35 deposited shall be distributed and disposed of pursuant to Penal Code Section
36 1463.

37 **Comment.** Section 25762 is amended to reflect elimination of the justice court. Cal. Const.
38 art. VI, §§ 1, 5(b).

Civ. Code § 1181 (amended). Proof or acknowledgment of instrument

1181. The proof or acknowledgment of an instrument may be made before a notary public at any place within this state, or within the county or city and county in this state in which the officer specified below was elected or appointed, before either:

- (a) A clerk of a ~~superior, municipal, or justice~~ superior or municipal court.
- (b) A county clerk.
- (c) A court commissioner.
- (d) A judge or retired judge of a municipal or justice court.
- (e) A district attorney.
- (f) A clerk of a board of supervisors.
- (g) A city clerk.
- (h) A county counsel.
- (i) A city attorney.

Comment. Subdivision (a) of Section 1181 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). The reference to a retired judge of a justice court is maintained in subdivision (d) to enable retired judges of justice courts to continue to take proofs or acknowledgments of instruments.

Civ. Code § 1780 (amended). Action for unlawful method, act, or practice

1780. (a) Any consumer who suffers any damage as a result of the use or employment by any person of a method, act, or practice declared to be unlawful by Section 1770 may bring an action against such person to recover or obtain any of the following:

- (1) Actual damages, but in no case shall the total award of damages in a class action be less than one thousand dollars (\$1,000).
- (2) An order enjoining such methods, acts, or practices.
- (3) Restitution of property.
- (4) Punitive damages.
- (5) Any other relief which the court deems proper.

(b) Any consumer who is a senior citizen or a disabled person, as defined in subdivisions (f) and (g) of Section 1761, as part of an action under subdivision (a), may seek and be awarded, in addition to the remedies specified therein, up to five thousand dollars (\$5,000) where the trier of fact (1) finds that the consumer has suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct, (2) makes an affirmative finding in regard to one or more of the factors set forth in subdivision (b) of Section 3345, and (3) finds that an additional award is appropriate. Judgment in a class action by senior citizens or disabled persons under Section 1781 may award each class member such an additional award where the trier of fact has made the foregoing findings.


(c) An action under subdivision (a) or (b) may be commenced in the county in which the person against whom it is brought resides, has his or her principal place of business, or is doing business, or in the county where the transaction or any substantial portion thereof occurred.

If within any such county there is a municipal ~~or~~ justice court, having jurisdiction of the subject matter, established in the city and county or judicial district in which the person against whom the action is brought resides, has his or her principal place of business, or is doing business, or in which the transaction or any substantial portion thereof occurred, then such court is the proper court for the trial of such action. Otherwise, any municipal ~~or~~ justice court in such county having jurisdiction of the subject matter is the proper court for the trial thereof.

In any action subject to the provisions of this section, concurrently with the filing of the complaint, the plaintiff shall file an affidavit stating facts showing that the action has been commenced in a county or judicial district described in this section as a proper place for the trial of the action. If a plaintiff fails to file the affidavit required by this section, the court shall, upon its own motion or upon motion of any party, dismiss any such action without prejudice.

(d) The court shall award court costs and attorney's fees to a prevailing plaintiff in litigation filed pursuant to this section. Reasonable attorney's fees may be awarded to a prevailing defendant upon a finding by the court that the plaintiff's prosecution of the action was not in good faith.

Comment. Section 1780 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). In a county in which there is no municipal court, the superior court has jurisdiction of matters that would be within the subject matter jurisdiction of the municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. § 85.1 (municipal court jurisdiction).

 **Staff Note.** If judicial districts are maintained for superior court branches in unified courts, this section will require further revision. See Memorandum 97-52 (judicial districts)

Civ. Code § 1812.10 (amended). Action on contract or installment account


1812.10. An action on a contract or installment account under the provisions of this chapter shall be tried in the county in which the contract was in fact signed by the buyer, in the county in which the buyer resided at the time the contract was entered into, in the county in which the buyer resides at the commencement of the action, or in the county in which the goods purchased pursuant to such contract have been so affixed to real property as to become a part of such real property.

If within any such county there is a municipal ~~or~~ justice court, having jurisdiction of the subject matter, established in the city and county or judicial district in which the contract was in fact signed by the buyer, or in which the buyer resided at the time the contract was entered into, or in which the buyer resides at the commencement of the action or in which the goods purchased pursuant to such contract have been so affixed to real property as to become a part of such real property, then such court is the proper court for the trial of such action. Otherwise, any municipal ~~or~~ justice court in such county, having jurisdiction of the subject matter, is the proper court for the trial thereof.

In any action subject to the provisions of this section, concurrently with the filing of the complaint, the plaintiff shall file an affidavit stating facts showing that

1 the action has been commenced in a county or judicial district described in this
2 section as a proper place for the trial of the action. Such facts may be stated in a
3 verified complaint and shall not be stated on information or belief. When such
4 affidavit is filed with the complaint, a copy thereof shall be served with the
5 summons. If a plaintiff fails to file the affidavit or state facts in a verified complaint
6 required by this section, no further proceedings shall be had, but the court shall,
7 upon its own motion or upon motion of any party, dismiss any such action
8 without prejudice; however, the court may, on such terms as may be just, permit
9 the affidavit to be filed subsequent to the filing of the complaint and a copy of
10 such affidavit shall be served on the defendant. The time to answer or otherwise
11 plead shall date from such service.

12 **Comment.** Section 1812.10 is amended to reflect elimination of the justice court. Cal.
13 Const. art. VI, §§ 1, 5(b). In a county in which there is no municipal court, the superior court
14 has jurisdiction of matters that would be within the subject matter jurisdiction of the
15 municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. § 85.1
16 (municipal court jurisdiction).

17  **Staff Note.** If judicial districts are maintained for superior court branches in unified
18 courts, this section will require further revision. See Memorandum 97-52 (judicial districts)

19 **Civ. Code § 2984.4 (amended). Action on contract or purchase order**

20 2984.4. An action on a contract or purchase order under the provisions of this
21 chapter shall be tried in the county in which the contract or purchase order was
22 in fact signed by the buyer, in the county in which the buyer resided at the time
23 the contract or purchase order was entered into, in the county in which the buyer
24 resides at the commencement of the action or in the county in which the motor
25 vehicle purchased pursuant to such contract or purchase order is permanently
26 garaged.


27 In any action involving multiple claims, or causes of action, venue shall lie in
28 such counties so long as there is at least one claim or cause of action arising from
29 a contract subject to the provisions of this chapter.

30 If within any such county there is a municipal ~~or justice~~ court, having
31 jurisdiction of the subject matter, established in the judicial district in which the
32 contract, conditional sale contract, or purchase order was in fact signed by the
33 buyer, or in which the buyer resided at the time the contract, conditional sale
34 contract, or purchase order was entered into, or in which the buyer resides at the
35 commencement of the action, or in which the motor vehicle purchased pursuant
36 to such contract is permanently garaged, such court is the proper court for the
37 trial of the action. Otherwise, any municipal ~~or justice~~ court in such county,
38 having jurisdiction of the subject matter, is the proper court for the trial of the
39 action.

40 In any action subject to the provisions of this section, concurrently with the
41 filing of the complaint, the plaintiff shall file an affidavit stating facts showing that
42 the action has been commenced in a county or judicial district described in this
43 section as a proper place for the trial of the action. Such facts may be stated in a

1 verified complaint and shall not be stated on information or belief. When such
2 affidavit is filed with the complaint, a copy thereof shall be served with the
3 summons. If a plaintiff fails to file the affidavit or state facts in a verified complaint
4 required by this section, no further proceedings shall be had, but the court shall,
5 upon its own motion or upon motion of any party, dismiss any such action
6 without prejudice; however, the court may, on such terms as may be just, permit
7 the affidavit to be filed subsequent to the filing of the complaint and a copy of
8 such affidavit shall be served on the defendant. The time to answer or otherwise
9 plead shall date from such service.

10 **Comment.** Section 2984.4 is amended to reflect elimination of the justice court. Cal. Const.
11 art. VI, §§ 1, 5(b). In a county in which there is no municipal court, the superior court has
12 jurisdiction of matters that would be within the subject matter jurisdiction of the municipal
13 court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. § 85.1
14 (municipal court jurisdiction).

15  **Staff Note.** If judicial districts are maintained for superior court branches in unified
16 courts, this section will require further revision. See Memorandum 97-52 (judicial districts)

17 **Educ. Code § 48294 (amended). Payment of fines**


18 48294. All fines paid as penalties for the violation of any of the provisions of
19 this chapter shall, when collected or received, be paid over by the justice court or
20 officer receiving them to the treasurer of the city, county, or city and county, in
21 which the offense was committed, to be placed to the credit of the school fund of
22 the school district in which the offense was committed. Such moneys shall be
23 used to support the activities of the school attendance review board prescribed
24 by Section 48291 and the parent education and counseling program prescribed
25 by Section 48293.

26 **Comment.** Section 48294 is amended to reflect elimination of the justice court. Cal. Const.
27 art. VI, §§ 1, 5(b).

28 **Elec. Code § 325 (amended). Judicial district**

29 325. “Judicial district” includes municipal court district and ~~justice court~~
30 ~~district~~.

31 **Comment.** Section 325 is amended to reflect elimination of the justice court. Cal. Const.
32 art. VI, §§ 1, 5(b).

33  **Staff Note.** Prof. Kelso comments that it is not entirely clear why this definition is
34 needed. On the one hand, it is underinclusive because “judicial district” also includes
35 superior court and court of appeal districts. On the other hand, the California Constitution
36 already refers to municipal court districts, so it is not immediately obvious why an
37 underinclusive statutory definition was required.

38 For staff proposals on this matter, see the discussion in the staff memorandum for the
39 Commission meeting. See Memorandum 97-52 (judicial districts).

40 **Elec. Code § 327 (amended). Judicial officer**

41 327. “Judicial officer” means any Justice of the Supreme Court, justice of a
42 court of appeal, judge of the superior court, or judge of a municipal court, ~~or~~
43 ~~judge of a justice court~~.

1 **Comment.** Section 327 is amended to reflect elimination of the justice court. Cal. Const.
2 art. VI, §§ 1, 5(b).

3 **Elec. Code § 8203 (amended). Incumbents**

4 8203. In any county or any judicial district in which only the incumbent has
5 filed nomination papers for the office of superior court judge, judge or municipal
6 court judge, ~~or justice court judge~~, his or her name shall not appear on the ballot
7 unless there is filed with the elections official, within 10 days after the final date
8 for filing nomination papers for the office, a petition indicating that a write-in
9 campaign will be conducted for the office and signed by 100 registered voters
10 qualified to vote with respect to the office.

11 If a petition indicating that a write-in campaign will be conducted for the office
12 at the general election, signed by 100 registered voters qualified to vote with
13 respect to the office, is filed with the elections official not less than 83 days before
14 the general election, the name of the incumbent shall be placed on the general
15 election ballot if it has not appeared on the direct primary election ballot.

16 If, in conformity with this section, the name of the incumbent does not appear
17 either on the primary ballot or general election ballot, the elections official, on the
18 day of the general election, shall declare the incumbent reelected. Certificates of
19 election specified in Section 15401 or 15504 shall not be issued to a person
20 reelected pursuant to this section before the day of the general election.

21 **Comment.** Section 8203 is amended to reflect elimination of the justice court. Cal. Const.
22 art. VI, §§ 1, 5(b).

23 **Elec. Code § 13111 (amended). Names on ballot**

24 13111. Candidates for each office shall be printed on the ballot in accordance
25 with the following rules:

26 (a) The names of presidential candidates to whom candidates for delegate to the
27 national convention are pledged, and the names of chairpersons of groups of
28 candidates for delegate expressing no preference, shall be arranged on the
29 primary election ballot by the Secretary of State by the names of the candidates in
30 accordance with the randomized alphabet as provided for in Section 13112 in the
31 case of the ballots for the First Assembly District. Thereafter, for each succeeding
32 Assembly district, the name appearing first in the last preceding Assembly district
33 shall be placed last, the order of the other names remaining unchanged.

34 (b) The names of the pairs of candidates for President and Vice President shall
35 be arranged on the general election ballot by the Secretary of State by the names
36 of the candidates for President in accordance with the randomized alphabet as
37 provided for in Section 13112 in the case of the ballots for the First Assembly
38 District. Thereafter, for each succeeding Assembly district, the pair appearing first
39 in the last preceding Assembly district shall be placed last, the order of the other
40 pairs remaining unchanged.

41 (c) In the case of all other offices, the candidates for which are to be voted on
42 throughout the state, the Secretary of State shall arrange the names of the

1 candidates for the office in accordance with the randomized alphabet as provided
2 for in Section 13112 for the First Assembly District. Thereafter, for each
3 succeeding Assembly district, the name appearing first in the last preceding
4 Assembly district shall be placed last, the order of the other names remaining
5 unchanged.

6 (d) If the office is that of Representative in Congress or member of the State
7 Board of Equalization, the Secretary of State shall arrange the names of
8 candidates for the office in accordance with the randomized alphabet as provided
9 for in Section 13112 for that Assembly district that has the lowest number of all
10 the Assembly districts in which candidates are to be voted on. Thereafter, for each
11 succeeding Assembly district in which the candidates are to be voted on, the
12 names appearing first in the last preceding Assembly district shall be placed last,
13 the order of the other names remaining unchanged.

14 (e) If the office is that of State Senator or Member of the Assembly, the county
15 elections official shall arrange the names of the candidates for the office in
16 accordance with the randomized alphabet as provided for in Section 13112,
17 unless the district encompasses more than one county, in which case the
18 arrangement shall be made pursuant to subdivision (i).

19 (f) If the office is to be voted upon wholly within, but not throughout, one
20 county, as in the case of municipal, district, county supervisor, municipal court,
21 ~~justice court~~, and county central committee offices, the official responsible for
22 conducting the election shall determine the order of names in accordance with
23 the randomized alphabet as provided for in Section 13112.

24 (g) If the office is to be voted on throughout a single county, and there are not
25 more than four Assembly districts wholly or partly in the county, the county
26 elections official shall determine the order of names in accordance with the
27 randomized alphabet as provided for in Section 13112 for the first supervisorial
28 district. Thereafter, for each succeeding supervisorial district, the name appearing
29 first for each office in the last preceding supervisorial district shall be placed last,
30 the order of the other names remaining unchanged.

31 (h) If there are five or more Assembly districts wholly or partly in the county, an
32 identical procedure shall be followed, except that rotation shall be by Assembly
33 district, commencing with the Assembly district which has the lowest number.

34 (i) Except as provided in subdivision (d) of Section 13112, if the office is that of
35 State Senator or Member of the Assembly, and the district includes more than one
36 county, the county elections official in each county shall conduct a drawing of
37 the letters of the alphabet, pursuant to the same procedures specified in Section
38 13112. The results of the drawing shall be known as a county randomized ballot
39 and shall be used only to arrange the names of the candidates when the district
40 includes more than one county.

41 (j) If the office is that of Justice of the California Supreme Court or a Court of
42 Appeal, the appropriate elections officials shall arrange the names of the
43 candidates for the office in accordance with the randomized alphabet as provided

1 for in Section 13112. However, the names of the judicial candidates shall not be
2 rotated among the applicable districts.

3 **Comment.** Section 13111 is amended to reflect elimination of the justice court. Cal. Const.
4 art. VI, §§ 1, 5(b).

5 **Elec. Code § 13107 (amended). Ballot designations**

6 13107. (a) With the exception of candidates for Justice of the State Supreme
7 Court or court of appeal, immediately under the name of each candidate, and not
8 separated from the name by any line, may appear at the option of the candidate
9 only one of the following designations:

10 (1) Words designating the elective city, county, district, state, or federal office
11 which the candidate holds at the time of filing the nomination documents to
12 which he or she was elected by vote of the people, or to which he or she was
13 appointed, in the case of a ~~superior, municipal, or justice~~ superior or municipal
14 court judge.

15 (2) The word “incumbent” if the candidate is a candidate for the same office
16 which he or she holds at the time of filing the nomination papers, and was elected
17 to that office by a vote of the people, or, in the case of a ~~superior, municipal, or~~
18 justice superior or municipal court judge, was appointed to that office.

19 (3) No more than three words designating either the current principal
20 professions, vocations, or occupations of the candidate, or the principal
21 professions, vocations, or occupations of the candidate during the calendar year
22 immediately preceding the filing of nomination documents. For purposes of this
23 section, all California geographical names shall be considered to be one word.

24 (4) The phrase “appointed incumbent” if the candidate holds an office other
25 than a judicial office by virtue of appointment, and the candidate is a candidate
26 for election to the same office, or, if the candidate is a candidate for election to the
27 same office or to some other office, the word “appointed” and the title of the
28 office. In either instance, the candidate may not use the unmodified word
29 “incumbent” or any words designating the office unmodified by the word
30 “appointed.” However, the phrase “appointed incumbent” shall not be required
31 of a candidate who seeks reelection to an office which he or she holds and to
32 which he or she was appointed, as a nominated candidate, in lieu of an election,
33 pursuant to Sections 5326 and 5328 of the Education Code or Section 7228,
34 7423, 7673, 10229, or 10515 of this code.

35 (b) Neither the Secretary of State nor any other election official shall accept a
36 designation of which any of the following would be true:

37 (1) It would mislead the voter.

38 (2) It would suggest an evaluation of a candidate, such as outstanding, leading,
39 expert, virtuous, or eminent.

40 (3) It abbreviates the word “retired” or places it following any word or words
41 which it modifies.

1 (4) It uses a word or prefix, such as “former” or “ex-,” which means a prior
2 status. The only exception is the use of the word “retired.”

3 (5) It uses the name of any political party, whether or not it has qualified for the
4 ballot.

5 (6) It uses a word or words referring to a racial, religious, or ethnic group.

6 (7) It refers to any activity prohibited by law.

7 (c) If, upon checking the nomination documents, the election official finds the
8 designation to be in violation of any of the restrictions set forth in this section, the
9 election official shall notify the candidate by registered or certified mail return
10 receipt requested, addressed to the mailing address appearing on the candidate’s
11 nomination documents.

12 (1) The candidate shall, within three days from the date of receipt of the notice,
13 appear before the election officer or, in the case of the Secretary of State, notify
14 the Secretary of State by telephone, and provide an alternate designation.

15 (2) In the event the candidate fails to provide an alternate designation, no
16 designation shall appear after the candidate’s name.

17 (d) No designation given by a candidate shall be changed by the candidate
18 after the final date for filing nomination documents, except as specifically
19 requested by the elections official as specified in subdivision (c) or as provided in
20 subdivision (e).

21 (e) The designation shall remain the same for all purposes of both primary and
22 general elections, unless the candidate, at least 98 days prior to the general
23 election, requests in writing a different designation which the candidate is entitled
24 to use at the time of the request.

25 (f) In all cases, words so used shall be printed in 8-point roman uppercase and
26 lowercase type except that, if the designation selected is so long that it would
27 conflict with the space requirements of Sections 13207 and 13211, the elections
28 official shall use a type size for the designation for each candidate for that office
29 sufficiently smaller to meet these requirements.

30 (g) Whenever a foreign language translation of a candidate’s designation is
31 required under the Voting Rights Act of 1965 (42 U.S.C.A. Sec. 1971), as
32 amended, to appear on the ballot in addition to the English language version, it
33 shall be as short as possible, as consistent as is practicable with this section, and
34 shall employ abbreviations and initials wherever possible in order to avoid undue
35 length.

36 **Comment.** Section 13107 is amended to reflect elimination of the justice court. Cal. Const.
37 art. VI, §§ 1, 5(b).

38 **Evid. Code § 300 (amended). Application of code**

39 300. Except as otherwise provided by statute, this code applies in every action
40 before the Supreme Court or a court of appeal, superior court, or municipal court,
41 ~~or justice court~~, including proceedings in such actions conducted by a referee,

1 court commissioner, or similar officer, but does not apply in grand jury
2 proceedings.

3 **Comment.** Section 300 is amended to reflect elimination of the justice court. Cal. Const.
4 art. VI, §§ 1, 5(b).

5 **Fam. Code § 400 (amended). Persons authorized to perform marriages**

6 400. Marriage may be solemnized by any of the following who is of the age of
7 18 years or older:

8 (a) A priest, minister, or rabbi of any religious denomination.

9 (b) A judge or retired judge, commissioner of civil marriages or retired
10 commissioner of civil marriages, commissioner or retired commissioner, or assistant
11 commissioner of a court of record ~~or justice court~~ in this state.

12 (c) A judge or magistrate who has resigned from office.

13 (d) Any of the following judges or magistrates of the United States:

14 (1) A justice or retired justice of the United States Supreme Court.

15 (2) A judge or retired judge of a court of appeals, a district court, or a court
16 created by an act of Congress the judges of which are entitled to hold office
17 during good behavior.

18 (3) A judge or retired judge of a bankruptcy court or a tax court.


19 (4) A United States magistrate or retired magistrate.

20 **Comment.** Section 400 is amended to reflect elimination of the justice court. Cal. Const.
21 art. VI, §§ 1, 5(b).

22 **Fish & Game Code § 2357 (amended). Trout affidavit**

23 2357. It is unlawful to carry trout into an area where the season is closed unless
24 an affidavit is made in duplicate before ~~the nearest judge of the justice court or a~~
25 notary public in the area in which the trout are or might be lawfully taken. Such
26 affidavit shall state the date and place of taking such trout, and the name, address,
27 and number of the angling license of the person legally taking such trout. The
28 duplicate of the affidavit shall be left on file with the ~~judge of the justice court or~~
29 notary public before whom the affidavit is made.

30 **Comment.** Section 2357 is amended to reflect elimination of the justice court. Cal. Const.
31 art. VI, §§ 1, 5(b).

32  **Staff Note.** The justice court judge is not replaced with a municipal court judge in this
33 amendment.

34 **Fish & Game Code § 4341 (amended). Deer tag**

35 4341. Any person legally killing a deer in this State shall have the license tag
36 countersigned by a person employed in the department, a person designated for
37 this purpose by the commission, or by a ~~judge of a justice court~~, notary public,
38 postmaster, peace officer, or an officer authorized to administer oaths, before
39 transporting such deer, except for the purpose of taking it to the nearest person
40 authorized to countersign the license tag, on the route being followed from the
41 point where the deer is taken.

1 **Comment.** Section 4341 is amended to reflect elimination of the justice court. Cal. Const.
2 art. VI, §§ 1, 5(b).

3 ☞ **Staff Note.** The justice court judge is not replaced with a municipal court judge in this
4 amendment.

5 **Food & Ag. Code § 25564 (amended). Abatement of nuisance**

6 25564. If the lot of poultry meat which is held is perishable or subject to rapid
7 deterioration, the enforcing officer may file a verified petition in any superior or
8 ~~inferior~~ municipal court of the state to destroy such lot or otherwise abate the
9 nuisance. The petition shall show the condition of the lot, that the lot is situated
10 within the county, that the lot is held, and that notice of noncompliance has been
11 served pursuant to this chapter. The court may thereupon order that such lot be
12 forthwith destroyed or the nuisance otherwise abated as set forth in such order.

13 **Comment.** Section 25564 is amended to reflect elimination of the justice court. Cal. Const.
14 art. VI, §§ 1, 5(b).

15 **Food & Ag. Code § 29733 (amended). Abatement of nuisance**

16 29733. If a packer or owner of honey, or the agent of either, after notification to
17 ~~him~~ packer, owner, or agent that the honey and its containers are a public
18 nuisance, refuses, or fails within a reasonable time, to recondition or remark the
19 honey so as to comply with all requirements of this chapter, the honey and its
20 containers:

21 (a) May be seized by the director or any enforcement officer.

22 (b) By order of the ~~justice, municipal,~~ municipal or superior court of the county
23 or city within which the honey and its containers may be, shall be condemned
24 and destroyed, or released upon such conditions as the court, in its discretion,
25 may impose to insure that it will not be packed, delivered for shipment, shipped,
26 transported, or sold in violation of this chapter.

27 **Comment.** Section 25564 is amended to reflect elimination of the justice court. Cal. Const.
28 art. VI, §§ 1, 5(b).

29 **Food & Ag. Code § 43039 (amended). Abatement of nuisance**

30 43039. If the lot which is held is perishable or subject to rapid deterioration, the
31 enforcing officer may file a verified petition in any superior or ~~inferior~~ municipal
32 court of the state to destroy the lot or otherwise abate the nuisance. The petition
33 shall show the condition of the lot, that the lot is situated within the county, that
34 the lot is held, and that notice of noncompliance has been served as provided in
35 this article. The court may thereupon order that the lot be forthwith destroyed or
36 the nuisance otherwise abated as set forth in the order.

37 **Comment.** Section 43039 is amended to reflect elimination of the justice court. Cal. Const.
38 art. VI, §§ 1, 5(b).

Food & Ag. Code § 59289 (amended). Diversion or destruction of lot

59289. The enforcing officer may file a verified petition in any superior or inferior municipal court of this state requesting permission to divert such lot to any other available lawful use or to destroy such lot. Such verified ~~position~~ petition shall show all of the following:

(a) The condition of the lot.

(b) That the lot is situated within the territorial jurisdiction of the court in which the petition is being filed.

(c) That the lot is held, and that the notice of noncompliance has been served as provided in Section 59285.

(d) That the lot has not been reconditioned as required.

(e) The name and address of the owner and the person in possession of the lot.

(f) That the owner has refused permission to divert or to destroy the lot.

Comment. Section 59289 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

☞ **Staff Note.** Prof. Kelso notes that this section apparently creates concurrent jurisdiction in either the superior or the municipal courts.

APPELLATE DIVISION CONFORMING REVISIONS

Bus. & Prof. Code § 17209 (amended). Notice to Attorney General and county district attorney

17209. If a violation of this chapter is alleged or the application or construction of this chapter is in issue in any proceeding in the Supreme Court of California, a state court of appeal, or the appellate ~~department~~ division of a superior court, the person who commenced that proceeding shall serve notice thereof, including a copy of the person's brief or petition and brief, on the Attorney General, directed to the attention of the Consumer Law Section, and on the district attorney of the county in which the lower court action or proceeding was originally filed. The notice, including the brief or petition and brief, shall be served within three days after the commencement of the appellate proceeding, provided that the time may be extended by the Chief Justice or presiding justice or judge for good cause shown. No judgment or relief, temporary or permanent, shall be granted until proof of service of this notice is filed with the court.

Comment. Section 17209 is amended to reflect the creation of an appellate division in the superior court. Cal. Const. art. VI, § 4.

Bus. & Prof. Code § 17536.5 (amended). Notice to Attorney General and county district attorney

17536.5. If a violation of this chapter is alleged or the application or construction of this chapter is in issue in any proceeding in the Supreme Court of California, a state court of appeal, or the appellate ~~department~~ division of a superior court, the person who commenced that proceeding shall serve notice thereof, including a copy of the person's brief or petition and brief, on the

1 Attorney General, directed to the attention of the Consumer Law Section, and on
2 the district attorney of the county in which the lower court action or proceeding
3 was originally filed. The notice, including the brief or petition and brief, shall be
4 served within three days after the commencement of the appellate proceeding,
5 provided that the time may be extended by the Chief Justice or presiding justice
6 or judge for good cause shown. No judgment or relief, temporary or permanent,
7 shall be granted until proof of service of this notice is filed with the court.

8 **Comment.** Section 17536.5 is amended to reflect the creation of an appellate division in
9 the superior court. Cal. Const. art. VI, § 4.