

Study H-821

June 8, 2006

## Memorandum 2006-26

**Mechanics Lien Law  
(Conforming Revisions)**

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This memorandum presents proposed non-substantive conforming revisions of other code sections affected by our proposed revision of the mechanics lien law. The conforming revisions include all statutes enacted or amended through December 31, 2005.

Respectfully submitted,

Steven Cohen  
Staff Counsel

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## BUSINESS AND PROFESSIONS CODE

1    **Bus. & Prof. Code § 7034 (amended). Prohibited contract clauses**

2       SEC. \_\_\_\_\_. Section 7034 of the Business and Professions Code is amended to  
3 read:

4       7034. (a) No contractor who is required to be licensed under this chapter shall  
5 insert in any contract, or be a party, with a subcontractor who is licensed under  
6 this chapter to any contract which contains, a provision, clause, covenant, or  
7 agreement which is void or unenforceable under Section 2782 of the Civil Code.

8       (b) No contractor who is required to be licensed under this chapter shall require  
9 a waiver of lien rights from any subcontractor, employee, or supplier in violation  
10 of Section ~~3262~~ 7160 of the Civil Code or Section 42310 of the Public Contract  
11 Code.

1       **Comment.** Section 7034 is amended to correct a cross-reference.

2       **Bus. & Prof. Code § 7071.5 (amended). Contractor’s bond**

3       SEC. \_\_\_\_\_. Section 7071.5 of the Business and Professions Code is amended to  
4 read:

5       7071.5. The contractor’s bond required by this article shall be executed by an  
6 admitted surety in favor of the State of California, in a form acceptable to the  
7 registrar and filed with the registrar by the licensee or applicant. The contractor’s  
8 bond shall be for the benefit of the following:

9       (a) Any homeowner contracting for home improvement upon the homeowner’s  
10 personal family residence damaged as a result of a violation of this chapter by the  
11 licensee.

12       (b) Any person damaged as a result of a willful and deliberate violation of this  
13 chapter by the licensee, or by the fraud of the licensee in the execution or  
14 performance of a construction contract.

15       (c) Any employee of the licensee damaged by the licensee’s failure to pay  
16 wages.

17       (d) Any person or entity, including an express trust fund described in Section  
18 ~~3111~~ 7014 of the Civil Code or Section 41050 of the Public Contract Code, to  
19 whom a portion of the compensation of an employee of a licensee is paid by  
20 agreement with that employee or the collective bargaining agent of that employee,  
21 damaged as the result of the licensee’s failure to pay fringe benefits for its  
22 employees, including, but not limited to, employer payments described in Section  
23 1773.1 of the Labor Code and regulations thereunder (without regard to whether  
24 the work was performed on a private or public work). Damage to an express trust  
25 fund is limited to actual employer payments required to be made on behalf of  
26 employees of the licensee, as part of the overall compensation of those employees,  
27 which the licensee fails to pay.

28       **Comment.** Section 7071.5 is amended to correct a cross-reference.

29       **Bus. & Prof. Code § 7071.10 (amended). Qualifying individual’s bond**

30       SEC. \_\_\_\_\_. Section 7071.10 of the Business and Professions Code is amended  
31 to read:

32       7071.10. (a) The qualifying individual’s bond required by this article shall be  
33 executed by an admitted surety insurer in favor of the State of California, in a form  
34 acceptable to the registrar and filed with the registrar by the qualifying individual.  
35 The qualifying individual’s bond shall be for the benefit of the following persons:

36       (1) Any homeowner contracting for home improvement upon the homeowner’s  
37 personal family residence damaged as a result of a violation of this chapter by the  
38 licensee.

39       (2) Any person damaged as a result of a willful and deliberate violation of this  
40 chapter by the licensee, or by the fraud of the licensee in the execution or  
41 performance of a construction contract.

1 (3) Any employee of the licensee damaged by the licensee's failure to pay  
2 wages.

3 (4) Any person or entity, including an express trust fund described in Section  
4 ~~3111~~ 7014 of the Civil Code or Section 41050 of the Public Contract Code, to  
5 whom a portion of the compensation of an employee of a licensee is paid by  
6 agreement with that employee or the collective bargaining agent of that employee,  
7 that is damaged as the result of the licensee's failure to pay fringe benefits for its  
8 employees including, but not limited to, employer payments described in Section  
9 1773.1 of the Labor Code and regulations adopted thereunder (without regard to  
10 whether the work was performed on a public or private work). Damage to an  
11 express trust fund is limited to employer payments required to be made on behalf  
12 of employees of the licensee, as part of the overall compensation of those  
13 employees, which the licensee fails to pay.

14 (b) The qualifying individual's bond shall not be required in addition to the  
15 contractor's bond when the qualifying individual is himself or herself the  
16 proprietor under subdivision (a) or a general partner under subdivision (b) of  
17 Section 7068.

18 **Comment.** Section 7071.10 is amended to correct a cross-reference.

19 **Bus. & Prof. Code § 7159 (amended). Home improvement contract**

20 SEC. \_\_\_\_\_. Section 7159 of the Business and Professions Code is amended to  
21 read:

22 7159. (a) (1) This section identifies the projects for which a home improvement  
23 contract is required, outlines the contract requirements and lists the items that shall  
24 be included in the contract, or may be provided as an attachment.

25 (2) This section does not apply to service and repair contracts which are subject  
26 to Section 7159.10, provided the contract for the applicable services complies with  
27 Sections 7159.10 to 7159.14, inclusive.

28 (3) Failure by the licensee, his or her agent or salesperson, or by a person subject  
29 to be licensed under this chapter, to provide the specified information, notices, and  
30 disclosures in the contract, or to otherwise fail to comply with any provision of  
31 this section, is cause for discipline.

32 (b) For purposes of this section, "home improvement contract" means an  
33 agreement, whether oral or written, or contained in one or more documents,  
34 between a contractor and an owner or between a contractor and a tenant,  
35 regardless of the number of residence or dwelling units contained in the building  
36 in which the tenant resides, if the work is to be performed in, to, or upon the  
37 residence or dwelling unit of the tenant, for the performance of a home  
38 improvement, as defined in Section 7151, and includes all labor, services, and  
39 materials to be furnished and performed thereunder, if the aggregate contract price  
40 specified in one or more improvement contracts, including all labor, services, and  
41 materials to be furnished by the contractor, exceeds five hundred dollars (\$500).  
42 "Home improvement contract" also means an agreement, whether oral or written,

1 or contained in one or more documents, between a salesperson, whether or not he  
2 or she is a home improvement salesperson, and an owner or a tenant, regardless of  
3 the number of residence or dwelling units contained in the building in which the  
4 tenant resides, which provides for the sale, installation, or furnishing of home  
5 improvement goods or services.

6 (c) In addition to the specific requirements listed under this section, every home  
7 improvement contract and any person subject to licensure under this chapter or his  
8 or her agent or salesperson shall comply with all of the following:

9 (1) The writing shall be legible.

10 (2) Any printed form shall be readable. Unless a larger typeface is specified in  
11 this article, text in any printed form shall be in at least 10-point typeface and the  
12 headings shall be in at least 10-point boldface type.

13 (3) (A) Before any work is started, the contractor shall give the buyer a copy of  
14 the contract signed and dated by both the contractor and the buyer. The buyer's  
15 receipt of the copy of the contract initiates the buyer's rights to cancel the contract  
16 pursuant to Sections 1689.5 to 1689.14, inclusive, of the Civil Code.

17 (B) The contract shall contain on the first page, in a typeface no smaller than  
18 that generally used in the body of the document, both of the following:

19 (i) The date the buyer signed the contract.

20 (ii) The name and address of the contractor to which the applicable "Notice of  
21 Cancellation" is to be mailed, immediately preceded by a statement advising the  
22 buyer that the "Notice of Cancellation" may be sent to the contractor at the address  
23 noted on the contract.

24 (4) A statement that, upon satisfactory payment being made for any portion of  
25 the work performed, the contractor shall, prior to any further payment being made,  
26 furnish to the person contracting for the home improvement or swimming pool  
27 work a full and unconditional release from any claim or mechanic's lien pursuant  
28 to Section ~~3114~~ 7172 of the Civil Code for that portion of the work for which  
29 payment has been made.

30 (5) A change-order form for changes or extra work shall be incorporated into the  
31 contract and shall become part of the contract only if it is in writing and signed by  
32 the parties prior to the commencement of any work covered by a change order.

33 (6) The contract shall contain, in close proximity to the signatures of the owner  
34 and contractor, a notice stating that the owner or tenant has the right to require the  
35 contractor to have a performance and payment bond.

36 (7) If the contract provides for a contractor to furnish joint control, the  
37 contractor shall not have any financial or other interest in the joint control.

38 (8) The provisions of this section are not exclusive and do not relieve the  
39 contractor from compliance with any other applicable provision of law.

40 (d) A home improvement contract and any changes to the contract, shall be in  
41 writing and signed by the parties to the contract prior to the commencement of any  
42 work covered by the contract or applicable change order, and shall include or  
43 comply with all of the following:

- 1 (1) The name, business address, and license number of the contractor.
- 2 (2) If applicable, the name and registration number of the home improvement  
3 salesperson that solicited or negotiated the contract.
- 4 (3) The following heading on the contract form that identifies the type of  
5 contract in at least 10-point boldface type: “Home Improvement.”
- 6 (4) The following statement in at least 12-point boldface type: “You are entitled  
7 to a completely filled in copy of this agreement, signed by both you and the  
8 contractor, before any work may be started.”
- 9 (5) The heading: “Contract Price,” followed by the amount of the contract in  
10 dollars and cents.
- 11 (6) If a finance charge will be charged, the heading: “Finance Charge,” followed  
12 by the amount in dollars and cents. The finance charge is to be set out separately  
13 from the contract amount.
- 14 (7) The heading: “Description of the Project and Description of the Significant  
15 Materials to be Used and Equipment to be Installed,” followed by a description of  
16 the project and a description of the significant materials to be used and equipment  
17 to be installed. For swimming pools, the project description required under this  
18 paragraph also shall include a plan and scale drawing showing the shape, size,  
19 dimensions, and the construction and equipment specifications.
- 20 (8) If a down payment will be charged, the details of the down payment shall be  
21 expressed in substantially the following form, and shall include the text of the  
22 notice as specified in subparagraph (C):
- 23 (A) The heading: “Down Payment.”
- 24 (B) A space where the actual down payment appears.
- 25 (C) The following statement in at least 12-point boldface type:  
26 **“THE DOWN PAYMENT MAY NOT EXCEED \$1,000 OR 10 PERCENT OF  
27 THE CONTRACT PRICE, WHICHEVER IS LESS.”**
- 28 (9) If any payments, other than the down payment, is to be made before the  
29 project is completed, the details of these payments, known as progress payments,  
30 shall be expressed in substantially the following form, and shall include the text of  
31 the statement as specified in subparagraph (C):
- 32 (A) A schedule of progress payments shall be preceded by the heading:  
33 **“Schedule of Progress Payments.”**
- 34 (B) Each progress payment shall be stated in dollars and cents and specifically  
35 reference the amount of work or services to be performed and any materials and  
36 equipment to be supplied.
- 37 (C) The section of the contract reserved for the progress payments shall include  
38 the following statement in at least 12-point boldface type:  
39 **“The schedule of progress payments must specifically describe each phase of  
40 work, including the type and amount of work or services scheduled to be supplied  
41 in each phase, along with the amount of each proposed progress payment. IT IS  
42 AGAINST THE LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR  
43 WORK NOT YET COMPLETED, OR FOR MATERIALS NOT YET**

1 DELIVERED. HOWEVER, A CONTRACTOR MAY REQUIRE A  
2 DOWNPAYMENT.”

3 (10) The contract shall address the commencement of work to be performed in  
4 substantially the following form:

5 (A) A statement that describes what constitutes substantial commencement of  
6 work under the contract.

7 (B) The heading: “Approximate Start Date.”

8 (C) The approximate date on which work will be commenced.

9 (11) The estimated completion date of the work shall be referenced in the  
10 contract in substantially the following form:

11 (A) The heading: “Approximate Completion Date.”

12 (B) The approximate date of completion.

13 (12) If applicable, the heading: “List of Documents to be Incorporated into the  
14 Contract,” followed by the list of documents incorporated into the contract.

15 (13) The heading: “Note about Extra Work and Change Orders,” followed by  
16 the following statement:

17 “Extra Work and Change Orders become part of the contract once the order is  
18 prepared in writing and signed by the parties prior to the commencement of any  
19 work covered by the new change order. The order must describe the scope of the  
20 extra work or change, the cost to be added or subtracted from the contract, and the  
21 effect the order will have on the schedule of progress payments.”

22 (e) All of the following notices shall be provided to the owner as part of the  
23 contract form as specified or, if otherwise authorized under this subdivision, may  
24 be provided as an attachment to the contract:

25 (1) A notice concerning commercial general liability insurance. This notice may  
26 be provided as an attachment to the contract if the contract includes the following  
27 statement: “A notice concerning commercial general liability insurance is attached  
28 to this contract.” The notice shall include the heading “Commercial General  
29 Liability Insurance (CGL),” followed by whichever of the following statements is  
30 both relevant and correct:

31 (A) “(The name on the license or ‘This contractor’) does not carry commercial  
32 general liability insurance.”

33 (B) “(The name on the license or ‘This contractor’) carries commercial general  
34 liability insurance written by (the insurance company). You may call the  
35 (insurance company) at \_\_\_\_\_ to check the contractor’s insurance  
36 coverage.”

37 (C) “(The name on the license or ‘This contractor’) is self-insured.”

38 (2) A notice concerning workers’ compensation insurance. This notice may be  
39 provided as an attachment to the contract if the contract includes the statement: “A  
40 notice concerning workers’ compensation insurance is attached to this contract.”  
41 The notice shall include the heading “Workers’ Compensation Insurance”  
42 followed by whichever of the following statements is correct:

1 (A) “(The name on the license or ‘This contractor’) has no employees and is  
2 exempt from workers’ compensation requirements.”

3 (B) “(The name on the license or ‘This contractor’) carries workers’  
4 compensation insurance for all employees.”

5 (3) A notice that provides the buyer with the following information about the  
6 performance of extra or change-order work:

7 (A) A statement that the buyer may not require a contractor to perform extra or  
8 change-order work without providing written authorization prior to the  
9 commencement of any work covered by the new change order.

10 (B) A statement informing the buyer that extra work or a change order is not  
11 enforceable against a buyer unless the change order also identifies all of the  
12 following in writing prior to the commencement of any work covered by the new  
13 change order:

14 (i) The scope of work encompassed by the order.

15 (ii) The amount to be added or subtracted from the contract.

16 (iii) The effect the order will make in the progress payments or the completion  
17 date.

18 (C) A statement informing the buyer that the contractor’s failure to comply with  
19 the requirements of this paragraph does not preclude the recovery of compensation  
20 for work performed based upon legal or equitable remedies designed to prevent  
21 unjust enrichment.

22 (4) A notice with the heading “Mechanics’ Lien Warning” written as follows:

23 “MECHANICS LIEN WARNING:

24 Anyone who helps improve your property, but who is not paid, may record what  
25 is called a mechanics’ lien on your property. A mechanics’ lien is a claim, like a  
26 mortgage or home equity loan, made against your property and recorded with the  
27 county recorder.

28 Even if you pay your contractor in full, unpaid subcontractors, suppliers, and  
29 laborers who helped to improve your property may record mechanics’ liens and  
30 sue you in court to foreclose the lien. If a court finds the lien is valid, you could be  
31 forced to pay twice or have a court officer sell your home to pay the lien. Liens  
32 can also affect your credit.

33 To preserve their right to record a lien, each subcontractor and material supplier  
34 must provide you with a document called a ‘~~20-day~~ Preliminary Notice.’ This  
35 notice is not a lien. The purpose of the notice is to let you know that the person  
36 who sends you the notice has the right to record a lien on your property if he or  
37 she is not paid.

38 BE CAREFUL. The Preliminary Notice can be sent up to 20 days after the  
39 subcontractor starts work or the supplier provides material. This can be a big  
40 problem if you pay your contractor before you have received the Preliminary  
41 Notices.

1 You will not get Preliminary Notices from your prime contractor or other  
2 persons you contract with directly or from laborers who work on your project. The  
3 law assumes that you already know they are improving your property.

4 **PROTECT YOURSELF FROM LIENS.** You can protect yourself from liens by  
5 getting a list from your contractor of all the subcontractors and material suppliers  
6 that work on your project. Find out from your contractor when these  
7 subcontractors started work and when these suppliers delivered goods or materials.  
8 Then wait 20 days, paying attention to the Preliminary Notices you receive.

9 **PAY WITH JOINT CHECKS.** One way to protect yourself is to pay with a joint  
10 check. When your contractor tells you it is time to pay for the work of a  
11 subcontractor or supplier who has provided you with a Preliminary Notice, write a  
12 joint check payable to both the contractor and the subcontractor or material  
13 supplier.

14 For other ways to prevent liens, visit CSLB's Web site at [www.cslb.ca.gov](http://www.cslb.ca.gov) or  
15 call CSLB at 800-321-CSLB (2752).

16 **REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING A LIEN**  
17 **PLACED ON YOUR HOME.** This can mean that you may have to pay twice, or  
18 face the forced sale of your home to pay what you owe.”

19 (5) The following notice shall be provided in at least 12-point typeface:  
20 “Information about the Contractors’ State License Board (CSLB): CSLB is the  
21 state consumer protection agency that licenses and regulates construction  
22 contractors.

23 Contact CSLB for information about the licensed contractor you are  
24 considering, including information about disclosable complaints, disciplinary  
25 actions and civil judgments that are reported to CSLB.

26 Use only licensed contractors. If you file a complaint against a licensed  
27 contractor within the legal deadline (usually four years), CSLB has authority to  
28 investigate the complaint. If you use an unlicensed contractor, CSLB may not be  
29 able to help you resolve your complaint. Your only remedy may be in civil court,  
30 and you may be liable for damages arising out of any injuries to the unlicensed  
31 contractor or the unlicensed contractor’s employees.

32 For more information:

33 Visit CSLB’s Web site at [www.cslb.ca.gov](http://www.cslb.ca.gov)

34 Call CSLB at 800-321-CSLB (2752)

35 Write CSLB at P.O. Box 26000, Sacramento, CA 95826.”

36 (6) (A) The notice set forth in subparagraph (B) and entitled “Three-Day Right  
37 to Cancel,” shall be provided to the buyer unless the contract is:

38 (i) Negotiated at the contractor’s place of business.

39 (ii) Subject to the “Seven-Day Right to Cancel,” as set forth in paragraph (8).

40 (iii) Subject to licensure under the Alarm Company Act (Chapter 11.6  
41 (commencing with Section 7590)), provided the alarm company licensee complies  
42 with Sections 1689.5, 1689.6, and 1689.7 of the Civil Code, as applicable.

43 (B) “Three-Day Right to Cancel

1 “You, the buyer, have the right to cancel this contract within three business  
2 days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice  
3 to the contractor at the contractor’s place of business by midnight of the third  
4 business day after you received a signed and dated copy of the contract that  
5 includes this notice. Include your name, your address, and the date you received  
6 the signed copy of the contract and this notice.

7 If you cancel, the contractor must return to you anything you paid within 10  
8 days of receiving the notice of cancellation. For your part, you must make  
9 available to the contractor at your residence, in substantially as good condition as  
10 you received it, any goods delivered to you under this contract or sale. Or, you  
11 may, if you wish, comply with the contractor’s instructions on how to return the  
12 goods at the contractor’s expense and risk. If you do make the goods available to  
13 the contractor and the contractor does not pick them up within 20 days of the date  
14 of your notice of cancellation, you may keep them without any further obligation.  
15 If you fail to make the goods available to the contractor, or if you agree to return  
16 the goods to the contractor and fail to do so, then you remain liable for  
17 performance of all obligations under the contract.”

18 (C) The “Three-Day Right to Cancel” notice required by this paragraph shall  
19 comply with all of the following:

20 (i) The text of the notice is at least 12-point boldface type.

21 (ii) The notice is in immediate proximity to a space reserved for the owner’s  
22 signature.

23 (iii) The owner acknowledges receipt of the notice by signing and dating the  
24 notice form in the signature space.

25 (iv) The notice is written in the same language, e.g., Spanish, as that principally  
26 used in any oral sales presentation.

27 (v) The notice may be attached to the contract if the contract includes, in at least  
28 12-point boldface type, a checkbox with the following statement: “The law  
29 requires that the contractor give you a notice explaining your right to cancel.  
30 Initial the checkbox if the contractor has given you a ‘Notice of the Three-Day  
31 Right to Cancel.’ “

32 (vi) The notice shall be accompanied by a completed form in duplicate,  
33 captioned “Notice of Cancellation,” which shall also be attached to the agreement  
34 or offer to purchase and be easily detachable, and which shall contain the  
35 following statement written in the same language, e.g., Spanish, as used in the  
36 contract:

37 “Notice of Cancellation”

38 /enter date of transaction/  
39 \_\_\_\_\_

40 (Date)

41 “You may cancel this transaction, without any penalty or obligation, within  
42 three business days from the above date.

1 If you cancel, any property traded in, any payments made by you under the  
2 contract or sale, and any negotiable instrument executed by you will be returned  
3 within 10 days following receipt by the seller of your cancellation notice, and any  
4 security interest arising out of the transaction will be canceled.

5 If you cancel, you must make available to the seller at your residence, in  
6 substantially as good condition as when received, any goods delivered to you  
7 under this contract or sale, or you may, if you wish, comply with the instructions  
8 of the seller regarding the return shipment of the goods at the seller's expense and  
9 risk.

10 If you do make the goods available to the seller and the seller does not pick them  
11 up within 20 days of the date of your notice of cancellation, you may retain or  
12 dispose of the goods without any further obligation. If you fail to make the goods  
13 available to the seller, or if you agree to return the goods to the seller and fail to do  
14 so, then you remain liable for performance of all obligations under the contract.”

15 To cancel this transaction, mail or deliver a signed and dated copy of this  
16 cancellation notice, or any other written notice, or send a telegram to

17 \_\_\_\_\_,

18 /name of seller/

19 at \_\_\_\_\_

20 /address of seller's place of business/

21 not later than midnight of \_\_\_\_\_.

22 (Date)

23 I hereby cancel this transaction. \_

24 (Date)

25 \_\_\_\_\_

26 (Buyer's signature)

27 (7) (A) The following notice entitled “Seven-Day Right to Cancel” shall be  
28 provided to the buyer for any contract that is written for the repair or restoration of  
29 residential premises damaged by any sudden or catastrophic event for which a  
30 state of emergency has been declared by the President of the United States or the  
31 Governor, or for which a local emergency has been declared by the executive  
32 officer or governing body of any city, county, or city and county:

33 “Seven-Day Right to Cancel

34 You, the buyer, have the right to cancel this contract within seven business days.  
35 You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the  
36 contractor at the contractor's place of business by midnight of the seventh business  
37 day after you received a signed and dated copy of the contract that includes this  
38 notice. Include your name, your address, and the date you received the signed  
39 copy of the contract and this notice.

40 If you cancel, the contractor must return to you anything you paid within 10  
41 days of receiving the notice of cancellation. For your part, you must make  
42 available to the contractor at your residence, in substantially as good condition as  
43 you received it, any goods delivered to you under this contract or sale. Or, you

1 may, if you wish, comply with the contractor’s instructions on how to return the  
2 goods at the contractor’s expense and risk. If you do make the goods available to  
3 the contractor and the contractor does not pick them up within 20 days of the date  
4 of your notice of cancellation, you may keep them without any further obligation.  
5 If you fail to make the goods available to the contractor, or if you agree to return  
6 the goods to the contractor and fail to do so, then you remain liable for  
7 performance of all obligations under the contract.”

8 (B) The “Seven-Day Right to Cancel” notice required by this subdivision shall  
9 comply with all of the following:

10 (i) The text of the notice is at least 12-point boldface type.

11 (ii) The notice is in immediate proximity to a space reserved for the owner’s  
12 signature.

13 (iii) The owner acknowledges receipt of the notice by signing and dating the  
14 notice form in the signature space.

15 (iv) The notice is written in the same language, e.g., Spanish, as that principally  
16 used in any oral sales presentation.

17 (v) The notice may be attached to the contract if the contract includes, in at least  
18 12-point boldface type, a checkbox with the following statement: “The law  
19 requires that the contractor give you a notice explaining your right to cancel.  
20 Initial the checkbox if the contractor has given you a ‘Notice of the Seven-Day  
21 Right to Cancel.’” ‘

22 (vi) The notice shall be accompanied by a completed form in duplicate,  
23 captioned “Notice of Cancellation,” which shall also be attached to the agreement  
24 or offer to purchase and be easily detachable, and which shall contain the  
25 following statement written in the same language, e.g., Spanish, as used in the  
26 contract:

27 “Notice of Cancellation”

28 /enter date of transaction/  
29 \_\_\_\_\_

30 (Date)

31 “You may cancel this transaction, without any penalty or obligation, within  
32 seven business days from the above date.

33 If you cancel, any property traded in, any payments made by you under the  
34 contract or sale, and any negotiable instrument executed by you will be returned  
35 within 10 days following receipt by the seller of your cancellation notice, and any  
36 security interest arising out of the transaction will be canceled.

37 If you cancel, you must make available to the seller at your residence, in  
38 substantially as good condition as when received, any goods delivered to you  
39 under this contract or sale, or you may, if you wish, comply with the instructions  
40 of the seller regarding the return shipment of the goods at the seller’s expense and  
41 risk.

42 If you do make the goods available to the seller and the seller does not pick them  
43 up within 20 days of the date of your notice of cancellation, you may retain or

1 dispose of the goods without any further obligation. If you fail to make the goods  
2 available to the seller, or if you agree to return the goods to the seller and fail to do  
3 so, then you remain liable for performance of all obligations under the contract.”

4 To cancel this transaction, mail or deliver a signed and dated copy of this  
5 cancellation notice, or any other written notice, or send a telegram to

6 \_\_\_\_\_,

7 /name of seller/

8 at \_\_\_\_\_

9 /address of seller’s place of business/

10 not later than midnight of \_\_\_\_\_.

11 (Date)

12 I hereby cancel this transaction. \_

13 (Date)

14 \_\_\_\_\_

15 (Buyer’s signature)

16 **Comment.** Paragraph (4) of subdivision (c) of Section 7159 is amended to correct a cross-  
17 reference.

18 Paragraph (4) of subdivision (e) is amended to correct terminology and to add a non-  
19 substantive clarification. See Civ. Code § 7034 (“preliminary notice” defined).

20 **Bus. & Prof. Code § 7159.1 (amended). Notice to buyer**

21 SEC. \_\_\_\_\_. Section 7159.1 of the Business and Professions Code is amended to  
22 read:

23 7159.1. (a) In any contract for the sale of home improvement goods or services  
24 offered by door-to-door sale that contains or is secured by a lien on real property,  
25 the contract shall be accompanied by the following notice in 18-point boldfaced  
26 type:

27 “WARNING TO BUYER: IF YOU SIGN THE CONTRACT WHICH  
28 ACCOMPANIES THIS NOTICE, YOU WILL BE PUTTING UP YOUR HOME  
29 AS SECURITY. THIS MEANS THAT YOUR HOME COULD BE SOLD  
30 WITHOUT YOUR PERMISSION AND WITHOUT ANY COURT ACTION IF  
31 YOU MISS ANY PAYMENT REQUIRED BY THIS CONTRACT.”

32 This notice shall be written in the same language as the rest of the contract. It  
33 shall be on a separate piece of paper from the rest of the contract and shall be  
34 signed and dated by the buyer. The home improvement contractor or home  
35 improvement salesperson shall deliver to the buyer at the time of the buyer’s  
36 signing and dating of the notice a legible copy of the signed and dated notice. A  
37 security interest created in any contract described in this section that does not  
38 provide the notice as required by this section shall be void and unenforceable.

39 This section shall not apply to any of the following:

40 (a) Any contract that is subject to Chapter 1 (commencing with Section 1801) of  
41 Title 2 of Part 4 of Division 3 of the Civil Code.

1 (b) A mechanic's lien established pursuant to ~~Chapter 2 (commencing with~~  
2 ~~Section 3109) of Title 15 of Part 4 of Division 3~~ Chapter 4 (commencing with  
3 Section 7400) of Part 6 of Division 4 of the Civil Code.

4 (c) Any contract that is subject to subdivision (a) of Section 7159.2.

5 **Comment.** Section 7159.1 is amended to correct a cross-reference.

6 **Bus. & Prof. Code § 7159.5 (amended). Home improvement contract violation**

7 SEC. \_\_\_\_\_. Section 7159.5 of the Business and Professions Code is amended to  
8 read:

9 7159.5. This section applies to all home improvement contracts, as defined in  
10 Section 7151.2, between an owner or tenant and a contractor, whether a general  
11 contractor or a specialty contractor, who is licensed or subject to be licensed  
12 pursuant to this chapter with regard to the transaction.

13 (a) Failure by the licensee or a person subject to be licensed under this chapter,  
14 or by his or her agent or salesperson to comply with the following provisions is  
15 cause for discipline:

16 (1) The contract shall include the agreed contract amount in dollars and cents.  
17 The contract amount shall include the entire cost of the contract, including profit,  
18 labor, and materials, but excluding finance charges.

19 (2) If there is a separate finance charge between the contractor and the person  
20 contracting for home improvement, the finance charge shall be set out separately  
21 from the contract amount.

22 (3) If a down payment will be charged, the down payment may not exceed one  
23 thousand dollars (\$1,000) or 10 percent of the contract amount, whichever is less.

24 (4) If, in addition to a down payment, the contract provides for payments to be  
25 made prior to completion of the work, the contract shall include a schedule of  
26 payments in dollars and cents specifically referencing the amount of work or  
27 services to be performed and any materials and equipment to be supplied.

28 (5) Except for a down payment, the contractor may neither request nor accept  
29 payment that exceeds the value of the work performed or material delivered.

30 (6) Upon any payment by the person contracting for home improvement, and  
31 prior to any further payment being made, the contractor shall, if requested, obtain  
32 and furnish to the person a full and unconditional release from any potential lien  
33 claimant claim or mechanic's lien pursuant to Section ~~3114~~ 7172 of the Civil Code  
34 for any portion of the work for which payment has been made. The person  
35 contracting for home improvement may withhold all further payments until these  
36 releases are furnished.

37 (7) If the contract provides for a payment of a salesperson's commission out of  
38 the contract price, that payment shall be made on a pro rata basis in proportion to  
39 the schedule of payments made to the contractor by the disbursing party in  
40 accordance with paragraph (4).

41 (8) A contractor furnishing a performance and payment bond, lien and  
42 completion bond, or a bond equivalent or joint control approved by the registrar

1 covering full performance and payment is exempt from paragraphs (3), (4), and  
2 (5), and need not include, as part of the contract, the Mechanics' Lien Warning  
3 which is a requirement specified in Section 7159. A contractor furnishing these  
4 bonds, bond equivalents, or a joint control approved by the registrar may accept  
5 payment prior to completion. If the contract provides for a contractor to furnish  
6 joint control, the contractor shall not have any financial or other interest in the  
7 joint control.

8 (b) A violation of paragraph (1), (3), or (5) of subdivision (a) by a licensee or a  
9 person subject to be licensed under this chapter, or by his or her agent or  
10 salesperson, is a misdemeanor punishable by a fine of not less than one hundred  
11 dollars (\$100) nor more than five thousand dollars (\$5,000), or by imprisonment in  
12 a county jail not exceeding one year, or by both fine and imprisonment.

13 (1) An indictment or information against a person who is not licensed but who is  
14 required to be licensed under this chapter shall be brought, or a criminal complaint  
15 filed, for a violation of this section within four years from the date the buyer signs  
16 the contract.

17 (2) An indictment or information against a person who is licensed under this  
18 chapter shall be brought, or a criminal complaint filed, for a violation of this  
19 section within two years from the date the buyer signs the contract.

20 (3) The limitations on actions in this subdivision shall not apply to any  
21 administrative action filed against a licensed contractor.

22 (c) Any person who violates this section as part of a plan or scheme to defraud  
23 an owner or tenant of a residential or nonresidential structure, including a  
24 mobilehome or manufactured home, in connection with the offer or performance  
25 of repairs to the structure for damage caused by a natural disaster, shall be ordered  
26 by the court to make full restitution to the victim based on the person's ability to  
27 pay, as defined in subdivision (e) of Section 1203.1b of the Penal Code. In  
28 addition to full restitution, and imprisonment authorized by this section, the court  
29 may impose a fine of not less than five hundred dollars (\$500) nor more than  
30 twenty-five thousand dollars (\$25,000), based upon the defendant's ability to pay.  
31 This subdivision applies to natural disasters for which a state of emergency is  
32 proclaimed by the Governor pursuant to Section 8625 of the Government Code, or  
33 for which an emergency or major disaster is declared by the President of the  
34 United States.

35 **Comment.** Paragraph (6) of subdivision (a) of Section 7159.5 is amended to correct a cross-  
36 reference.

37 **Bus. & Prof. Code § 7159.14 (amended). Service and repair contract**

38 SEC. \_\_\_\_\_. Section 7159.14 of the Business and Professions Code is amended  
39 to read:

40 7159.14. (a) This section applies to a service and repair contract as defined in  
41 Section 7159.10. A violation of this section by a licensee or a person subject to be

1 licensed under this chapter, or by his or her agent or salesperson, is cause for  
2 discipline.

3 (1) The contract may not exceed seven hundred fifty dollars (\$750).

4 (2) The contract shall state the agreed contract amount, which may be stated as  
5 either a fixed contract amount in dollars and cents or, if a time and materials  
6 formula is used, as an estimated contract amount in dollars and cents.

7 (3) The contract amount shall include the entire cost of the contract including  
8 profit, labor and materials but excluding finance charges.

9 (4) The actual contract amount of a time and materials contract may not exceed  
10 the estimated contract amount without written authorization from the buyer.

11 (5) The prospective buyer must have initiated contact with the contractor to  
12 request work.

13 (6) The contractor may not sell the buyer goods or services beyond those  
14 reasonably necessary to take care of the particular problem that caused the buyer  
15 to contact the contractor.

16 (7) No payment may be due before the project is completed.

17 (8) A service and repair contractor may charge only one service charge. For  
18 purposes of this chapter, a service charge includes such charges as a service or trip  
19 charge, or an inspection fee.

20 (9) A service and repair contractor charging a service charge must disclose in all  
21 advertisements that there is a service charge and, when the customer initiates the  
22 call for service, must disclose the amount of the service charge.

23 (10) The service and repair contractor must offer to the customer any parts that  
24 were replaced.

25 (11) Upon any payment by the buyer, the contractor shall, if requested, obtain  
26 and furnish to the buyer a full and unconditional release from any potential lien  
27 claimant claim or mechanics' lien pursuant to Section ~~3114~~ 7172 of the Civil Code  
28 for any portion of the work for which payment has been made.

29 (b) A violation of paragraph (1), (2), (3), (4), (5), (6), or (8) of subdivision (a) by  
30 a licensee or a person subject to be licensed under this chapter, or by his or her  
31 agent or salesperson, is a misdemeanor punishable by a fine of not less than one  
32 hundred dollars (\$100) nor more than five thousand dollars (\$5,000) or by  
33 imprisonment in a county jail not exceeding one year, or by both fine and  
34 imprisonment.

35 (1) An indictment or information against a person who is not licensed but who is  
36 required to be licensed under this chapter shall be brought, or a criminal complaint  
37 filed, for a violation of this section within four years from the date the buyer signs  
38 the contract.

39 (2) An indictment or information against a person who is licensed under this  
40 chapter shall be brought, or a criminal complaint filed, for a violation of this  
41 section within two years from the date the buyer signs the contract.

42 (3) The limitations on actions in this subdivision shall not apply to any  
43 administrative action filed against a licensed contractor.

1 (c) Any person who violates this section as part of a plan or scheme to defraud  
2 an owner or tenant of a residential or nonresidential structure, including a  
3 mobilehome or manufactured home, in connection with the offer or performance  
4 of repairs to the structure for damage caused by a natural disaster, shall be ordered  
5 by the court to make full restitution to the victim based on the person's ability to  
6 pay, as defined in subdivision (e) of Section 1203.1b of the Penal Code. In  
7 addition to full restitution, and imprisonment authorized by this section, the court  
8 may impose a fine of not less than five hundred dollars (\$500) nor more than  
9 twenty-five thousand dollars (\$25,000), based upon the defendant's ability to pay.  
10 This subdivision applies to natural disasters for which a state of emergency is  
11 proclaimed by the Governor pursuant to Section 8625 of the Government Code, or  
12 for which an emergency or major disaster is declared by the President of the  
13 United States.

14 (d) This section shall become operative on January 1, 2006.

15 **Comment.** Section 7159.14 is amended to correct a cross-reference.

16 **Bus. & Prof. Code § 8513 (amended). Notice to owner by pest control company**

17 SEC. \_\_\_\_\_. Section 8513 of the Business and Professions Code is amended to  
18 read:

19 8513. (a) The board shall prescribe a form entitled "Notice to Owner" that shall  
20 describe, in nontechnical language and in a clear and coherent manner using words  
21 with common and everyday meaning, the pertinent provisions of this state's  
22 mechanics' lien laws and the rights and responsibilities of an owner of property  
23 and a registered pest control company thereunder. Each company registered under  
24 this chapter, prior to entering into a contract with an owner for work for which a  
25 company registration is required, shall give a copy of this "Notice to Owner" to  
26 the owner, his or her agent, or the payer.

27 (b) No company that is required to be registered under this chapter shall require  
28 or request a waiver of lien rights from any subcontractor, employee, or supplier.

29 (c) Each company registered under this chapter that acts as a subcontractor for  
30 another company registered under this chapter shall, within 20 days of  
31 commencement of any work for which a company registration is required, give the  
32 preliminary ~~20-day notice (private work) in accordance with the provisions of~~  
33 ~~Section 3097~~ notice in accordance with Chapter 2 (commencing with Section  
34 7200) of Part 6 of Division 4 of the Civil Code, to the owner, his or her agent, or  
35 the payer.

36 (d) Each company registered under this chapter that acts as a prime contractor  
37 for work for which a company registration is required shall, prior to accepting  
38 payment for the work, furnish to the owner, his or her agent, or the payer a full and  
39 unconditional release from any claim of mechanics' lien by any subcontractor  
40 entitled to enforce a mechanics' lien pursuant to Section ~~3114~~ 7172 of the Civil  
41 Code.

1 (e) Each company registered under this chapter that subcontracts to another  
2 company registered under this chapter work for which a company registration is  
3 required shall furnish to the subcontractor the name of the owner, his or her agent,  
4 or the payer.

5 (f) The provisions of this section shall be applicable only to those registered  
6 companies, as defined in Section 8506.1, operating pursuant to a Branch 1 or  
7 Branch 3 registration.

8 (g) A violation of the provisions of this section is a ground for disciplinary  
9 action.

10 **Comment.** Section 8513 is amended to correct cross-references and terminology.

11 **Bus. & Prof. Code § 17577.5 (amended). Contract for home water treatment device**

12 SEC. \_\_\_\_\_. Section 17577.5 of the Business and Professions Code is amended  
13 to read:

14 17577.5. (a) No contract or offer for the sale, lease, or rental of a home water  
15 treatment device and no purchase money loan, as defined in subdivision (b), shall  
16 provide for a lien on real property. Any lien taken in violation of this section is  
17 void and unenforceable.

18 (b) For the purpose of this section, “purchase money loan” means a loan or an  
19 advance under an open-end credit account if both of the following occur:

20 (1) The primary purpose of the loan or the primary purpose of establishing the  
21 open-end credit account is to finance all or a portion of the purchase price or any  
22 of the lease or rental payments for a water treatment device.

23 (2) The creditor knows the primary purpose of the loan or the primary purpose  
24 of establishing the open-end credit account when the loan is initially made or the  
25 open-end credit account is established.

26 (c) The creditor shall be deemed to know that the primary purpose of the loan or  
27 the primary purpose of establishing the open-end credit account is the primary  
28 purpose described in paragraph (1) of subdivision (b) if any of the following  
29 occur:

30 (1) The consumer’s application for credit or any other document in the creditor’s  
31 possession before the loan is made or the open-end account is established indicates  
32 the primary purpose of the loan or the open-end credit account.

33 (2) The seller, lessor, or renter arranges or guarantees the loan or open-end  
34 account, or participates in the preparation of the consumer’s application for credit  
35 or other loan documents, or receives from the creditor a loan commission,  
36 brokerage, or referral fee.

37 (d) For the purpose of this section, “open-end credit” has the same meaning as  
38 used in Section 226.2 of Title 12 of the Code of Federal Regulations.

39 (e) This section does not apply to mechanics’ liens established pursuant to  
40 ~~Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3~~  
41 Chapter 4 (commencing with Section 7400) of Part 6 of Division 4 of the Civil  
42 Code.



1 determine the price of items being purchased, regardless of whether the code entry  
2 is accomplished manually by a human or automatically by a machine.

3 (2) “Consumer commodity” includes:

4 (A) Food, including all material whether solid, liquid, or mixed, and whether  
5 simple or compound, which is used or intended for consumption by human beings  
6 or domestic animals normally kept as household pets, and all substances or  
7 ingredients added to any such material for any purpose. This definition shall not  
8 apply to individual packages of cigarettes or individual cigars.

9 (B) Napkins, facial tissues, toilet tissues, foil wrapping, plastic wrapping, paper  
10 toweling, and disposable plates and cups.

11 (C) Detergents, soaps, and other cleaning agents.

12 (D) Pharmaceuticals, including nonprescription drugs, bandages, female hygiene  
13 products, and toiletries.

14 (3) “Grocery department” means an area within a general retail merchandise  
15 store which is engaged primarily in the retail sale of packaged food, rather than  
16 food prepared for immediate consumption on or off the premises.

17 (4) “Grocery store” means a store engaged primarily in the retail sale of  
18 packaged food, rather than food prepared for consumption on the premises.

19 (5) “Sale item” or “special” means any consumer commodity offered in good  
20 faith for a period of 14 days or less, on sale at a price below the normal price that  
21 item is usually sold for in that store. The Department of Food and Agriculture  
22 shall determine the normal length of a sale held for consumer commodities  
23 generally item priced on January 1, 1977, in stores regulated pursuant to this title,  
24 and that period shall be used for the purposes of this subdivision. The  
25 department’s determination as to the normal length of a sale shall be binding for  
26 the purposes of this section, but each such determination shall not exceed seven  
27 days.

28 **Comment.** Section 1749.70 continues former Section 7100 without substantive change. The  
29 former provision was ambiguous in its reference to “this chapter”; the new provision corrects the  
30 reference to “this title”.

31 1749.71. (a) The intentional violation of Section 1749.70 is punishable by a civil  
32 penalty of not less than twenty-five dollars (\$25) nor more than five hundred  
33 dollars (\$500).

34 (b) Failure to have a clearly readable price indicated on 12 units of the same  
35 item required to be item-priced of the same commodity shall constitute a  
36 presumption of intent to violate Section 1749.70.

37 (c) Every additional 12 units of the same item required to be item-priced that fail  
38 to have a price indicated on them shall constitute a presumption of intent to violate  
39 Section 1749.70.

40 (d) Each day that a violation continues shall also constitute a separate violation  
41 after notification thereof to the manager or assistant manager of the retail grocery  
42 store or the grocery department of the general retail merchandise store and shall  
43 constitute a presumption of intent to violate Section 1749.70.

1 (e) Notwithstanding any other provision of law, any person may bring an action  
2 to enjoin a violation of Section 1749.70.

3 **Comment.** Section 1749.71 continues former Section 7101 without substantive change.

4 1749.72. Any person, firm, corporation, or association who violates Sections  
5 1749.70 and 1749.71 shall be liable to any person injured for any losses and  
6 expenses thereby incurred, and for the sum of fifty dollars (\$50) in addition  
7 thereto. The remedy set forth herein is applicable only to actions brought in the  
8 name of, and on behalf of, a single plaintiff and shall not be applicable in multiple  
9 plaintiff or class actions.

10 **Comment.** Section 1749.72 continues former Section 7102 without substantive change.

11 1749.73. Improper pricing on the shelf or on the item due to unintentional error  
12 shall not constitute a violation of this title.

13 **Comment.** Section 1749.73 continues former Section 7103 without substantive change. The  
14 former provision was ambiguous in its reference to “this division”; the new provision corrects the  
15 reference to “this title”.

16 1749.74. The remedies set forth in Sections 1749.71 and 1749.72 are the  
17 exclusive remedies available to any person, state or local agency or law  
18 enforcement official.

19 **Comment.** Section 1749.74 continues former Section 7104 without substantive change.

20 1749.75. This title shall be known and may be cited as the Rosenthal-Roberti  
21 Item Pricing Act.

22 **Comment.** Section 1749.75 continues former Section 7105 without substantive change.

23 1749.76. It is the intention of the Legislature that this title shall occupy the field  
24 with regard to item pricing and shall preempt all local ordinances, rules, or  
25 regulations concerning item pricing.

26 **Comment.** Section 1749.76 continues former Section 7106 without substantive change.

27 **Civ. Code § 3059 (amended). Mechanics lien**

28 SEC. \_\_\_\_\_. Section 3059 of the Civil Code is amended to read:

29 3059. The liens of mechanics, for materials and services upon real property, are  
30 regulated by ~~Chapter 2 (commencing with Section 3109) of Title 15 of this part~~  
31 Chapter 4 (commencing with Section 7400) of Part 6 of Division 4.

32 **Comment.** Section 3059 is amended to correct a cross-reference.

33 **Civ. Code § 3060 (amended). Lien on mine**

34 SEC. \_\_\_\_\_. Section 3060 of the Civil Code is amended to read:

35 3060. (a) As used in this section, “mine” means a mining claim or real property  
36 worked as a mine.

37 (b) Any person who performs labor in any mining claim or claims, or in or upon  
38 any real property worked as a mine, either in the development thereof its  
39 development or in working thereon on it by the subtractive process, or furnishes

1 materials to be used or consumed ~~therein~~ in it, has a lien upon the ~~same~~ mine and  
2 the works owned and used by the owners for milling or reducing the ores from the  
3 ~~same~~ mine, for the value of the work or labor done or materials furnished by each  
4 ~~respectively~~, whether done or furnished at the instance of the owner of ~~such~~  
5 ~~mining claim or claims or real property worked as a~~ the mine, or ~~his~~ the owner's  
6 agent, and every contractor, subcontractor, superintendent, or other person having  
7 charge of any mining or work or labor performed in and about ~~such mining claim~~  
8 ~~or claims or real property worked as a~~ the mine, either as lessee or under a  
9 working bond or contract thereon shall be held to be the agent of the owner for the  
10 purposes of this section. The liens provided for by this section shall be enforced in  
11 the same manner as those provided for by ~~Title 15 (commencing with Section~~  
12 ~~3082), Part 4, Division 3~~ Part 6 (commencing with Section 7000) of Division 4.

13 **Comment.** Section 3060 is amended to correct a cross-reference. The other changes are  
14 technical.

15 **Civ. Code § 3319 (amended). Design professional private work contract**

16 SEC. \_\_\_\_\_. Section 3319 of the Civil Code is amended to read:

17 3319. (a) In each written contract for private works of improvement entered into  
18 on or after January 1, 1996, the contracting party and the design professional may  
19 agree to contractual provisions that include a late payment penalty, in lieu of any  
20 interest otherwise due. The terms of the late payment penalty shall be specifically  
21 set forth in the written contract.

22 (b) The penalty authorized pursuant to subdivision (a) shall be separate from,  
23 and in addition to, the design professionals' liens provided by ~~Chapter 8~~  
24 ~~(commencing with Section 3081.1) of Title 14 of Part 4 of Division 3~~ Chapter 3  
25 (commencing with Section 7300) of, mechanics' liens provided by ~~Chapter 2~~  
26 ~~(commencing with Section 3109) of Title 15 of Part 4 of Division 3~~ Chapter 4  
27 (commencing with Section 7400) of, and stop notices for private works provided  
28 ~~in Chapter 3 (commencing with Section 3156) of Title 15 of Part 4 of Division 3~~  
29 payment notices provided by Chapter 5 (commencing with Section 7500) of, Part  
30 6.

31 (c) None of the rights or obligations created or permitted by this section between  
32 design professionals and contracting parties shall apply to construction loan funds  
33 held by a lender pursuant to a construction loan agreement.

34 (d) For purposes of this section, the following definitions apply:

35 (1) "Contracting party" means any person or entity entering into a written  
36 contract with a design professional for professional design services for a private  
37 work of improvement.

38 (2) "Design professional" means a person licensed as an architect pursuant to  
39 Chapter 3 (commencing with Section 5500) of Division 3 of the Business and  
40 Professions Code, registered as a professional engineer pursuant to Chapter 7  
41 (commencing with Section 6700) of Division 3 of the Business and Professions

1 Code, or licensed as a land surveyor pursuant to Chapter 15 (commencing with  
2 Section 8700) of Division 3 of the Business and Professions Code.

3 **Comment.** Section 3319 is amended to correct cross-references.

4 **Civ. Code § 3320 (amended). Payment to design professional on public work contract**

5 SEC. \_\_\_\_\_. Section 3320 of the Civil Code is amended to read:

6 3320. (a) In each contract for public works of improvement, entered into on or  
7 after January 1, 1996, the public agency shall pay to the prime design professional  
8 any progress payment within 30 days of receipt of a written demand for payment  
9 in accordance with the contract, and the final retention payment within 45 days of  
10 receipt of a written demand for payment in accordance with the contract. If the  
11 public agency disputes in good faith any portion of the amount due, it may  
12 withhold from the payment an amount not to exceed 150 percent of the disputed  
13 amount. The disputed amount withheld is not subject to any penalty authorized by  
14 this section.

15 (b) If any amount is wrongfully withheld or is not timely paid in violation of this  
16 section, the prime design professional shall be entitled to a penalty of 1 1/2 percent  
17 for the improperly withheld amount, in lieu of any interest otherwise due, per  
18 month for every month that payment is not made. In any action for the collection  
19 of amounts withheld in violation of this section, the prevailing party is entitled to  
20 his or her reasonable attorney's fees and costs.

21 (c) The penalty described in subdivision (b) is separate from, and in addition to,  
22 the design professionals' ~~liens provided by Chapter 8 (commencing with Section~~  
23 ~~3081.1) of Title 14 of Part 4 of Division 3, mechanics' liens provided by Chapter 2~~  
24 ~~(commencing with Section 3109) of Title 15 of Part 4 of Division 3, and stop~~  
25 ~~notices for public works provided in Chapter 3 (commencing with Section 3156)~~  
26 ~~of Title 15 of Part 4 of Division 3~~ remedies for a public works contract provided in  
27 Part 6 (commencing with Section 41010) of Division 2 of the Public Contract  
28 Code.

29 (d) This section does not apply to state agency contracts subject to Section 927.6  
30 of the Government Code.

31 (e) None of the rights or obligations created by this section between prime  
32 design professionals and public agencies apply to construction loan funds held by  
33 a lender pursuant to a construction loan agreement.

34 (f) For purposes of this section:

35 (1) "Public agency" means the state, any county, any city, any city and county,  
36 any district, any public authority, any public agency, any municipal corporation or  
37 other political subdivision or political corporation of the state.

38 (2) "Design professional" means a person licensed as an architect pursuant to  
39 Chapter 3 (commencing with Section 5500) of Division 3 of the Business and  
40 Professions Code, registered as a professional engineer pursuant to Chapter 7  
41 (commencing with Section 6700) of Division 3 of the Business and Professions

1 Code, or licensed as a land surveyor pursuant to Chapter 15 (commencing with  
2 Section 8700) of Division 3 of the Business and Professions Code.

3 (3) “Prime design professional” means a design professional with a written  
4 contract directly with the public agency.

5 **Comment.** Section 3320 is amended to correct a cross-reference. The references to liens are  
6 not continued; the lien remedy is unavailable on a public works contract.

7 **Civ. Code § 3321 (amended). Payment by design professional on public work contract**

8 SEC. \_\_\_\_\_. Section 3321 of the Civil Code is amended to read:

9 3321. (a) In each contract for public works of improvement, a prime design  
10 professional shall pay to each subconsultant design professional the amount due  
11 him or her from the payment received, not later than 15 days after receipt of each  
12 progress payment or final retention payment. If the prime design professional  
13 disputes in good faith any portion of the amount due, he or she may withhold from  
14 the payment an amount not to exceed 150 percent of the disputed amount. The  
15 disputed amount withheld shall not be subject to any penalty authorized by this  
16 section.

17 (b) If any amount is wrongfully withheld or is not timely paid in violation of this  
18 section, the subconsultant design professional shall be entitled to a penalty of 11/2  
19 percent of the improperly withheld amount, in lieu of any interest otherwise due,  
20 per month, for each month that payment is not made. In any action for the  
21 collection of amounts withheld in violation of this section, the prevailing party  
22 shall be entitled to his or her reasonable attorney’s fees and costs.

23 (c) The penalty described in subdivision (b) shall be separate from, and in  
24 addition to, the design professionals’ ~~liens provided by Chapter 8 (commencing~~  
25 ~~with Section 3081.1) of Title 14 of Part 4 of Division 3, mechanics’ liens provided~~  
26 ~~by Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3,~~  
27 ~~and stop notices for public works provided in Chapter 3 (commencing with~~  
28 ~~Section 3156) of Title 15 of Part 4 of Division 3~~ remedies for a public works  
29 contract provided in Part 6 (commencing with Section 41010) of Division 2 of the  
30 Public Contract Code.

31 (d) None of the rights or obligations created by this section between prime  
32 design professionals and subconsultant design professionals shall apply to  
33 construction loan funds held by a lender pursuant to a construction loan  
34 agreement.

35 (e) For purposes of this section:

36 (1) “Public agency” means the state, any county, any city, any city and county,  
37 any district, any public authority, any public agency, any municipal corporation or  
38 other political subdivision or political corporation of the state.

39 (2) “Design professional” means a person licensed as an architect pursuant to  
40 Chapter 3 (commencing with Section 5500) of Division 3 of the Business and  
41 Professions Code, registered as a professional engineer pursuant to Chapter 7  
42 (commencing with Section 6700) of Division 3 of the Business and Professions

1 Code, or licensed as a land surveyor pursuant to Chapter 15 (commencing with  
2 Section 8700) of Division 3 of the Business and Professions Code.

3 (3) “Prime design professional” means a design professional having a written  
4 contract directly with the public agency.

5 (4) “Subconsultant design professional” means a design professional having a  
6 written contract with a prime design professional.

7 **Comment.** Section 3321 is amended to correct a cross-reference. The references to liens are  
8 not continued; the lien remedy is unavailable on a public works contract.

9 **CODE OF CIVIL PROCEDURE**

10 **Code Civ. Proc. § 86 (amended). Classification of limited civil cases**

11 SEC. \_\_\_\_\_. Section 86 of the Code of Civil Procedure is amended to read:

12 86. (a) The following civil cases and proceedings are limited civil cases:

13 (1) ~~Cases~~ A case at law in which the demand, exclusive of interest, or the value  
14 of the property in controversy amounts to twenty-five thousand dollars (\$25,000)  
15 or less. This paragraph does not apply to ~~eases a case~~ that ~~involve~~ involves the  
16 legality of any tax, impost, assessment, toll, or municipal fine, except ~~actions an~~  
17 action to enforce payment of delinquent unsecured personal property taxes if the  
18 legality of the tax is not contested by the defendant.

19 (2) ~~Actions~~ An action for dissolution of partnership where the total assets of the  
20 partnership do not exceed twenty-five thousand dollars (\$25,000); ~~actions an~~  
21 action of interpleader where the amount of money or the value of the property  
22 involved does not exceed twenty-five thousand dollars (\$25,000).

23 (3) ~~Actions~~ An action to cancel or rescind a contract when the relief is sought in  
24 connection with an action to recover money not exceeding twenty-five thousand  
25 dollars (\$25,000) or property of a value not exceeding twenty-five thousand  
26 dollars (\$25,000), paid or delivered under, or in consideration of, the contract;  
27 ~~actions an action~~ to revise a contract where the relief is sought in an action upon  
28 the contract if the action otherwise is a limited civil case.

29 (4) ~~Proceedings~~ A proceeding in forcible entry or forcible or unlawful detainer  
30 where the whole amount of damages claimed is twenty-five thousand dollars  
31 (\$25,000) or less.

32 (5) ~~Actions~~ An action to enforce and foreclose ~~liens~~ a lien on personal property  
33 where the amount of the ~~liens~~ lien is twenty-five thousand dollars (\$25,000) or  
34 less.

35 (6) ~~Actions~~ An action to enforce and foreclose, or ~~petitions~~ a petition to release,  
36 ~~liens of mechanics, materialmen, artisans, laborers, and of all other persons to~~  
37 ~~whom liens are given~~ a lien arising under the provisions of ~~Chapter 2~~  
38 ~~(commencing with Section 3109) of Title 15 of Part 4 of Division 3~~ Chapter 4  
39 ~~(commencing with Section 7400) of Part 6 of Division 4~~ of the Civil Code, or to  
40 enforce and foreclose an assessment lien on a common interest development as  
41 defined in Section 1351 of the Civil Code, where the amount of the liens is

1 twenty-five thousand dollars (\$25,000) or less. However, where an action to  
2 enforce the lien affects property that is also affected by a similar pending action  
3 that is not a limited civil case, or where the total amount of the liens sought to be  
4 foreclosed against the same property aggregates an amount in excess of twenty-  
5 five thousand dollars (\$25,000), the action is not a limited civil case.

6 (7) ~~Actions~~ An action for declaratory relief when brought pursuant to either of  
7 the following:

8 (A) By way of cross-complaint as to a right of indemnity with respect to the  
9 relief demanded in the complaint or a cross-complaint in an action or proceeding  
10 that is otherwise a limited civil case.

11 (B) To conduct a trial after a nonbinding fee arbitration between an attorney and  
12 client, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of  
13 Division 3 of the Business and Professions Code, where the amount in controversy  
14 is twenty-five thousand dollars (\$25,000) or less.

15 (8) ~~Actions~~ An action to issue a temporary restraining orders and preliminary  
16 injunctions, and order or preliminary injunction; to take ~~accounts~~ an account,  
17 where necessary to preserve the property or rights of any party to a limited civil  
18 case; to make any order or perform any act, pursuant to Title 9 (commencing with  
19 Section 680.010) of Part 2 (enforcement of judgments) in a limited civil case; to  
20 appoint a receiver pursuant to Section 564 in a limited civil case; to determine title  
21 to personal property seized in a limited civil case.

22 (9) ~~Actions~~ An action under Article 3 (commencing with Section 708.210) of  
23 Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in  
24 personal property or to enforce the liability of the debtor of a judgment debtor  
25 where the interest claimed adversely is of a value not exceeding twenty-five  
26 thousand dollars (\$25,000) or the debt denied does not exceed twenty-five  
27 thousand dollars (\$25,000).

28 (10) ~~Arbitration-related petitions~~ An arbitration-related petition filed pursuant to  
29 either of the following:

30 (A) Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3,  
31 except for an uninsured motorist arbitration proceedings proceeding in accordance  
32 with Section 11580.2 of the Insurance Code, if the petition is filed before the  
33 arbitration award becomes final and the matter to be resolved by arbitration is a  
34 limited civil case under paragraphs (1) to (9), inclusive, of subdivision (a) or if the  
35 petition is filed after the arbitration award becomes final and the amount of the  
36 award and all other rulings, pronouncements, and decisions made in the award are  
37 within paragraphs (1) to (9), inclusive, of subdivision (a).

38 (B) To confirm, correct, or vacate a fee arbitration award between an attorney  
39 and client that is binding or has become binding, pursuant to Article 13  
40 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and  
41 Professions Code, where the arbitration award is twenty-five thousand dollars  
42 (\$25,000) or less.

43 (b) The following cases in equity are limited civil cases:

1 (1) ~~Cases~~ A case to try title to personal property when the amount involved is  
2 not more than twenty-five thousand dollars (\$25,000).

3 (2) ~~Cases~~ A case when equity is pleaded as a defensive matter in any case that is  
4 otherwise a limited civil case.

5 (3) ~~Cases~~ A case to vacate a judgment or order of the court obtained in a limited  
6 civil case through extrinsic fraud, mistake, inadvertence, or excusable neglect.

7 **Comment.** Paragraph (6) of subdivision (a) of Section 86 is amended to correct a cross-  
8 reference and eliminate obsolete terminology.

9 The section is also amended to make stylistic revisions.

10 **Code Civ. Proc. § 410.42 (amended). Dispute resolution provisions in construction contract**

11 SEC. \_\_\_\_\_. Section 410.42 of the Code of Civil Procedure is amended to read:

12 410.42. (a) The following provisions of a contract between the contractor and a  
13 subcontractor with principal offices in this state, for the construction of a public or  
14 private work of improvement in this state, shall be void and unenforceable:

15 ~~(a)~~ (1) A provision which purports to require any dispute between the parties to  
16 be litigated, arbitrated, or otherwise determined outside this state.

17 ~~(b)~~ (2) A provision which purports to preclude a party from commencing such a  
18 proceeding or obtaining a judgment or other resolution in this state or the courts of  
19 this state.

20 (b) For purposes of this section, “construction” means any work or services  
21 performed on, or materials provided for, a work of improvement, as defined in  
22 Section ~~3106~~ 7046 of the Civil Code, and for which a lien may be claimed  
23 pursuant to Section ~~3110~~ 7400 of the Civil Code (whether or not a lien is in fact  
24 claimed) or for which such a lien could be claimed but for Section ~~3109~~ 7050 of  
25 the Civil Code.

26 **Comment.** Section 410.42 is amended to correct cross-references. The other changes to the  
27 section are technical.

28 **Code Civ. Proc. § 708.760 (amended). Judgment debtor a public work contractor**

29 SEC. \_\_\_\_\_. Section 708.760 of the Code of Civil Procedure is amended to read:

30 708.760. (a) If the judgment debtor named in the abstract or certified copy of the  
31 judgment filed pursuant to this article is a contractor upon a public work, the cost  
32 of which is to be paid out of public moneys voted, appropriated, or otherwise set  
33 apart for such purpose, only so much of the contract price shall be deemed owing  
34 and unpaid within the meaning of Section 708.740 or 708.750 as may remain  
35 payable under the terms of the contractor’s contract, upon the completion thereof,  
36 after deducting sums due and to become due to persons described in ~~Section 3181~~  
37 ~~of the Civil Code~~ Section 42030 of the Public Contract Code. In ascertaining the  
38 sums due or to become due to such persons, only claims which are filed against  
39 the moneys due or to become due to the judgment debtor in accordance with ~~the~~  
40 ~~provisions of Chapter 4 (commencing with Section 3179) of Title 15 of Part 4 of~~

1 ~~Division 3 of the Civil Code Chapter 4 (commencing with Section 44110) of Part~~  
2 ~~6 of Division 2 of the Public Contract Code shall be considered.~~

3 (b) The Controller, auditor, or other public disbursing officer whose duty it is to  
4 make payments under the provisions of the contract may not deposit an amount  
5 with the court pursuant to this article until the contract is completed, but may  
6 deposit an amount with the court to satisfy the claim of the judgment debtor before  
7 the payments specified in subdivision (a) are made so long as a sufficient amount  
8 is retained for the satisfaction of the claims of persons described in ~~Section 3181~~  
9 ~~of the Civil Code Section 42030 of the Public Contract Code.~~

10 **Comment.** Section 708.760 is amended to correct cross-references.

11 **Code Civ. Proc. § 1203.61 (amended). Oil and gas lien**

12 SEC. \_\_\_\_\_. Section 1203.61 of the Code of Civil Procedure is amended to read:

13 1203.61. (a) Any lien provided for by this chapter shall be enforced in the same  
14 manner as provided in ~~Title 15 (commencing with Section 3082), Part 4, Division~~  
15 ~~3, Part 6 (commencing with Section 7000) of Division 4~~ of the Civil Code. ~~Such~~  
16 ~~The~~ action shall be filed within 180 days from the time of the recording of the lien  
17 ~~provided for herein.~~ If a credit ~~be~~ is given and notice of the fact and terms of ~~such~~  
18 ~~credit be~~ the credit are filed in the office of the county recorder subsequent to the  
19 filing of ~~such~~ the lien and prior to the expiration of ~~said~~ the 180-day period, then  
20 ~~such~~ the lien continues in force until 180 days after the expiration of ~~such~~ the  
21 credit, but no lien continues in force by reason of any agreement to give credit for  
22 a longer time than one year from the time the work is completed. If the  
23 proceedings to enforce the lien ~~be~~ are not prosecuted to trial within two years after  
24 ~~the commencement thereof,~~ the court may in its discretion dismiss the ~~same~~ action  
25 for want of prosecution, and in all cases the dismissal of ~~such~~ the action (unless it  
26 ~~be~~ is expressly stated that ~~the same~~ it is without prejudice) or a judgment ~~rendered~~  
27 ~~therein in the action~~ that no lien exists ~~shall be~~ is equivalent to the cancellation and  
28 removal from the record of ~~such~~ the lien.

29 (b) As against any purchaser or encumbrancer for value and in good faith whose  
30 rights are acquired subsequent to the expiration of the 180-day period following  
31 the filing of ~~such~~ the lien, no giving of credit or extension of the lien or time to  
32 enforce the ~~same~~ lien shall be effective unless evidenced by a notice or agreement  
33 filed for record in the office of the county recorder prior to the acquisition of the  
34 rights of ~~such~~ the purchaser or encumbrancer.

35 **Comment.** Section 1203.61 is amended to correct a cross-reference. The other changes are  
36 technical.

37 **Code Civ. Proc. § 1281.5 (amended). Arbitration**

38 SEC. \_\_\_\_\_. Section 1281.5 of the Code of Civil Procedure is amended to read:

39 1281.5. (a) Any person who proceeds to record and enforce a claim of lien by  
40 commencement of an action pursuant to ~~Title 15 (commencing with Section 3082)~~  
41 ~~of Part 4 of Division 3~~ Part 6 (commencing with Section 7000) of Division 4 of

1 the Civil Code, does not thereby waive any right of arbitration the person may  
2 have pursuant to a written agreement to arbitrate, if, in filing an action to enforce  
3 the claim of lien, the claimant does either of the following:

4 (1) Includes an allegation in the complaint that the claimant does not intend to  
5 waive any right of arbitration, and intends to move the court, within 30 days after  
6 service of the summons and complaint, for an order to stay further proceedings in  
7 the action.

8 (2) At the same time that the complaint is filed, the claimant files an application  
9 that the action be stayed pending the arbitration of any issue, question, or dispute  
10 that is claimed to be arbitrable under the agreement and that is relevant to the  
11 action to enforce the claim of lien.

12 (b) Within 30 days after service of the summons and complaint, the claimant  
13 shall file and serve a motion and notice of motion pursuant to Section 1281.4 to  
14 stay the action pending the arbitration of any issue, question, or dispute that is  
15 claimed to be arbitrable under the agreement and that is relevant to the action to  
16 enforce the claim of lien. The failure of a claimant to comply with this subdivision  
17 is a waiver of the claimant's right to compel arbitration.

18 (c) The failure of a defendant to file a petition pursuant to Section 1281.2 at or  
19 before the time the defendant answers the complaint filed pursuant to subdivision  
20 (a) is a waiver of the defendant's right to compel arbitration.

21 **Comment.** Section 1281.5 is amended to correct a cross-reference.

22 **Code Civ. Proc. § 1800 (amended). Assignment for benefit of creditors**

23 SEC. \_\_\_\_\_. Section 1800 of the Code of Civil Procedure is amended to read:

24 1800. (a) In this section:

25 (1) The term "insolvent" means:

26 (A) With reference to a person other than a partnership, a financial condition  
27 such that the sum of the person's debts is greater than all of the person's property,  
28 at a fair valuation, exclusive of both of the following:

29 (i) Property transferred, concealed, or removed with intent to hinder, delay, or  
30 defraud the person's creditors.

31 (ii) Property that is exempt from property of the estate pursuant to the election of  
32 the person made pursuant to Section 1801.

33 (B) With reference to a partnership, financial condition such that the sum of the  
34 partnership's debts are greater than the aggregate of, at a fair valuation, both of the  
35 following:

36 (i) All of the partnership's property, exclusive of property of the kind specified  
37 in clause (i) subparagraph (A).

38 (ii) The sum of the excess of the value of each general partner's separate  
39 property, exclusive of property of the kind specified in clause (ii) of subparagraph  
40 (A), over the partner's separate debts.

41 (2) The term "inventory" means personal property leased or furnished, held for  
42 sale or lease, or to be furnished under a contract for service, raw materials, work in

1 process, or materials used or consumed in a business, including farm products  
2 such as crops or livestock, held for sale or lease.

3 (3) The term “insider” means:

4 (A) If the assignor is an individual, any of the following:

5 (i) A relative of the assignor or of a general partner of the assignor.

6 (ii) A partnership in which the assignor is a general partner.

7 (iii) A general partner of the assignor.

8 (iv) A corporation of which the assignor is a director, officer, or person in  
9 control.

10 (B) If the assignor is a corporation, any of the following:

11 (i) A director of the assignor.

12 (ii) An officer of the assignor.

13 (iii) A person in control of the assignor.

14 (iv) A partnership in which the assignor is a general partner.

15 (v) A general partner of the assignor.

16 (vi) A relative of a general partner, director, officer, or person in control of the  
17 assignor.

18 (C) If the assignor is a partnership, any of the following:

19 (i) A general partner in the assignor.

20 (ii) A relative of a general partner in, general partner of, or person in control of  
21 the assignor.

22 (iii) A partnership in which the assignor is a general partner.

23 (iv) A general partner of the assignor.

24 (v) A person in control of the assignor.

25 (D) An affiliate of the assignor or an insider of an affiliate as if the affiliate were  
26 the assignor.

27 (E) A managing agent of the assignor.

28 As used in this paragraph, “relative” means an individual related by affinity or  
29 consanguinity with the third degree as determined by the common law, or an  
30 individual in a step or adoptive relationship within the third degree; and an  
31 “affiliate” means a person that directly or indirectly owns, controls or holds with  
32 power to vote 20 percent or more of the outstanding voting securities of the  
33 assignor or 20 percent or more of whose outstanding voting securities are directly  
34 or indirectly owned, controlled or held with power to vote by the assignor  
35 (excluding securities held in a fiduciary or agency capacity without sole  
36 discretionary power to vote, or held solely to secure a debt if the holder has not in  
37 fact exercised the power to vote), or a person who operates the business of the  
38 assignor under a lease or operating agreement or whose business is operated by the  
39 assignor under a lease or operating agreement.

40 (4) The term “judicial lien” means a lien obtained by judgment, levy,  
41 sequestration, or other legal or equitable process or proceeding.

42 (5) The term “new value” means money or money’s worth in goods, services, or  
43 new credit, or release by a transferee of property previously transferred to the

1 transferee in a transaction that is neither void nor voidable by the assignor or the  
2 assignee under any applicable law, but does not include an obligation substituted  
3 for an existing obligation.

4 (6) The term “receivable” means a right to payment, whether or not the right has  
5 been earned by performance.

6 (7) The term “security agreement” means an agreement that creates or provides  
7 for a security interest.

8 (8) The term “security interest” means a lien created by an agreement.

9 (9) The term “statutory lien” means a lien arising solely by force of a statute on  
10 specified circumstances or conditions, or lien of distress for rent, whether or not  
11 statutory, but does not include security interest or judicial lien, whether or not the  
12 interest or lien is provided by or is dependent on a statute and whether or not the  
13 interest or lien is made fully effective by statute.

14 (10) The term “transfer” means every mode, direct or indirect, absolute or  
15 conditional, voluntary or involuntary, or disposing of or parting with property or  
16 with an interest in property, including retention of title as a security interest.

17 (b) Except as provided in subdivision (c), the assignee of any general  
18 assignment for the benefit of creditors (as defined in Section 493.010) may  
19 recover any transfer of property of the assignor:

20 (1) To or for the benefit of a creditor;

21 (2) For or on account of an antecedent debt owed by the assignor before the  
22 transfer was made;

23 (3) Made while the assignor was insolvent;

24 (4) Made on or within 90 days before the date of the making of the assignment  
25 or made between 90 days and one year before the date of making the assignment if  
26 the creditor, at the time of the transfer, was an insider and had reasonable cause to  
27 believe the debtor was insolvent at the time of the transfer; and

28 (5) That enables the creditor to receive more than another creditor of the same  
29 class.

30 (c) The assignee may not recover under this section a transfer:

31 (1) To the extent that the transfer was:

32 (A) Intended by the assignor and the creditor to or for whose benefit the transfer  
33 was made to be a contemporaneous exchange for new value given to the assignor;  
34 and

35 (B) In fact a substantially contemporaneous exchange;

36 (2) To the extent that the transfer was:

37 (A) In payment of a debt incurred in the ordinary course of business or financial  
38 affairs of the assignor and the transferee;

39 (B) Made in the ordinary course of business or financial affairs of the assignor  
40 and the transferee; and

41 (C) Made according to ordinary business terms;

42 (3) Of a security interest in property acquired by the assignor:

43 (A) To the extent the security interest secures new value that was:

- 1 (i) Given at or after the signing of a security agreement that contains a  
2 description of the property as collateral;
- 3 (ii) Given by or on behalf of the secured party under the agreement;
- 4 (iii) Given to enable the assignor to acquire the property; and
- 5 (iv) In fact used by the assignor to acquire the property; and
- 6 (B) That is perfected within 20 days after the security interest attaches;
- 7 (4) To or for the benefit of a creditor, to the extent that, after the transfer, the  
8 creditor gave new value to or for the benefit of the assignor:
- 9 (A) Not secured by an otherwise unavoidable security interest; and
- 10 (B) On account of which new value the assignor did not make an otherwise  
11 unavoidable transfer to or for the benefit of the creditor;
- 12 (5) Of a perfected security interest in inventory or a receivable or the proceeds  
13 of either, except to the extent that the aggregate of all the transfers to the transferee  
14 caused a reduction, as of the date of the making of the assignment and to the  
15 prejudice of other creditors holding unsecured claims, of any amount by which the  
16 debt secured by the security interest exceeded the value of all security interest for  
17 the debt on the later of:
- 18 (A) Ninety days before the date of the making of the assignment.
- 19 (B) The date on which new value was first given under the security agreement  
20 creating the security interest; or
- 21 (6) That is the fixing of a statutory lien.
- 22 (7) That is payment to a claimant, as defined in Section ~~3085~~ 7002 of the Civil  
23 Code or Section 41020 of the Public Contract Code, in exchange for the claimant's  
24 waiver or release of any potential or asserted claim of lien, stop payment notice, or  
25 right to recover on a payment bond, or any combination thereof.
- 26 (8) To the extent that the transfer was a bona fide payment of a debt to a spouse,  
27 former spouse, or child of the debtor, for alimony to, maintenance for, or support  
28 of, the spouse or child, in connection with a separation agreement, divorce decree,  
29 or other order of a court of record, or a determination made in accordance with  
30 state or territorial law by a governmental unit, or property settlement agreement;  
31 but not to the extent that either of the following occurs:
- 32 (A) The debt is assigned to another entity voluntarily, by operation of law or  
33 otherwise, in which case, the assignee may not recover that portion of the transfer  
34 that is assigned to the state or any political subdivision of the state pursuant to Part  
35 D of Title IV of the Social Security Act (42 U.S.C. Sec. 601, et. seq.) and passed  
36 on to the spouse, former spouse, or child of the debtor.
- 37 (B) The debt includes a liability designated as alimony, maintenance, or support,  
38 unless the liability is actually in the nature of alimony, maintenance, or support.
- 39 (d) An assignee of any general assignment for the benefit of creditors (as  
40 defined in Section 493.010), may avoid a transfer of property of the assignor  
41 transferred to secure reimbursement of a surety that furnished a bond or other  
42 obligation to dissolve a judicial lien that would have been avoidable by the  
43 assignee under subdivision (b) of this section. The liability of the surety under the

1 bond or obligation shall be discharged to the extent of the value of the property  
2 recovered by the assignee or the amount paid to the assignee.

3 (e) (1) For the purposes of this section:

4 (A) A transfer of real property other than fixtures, but including the interest of a  
5 seller or purchaser under a contract for the sale of real property, is perfected when  
6 a bona fide purchaser of the property from the debtor against whom applicable law  
7 permits the transfer to be perfected cannot acquire an interest that is superior to the  
8 interest of the transferee.

9 (B) A transfer of a fixture or property other than real property is perfected when  
10 a creditor on a simple contract cannot acquire a judicial lien that is superior to the  
11 interest of the transferee.

12 (2) For the purposes of this section, except as provided in paragraph (3), a  
13 transfer is made at any of the following times:

14 (A) At the time the transfer takes effect between the transferor and the  
15 transferee, if the transfer is perfected at, or within 10 days after, the time, except as  
16 provided in subparagraph (B) of paragraph (3) of subdivision (c).

17 (B) At the time the transfer is perfected, if the transfer is perfected after the 10  
18 days.

19 (C) Immediately before the date of the making of the assignment if the transfer  
20 is not perfected at the later of:

21 (i) The making of the assignment.

22 (ii) Ten days after the transfer takes effect between the transferor and the  
23 transferee.

24 (3) For the purposes of this section, a transfer is not made until the assignor has  
25 acquired rights in the property transferred.

26 (f) For the purposes of this section, the assignor is presumed to have been  
27 insolvent on and during the 90 days immediately preceding the date of the making  
28 of the assignment.

29 (g) An action by an assignee under this section must be commenced within one  
30 year after the making of the assignment.

31 **Comment.** Section 1800 is amended to correct a cross-reference and terminology.

## 32 EDUCATION CODE

### 33 **Educ. Code § 17307.5 (amended). Stop work order on public school construction**

34 SEC. \_\_\_\_\_. Section 17307.5 of the Education Code is amended to read:

35 17307.5. (a) Notwithstanding any provision of law to the contrary, including,  
36 but not limited to, ~~Title 15 (commencing with Section 3082) of Part 4 of the Civil~~  
37 ~~Code~~ Part 6 (commencing with Section 41010) of Division 2 of the Public  
38 Contract Code, the Department of General Services may issue a stop work order  
39 when construction work on a public school is not being performed in accordance  
40 with existing law and would compromise the structural integrity of the building,

1 thereby endangering the public safety. The Department of General Services shall  
2 allow construction of incidental and minor nonstructural additions or nonstructural  
3 alterations without invoking its stop work authority.

4 (b) A school district, county superintendent of schools, county board of  
5 education, or other public board, body, or officer whose construction work on a  
6 public school is subject to a stop work order issued pursuant to subdivision (a)  
7 shall not be held liable in any action filed against the public board, body, or officer  
8 for stopping work as required by the stop work order, or for any delays caused by  
9 compliance with the stop work order, except to the extent that an error or omission  
10 by the public board, body, or officer is the basis for the issuance of the stop work  
11 order.

12 **Comment.** Section 17307.5 is amended to correct a cross-reference.

13 **Educ. Code § 81133.5 (amended). Stop work order on community college construction**

14 SEC. \_\_\_\_\_. Section 81133.5 of the Education Code is amended to read:

15 81133.5. (a) Notwithstanding any provision of law to the contrary, including,  
16 but not limited to, ~~Title 15 (commencing with Section 3082) of Part 4 of the Civil~~  
17 ~~Code~~ Part 6 (commencing with Section 41010) of Division 2 of the Public  
18 Contract Code, the Department of General Services may issue a stop work order  
19 when construction work on a community college is not being performed in  
20 accordance with existing law and would compromise the structural integrity of the  
21 building, thereby endangering the public safety. The Department of General  
22 Services shall allow construction of incidental and minor nonstructural additions  
23 or nonstructural alterations without invoking its stop work authority.

24 (b) A community college district or other public board, body, or officer whose  
25 construction work on a community college is subject to a stop work order issued  
26 pursuant to subdivision (a) shall not be held liable in any action filed against the  
27 public board, body, or officer for stopping work as required by the stop work  
28 order, or for any delays caused by compliance with the stop work order, except to  
29 the extent that an error or omission by the public board, body, or officer is that  
30 basis for the issuance of the stop work order.

31 **Comment.** Section 81133.5 is amended to correct a cross-reference.

32 **GOVERNMENT CODE**

33 **Gov't Code § 7480 (amended). Disclosure of financial records**

34 SEC. \_\_\_\_\_. Section 7480 of the Government Code is amended to read:

35 7480. Nothing in this chapter prohibits any of the following:

36 (a) The dissemination of any financial information that is not identified with, or  
37 identifiable as being derived from, the financial records of a particular customer.

38 (b) When any police or sheriff's department or district attorney in this state  
39 certifies to a bank, credit union, or savings association in writing that a crime

1 report has been filed that involves the alleged fraudulent use of drafts, checks, or  
2 other orders drawn upon any bank, credit union, or savings association in this  
3 state, the police or sheriff's department or district attorney may request a bank,  
4 credit union, or savings association to furnish, and a bank, credit union, or savings  
5 association shall furnish, a statement setting forth the following information with  
6 respect to a customer account specified by the police or sheriff's department or  
7 district attorney for a period 30 days prior to, and up to 30 days following, the date  
8 of occurrence of the alleged illegal act involving the account:

9 (1) The number of items dishonored.

10 (2) The number of items paid that created overdrafts.

11 (3) The dollar volume of the dishonored items and items paid which created  
12 overdrafts and a statement explaining any credit arrangement between the bank,  
13 credit union, or savings association and customer to pay overdrafts.

14 (4) The dates and amounts of deposits and debits and the account balance on  
15 these dates.

16 (5) A copy of the signature card, including the signature and any addresses  
17 appearing on a customer's signature card.

18 (6) The date the account opened and, if applicable, the date the account closed.

19 (7) A bank, credit union, or savings association that provides the requesting  
20 party with copies of one or more complete account statements prepared in the  
21 regular course of business shall be deemed to be in compliance with paragraphs  
22 (1), (2), (3), and (4).

23 (c) When any police or sheriff's department or district attorney in this state  
24 certifies to a bank, credit union, or savings association in writing that a crime  
25 report has been filed that involves the alleged fraudulent use of drafts, checks, or  
26 other orders drawn upon any bank, credit union, or savings association doing  
27 business in this state, the police or sheriff's department or district attorney may  
28 request, with the consent of the accountholder, the bank, credit union, or savings  
29 association to furnish, and the bank, credit union, or savings association shall  
30 furnish, a statement setting forth the following information with respect to a  
31 customer account specified by the police or sheriff's department or district  
32 attorney for a period 30 days prior to, and up to 30 days following, the date of  
33 occurrence of the alleged illegal act involving the account:

34 (1) The number of items dishonored.

35 (2) The number of items paid that created overdrafts.

36 (3) The dollar volume of the dishonored items and items paid which created  
37 overdrafts and a statement explaining any credit arrangement between the bank,  
38 credit union, or savings association and customer to pay overdrafts.

39 (4) The dates and amounts of deposits and debits and the account balance on  
40 these dates.

41 (5) A copy of the signature card, including the signature and any addresses  
42 appearing on a customer's signature card.

43 (6) The date the account opened and, if applicable, the date the account closed.

1 (7) A bank, credit union, or savings association doing business in this state that  
2 provides the requesting party with copies of one or more complete account  
3 statements prepared in the regular course of business shall be deemed to be in  
4 compliance with paragraphs (1), (2), (3), and (4).

5 (d) For purposes of subdivision (c), consent of the accountholder shall be  
6 satisfied if an accountholder provides to the financial institution and the person or  
7 entity seeking disclosure, a signed and dated statement containing all of the  
8 following:

9 (1) Authorization of the disclosure for the period specified in subdivision (c).

10 (2) The name of the agency or department to which disclosure is authorized and,  
11 if applicable, the statutory purpose for which the information is to be obtained.

12 (3) A description of the financial records that are authorized to be disclosed.

13 (e) (1) The Attorney General, a supervisory agency, the Franchise Tax Board,  
14 the State Board of Equalization, the Employment Development Department, the  
15 Controller or an inheritance tax referee when administering the Prohibition of Gift  
16 and Death Taxes (Part 8 (commencing with Section 13301) of Division 2 of the  
17 Revenue and Taxation Code), a police or sheriff's department or district attorney,  
18 a county welfare department when investigating welfare fraud, a county auditor-  
19 controller or director of finance when investigating fraud against the county, or the  
20 Department of Corporations when conducting investigations in connection with  
21 the enforcement of laws administered by the Commissioner of Corporations, from  
22 requesting of an office or branch of a financial institution, and the office or branch  
23 from responding to a request, as to whether a person has an account or accounts at  
24 that office or branch and, if so, any identifying numbers of the account or  
25 accounts.

26 (2) No additional information beyond that specified in this section shall be  
27 released to a county welfare department without either the accountholder's written  
28 consent or a judicial writ, search warrant, subpoena, or other judicial order.

29 (3) A county auditor-controller or director of finance who unlawfully discloses  
30 information he or she is authorized to request under this subdivision is guilty of  
31 the unlawful disclosure of confidential data, a misdemeanor, which shall be  
32 punishable as set forth in Section 7485.

33 (f) The examination by, or disclosure to, any supervisory agency of financial  
34 records that relate solely to the exercise of its supervisory function. The scope of  
35 an agency's supervisory function shall be determined by reference to statutes that  
36 grant authority to examine, audit, or require reports of financial records or  
37 financial institutions as follows:

38 (1) With respect to the Commissioner of Financial Institutions by reference to  
39 Division 1 (commencing with Section 99), Division 1.5 (commencing with  
40 Section 4800), Division 2 (commencing with Section 5000), Division 5  
41 (commencing with Section 14000), Division 7 (commencing with Section 18000),  
42 Division 15 (commencing with Section 31000), and Division 16 (commencing  
43 with Section 33000) of the Financial Code.

1 (2) With respect to the Controller by reference to Title 10 (commencing with  
2 Section 1300) of Part 3 of the Code of Civil Procedure.

3 (3) With respect to the Administrator of Local Agency Security by reference to  
4 Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of  
5 Title 5 of the Government Code.

6 (g) The disclosure to the Franchise Tax Board of (1) the amount of any security  
7 interest that a financial institution has in a specified asset of a customer or (2)  
8 financial records in connection with the filing or audit of a tax return or tax  
9 information return that are required to be filed by the financial institution pursuant  
10 to Part 10 (commencing with Section 17001), Part 11 (commencing with Section  
11 23001), or Part 18 (commencing with Section 38001) of the Revenue and Taxation  
12 Code.

13 (h) The disclosure to the State Board of Equalization of any of the following:

14 (1) The information required by Sections 6702, 6703, 8954, 8957, 30313,  
15 30315, 32383, 32387, 38502, 38503, 40153, 40155, 41122, 41123.5, 43443,  
16 43444.2, 44144, 45603, 45605, 46404, 46406, 50134, 50136, 55203, 55205,  
17 60404, and 60407 of the Revenue and Taxation Code.

18 (2) The financial records in connection with the filing or audit of a tax return  
19 required to be filed by the financial institution pursuant to Part 1 (commencing  
20 with Section 6001), Part 2 (commencing with Section 7301), Part 3 (commencing  
21 with Section 8601), Part 13 (commencing with Section 30001), Part 14  
22 (commencing with Section 32001), and Part 17 (commencing with Section 37001)  
23 of Division 2 of the Revenue and Taxation Code.

24 (3) The amount of any security interest a financial institution has in a specified  
25 asset of a customer, if the inquiry is directed to the branch or office where the  
26 interest is held.

27 (i) The disclosure to the Controller of the information required by Section 7853  
28 of the Revenue and Taxation Code.

29 (j) The disclosure to the Employment Development Department of the amount  
30 of any security interest a financial institution has in a specified asset of a customer,  
31 if the inquiry is directed to the branch or office where the interest is held.

32 (k) The disclosure by a construction lender, as defined in Section ~~3087~~ 7004 of  
33 the Civil Code, to the Registrar of Contractors, of information concerning the  
34 making of progress payments to a prime contractor requested by the registrar in  
35 connection with an investigation under Section 7108.5 of the Business and  
36 Professions Code.

37 (l) Upon receipt of a written request from a local child support agency referring  
38 to a support order pursuant to Section 17400 of the Family Code, a financial  
39 institution shall disclose the following information concerning the account or the  
40 person named in the request, whom the local child support agency shall identify,  
41 whenever possible, by social security number:

42 (1) If the request states the identifying number of an account at a financial  
43 institution, the name of each owner of the account.

1 (2) Each account maintained by the person at the branch to which the request is  
2 delivered, and, if the branch is able to make a computerized search, each account  
3 maintained by the person at any other branch of the financial institution located in  
4 this state.

5 (3) For each account disclosed pursuant to paragraphs (1) and (2), the account  
6 number, current balance, street address of the branch where the account is  
7 maintained, and, to the extent available through the branch's computerized search,  
8 the name and address of any other person listed as an owner.

9 (4) Whenever the request prohibits the disclosure, a financial institution shall not  
10 disclose either the request or its response, to an owner of the account or to any  
11 other person, except the officers and employees of the financial institution who are  
12 involved in responding to the request and to attorneys, employees of the local  
13 child support agencies, auditors, and regulatory authorities who have a need to  
14 know in order to perform their duties, and except as disclosure may be required by  
15 legal process.

16 (5) No financial institution, or any officer, employee, or agent thereof, shall be  
17 liable to any person for (A) disclosing information in response to a request  
18 pursuant to this subdivision, (B) failing to notify the owner of an account, or  
19 complying with a request under this paragraph not to disclose to the owner, the  
20 request or disclosure under this subdivision, or (C) failing to discover any account  
21 owned by the person named in the request pursuant to a computerized search of  
22 the records of the financial institution.

23 (6) The local child support agency may request information pursuant to this  
24 subdivision only when the local child support agency has received at least one of  
25 the following types of physical evidence:

26 (A) Any of the following, dated within the last three years:

27 (i) Form 599.

28 (ii) Form 1099.

29 (iii) A bank statement.

30 (iv) A check.

31 (v) A bank passbook.

32 (vi) A deposit slip.

33 (vii) A copy of a federal or state income tax return.

34 (viii) A debit or credit advice.

35 (ix) Correspondence that identifies the child support obligor by name, the bank,  
36 and the account number.

37 (x) Correspondence that identifies the child support obligor by name, the bank,  
38 and the banking services related to the account of the obligor.

39 (xi) An asset identification report from a federal agency.

40 (B) A sworn declaration of the custodial parent during the 12 months  
41 immediately preceding the request that the person named in the request has had or  
42 may have had an account at an office or branch of the financial institution to  
43 which the request is made.

1 (7) Information obtained by a local child support agency pursuant to this  
2 subdivision shall be used only for purposes that are directly connected with the  
3 administration of the duties of the local child support agency pursuant to Section  
4 17400 of the Family Code.

5 (m) (1) As provided in paragraph (1) of subdivision (c) of Section 666 of Title  
6 42 of the United States Code, upon receipt of an administrative subpoena on the  
7 current federally approved interstate child support enforcement form, as approved  
8 by the federal Office of Management and Budget, a financial institution shall  
9 provide the information or documents requested by the administrative subpoena.

10 (2) The administrative subpoena shall refer to the current federal Office of  
11 Management and Budget control number and be signed by a person who states  
12 that he or she is an authorized agent of a state or county agency responsible for  
13 implementing the child support enforcement program set forth in Part D  
14 (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the  
15 United States Code. A financial institution may rely on the statements made in the  
16 subpoena and has no duty to inquire into the truth of any statement in the  
17 subpoena.

18 (3) If the person who signs the administrative subpoena directs a financial  
19 institution in writing not to disclose either the subpoena or its response to any  
20 owner of an account covered by the subpoena, the financial institution shall not  
21 disclose the subpoena or its response to the owner.

22 (4) No financial institution, or any officer, employee, or agent thereof, shall be  
23 liable to any person for (A) disclosing information or providing documents in  
24 response to a subpoena pursuant to this subdivision, (B) failing to notify any  
25 owner of an account covered by the subpoena or complying with a request not to  
26 disclose to the owner, the subpoena or disclosure under this subdivision, or (C)  
27 failing to discover any account owned by the person named in the subpoena  
28 pursuant to a computerized search of the records of the financial institution.

29 (n) The dissemination of financial information and records pursuant to any of  
30 the following:

31 (1) Compliance by a financial institution with the requirements of Section 2892  
32 of the Probate Code.

33 (2) Compliance by a financial institution with the requirements of Section 2893  
34 of the Probate Code.

35 (3) An order by a judge upon a written ex parte application by a peace officer  
36 showing specific and articulable facts that there are reasonable grounds to believe  
37 that the records or information sought are relevant and material to an ongoing  
38 investigation of a felony violation of Section 186.10 or of any felony subject to the  
39 enhancement set forth in Section 186.11.

40 (A) The ex parte application shall specify with particularity the records to be  
41 produced, which shall be only those of the individual or individuals who are the  
42 subject of the criminal investigation.

1 (B) The ex parte application and any subsequent judicial order shall be open to  
2 the public as a judicial record unless ordered sealed by the court, for a period of 60  
3 days. The sealing of these records may be extended for 60-day periods upon a  
4 showing to the court that it is necessary for the continuance of the investigation.  
5 Sixty-day extensions may continue for up to one year or until termination of the  
6 investigation of the individual or individuals, whichever is sooner.

7 (C) The records ordered to be produced shall be returned to the peace officer  
8 applicant or his or her designee within a reasonable time period after service of the  
9 order upon the financial institution.

10 (D) Nothing in this subdivision shall preclude the financial institution from  
11 notifying a customer of the receipt of the order for production of records unless a  
12 court orders the financial institution to withhold notification to the customer upon  
13 a finding that the notice would impede the investigation.

14 (E) Where a court has made an order pursuant to this paragraph to withhold  
15 notification to the customer under this paragraph, the peace officer or law  
16 enforcement agency who obtained the financial information shall notify the  
17 customer by delivering a copy of the ex parte order to the customer within 10 days  
18 of the termination of the investigation.

19 (4) No financial institution, or any officer, employee, or agent thereof, shall be  
20 liable to any person for any of the following:

21 (A) Disclosing information to a probate court pursuant to Sections 2892 and  
22 2893.

23 (B) Disclosing information in response to a court order pursuant to paragraph  
24 (3).

25 (C) Complying with a court order under this subdivision not to disclose to the  
26 customer, the order, or the dissemination of information pursuant to the court  
27 order.

28 (o) Disclosure by a financial institution to a peace officer, as defined in Section  
29 830.1 of the Penal Code, pursuant to the following:

30 (1) Paragraph (1) of subdivision (a) of Section 1748.95 of the Civil Code,  
31 provided that the financial institution has first complied with the requirements of  
32 paragraph (2) of subdivision (a) and subdivision (b) of Section 1748.95 of the  
33 Civil Code.

34 (2) Paragraph (1) of subdivision (a) of Section 4002 of the Financial Code,  
35 provided that the financial institution has first complied with the requirements of  
36 paragraph (2) of subdivision (a) and subdivision (b) of Section 4002 of the  
37 Financial Code.

38 (3) Paragraph (1) of subdivision (a) of Section 22470 of the Financial Code,  
39 provided that any financial institution that is a finance lender has first complied  
40 with the requirements of paragraph (2) of subdivision (a) and subdivision (b) of  
41 Section 22470 of the Financial Code.

42 (p) When the governing board of the Public Employees' Retirement System or  
43 the State Teachers' Retirement System certifies in writing to a financial institution

1 that a benefit recipient has died and that transfers to the benefit recipient's account  
2 at the financial institution from the retirement system occurred after the benefit  
3 recipient's date of death, the financial institution shall furnish the retirement  
4 system the name and address of any coowner, cosigner, or any other person who  
5 had access to the funds in the account following the date of the benefit recipient's  
6 death, or if the account has been closed, the name and address of the person who  
7 closed the account.

8 (q) When the retirement board of a retirement system established under the  
9 County Employees Retirement Law of 1937 certifies in writing to a financial  
10 institution that a retired member or the beneficiary of a retired member has died  
11 and that transfers to the account of the retired member or beneficiary of a retired  
12 member at the financial institution from the retirement system occurred after the  
13 date of death of the retired member or beneficiary of a retired member, the  
14 financial institution shall furnish the retirement system the name and address of  
15 any coowner, cosigner, or any other person who had access to the funds in the  
16 account following the date of death of the retired member or beneficiary of a  
17 retired member, or if the account has been closed, the name and address of the  
18 person who closed the account.

19 **Comment.** Section 7480 is amended to correct a cross-reference.

20 **Gov't Code § 14975 (amended). Payment bond**

21 SEC. \_\_\_\_\_. Section 14975 of the Government Code is amended to read:

22 14975. Notwithstanding the provisions of ~~Section 3247 of the Civil Code~~ 45010  
23 of the Public Contract Code, the contractor under any contract made under this  
24 chapter need not provide a payment bond before the commencement of the work  
25 but must provide a payment bond as otherwise required by law prior to payment  
26 under the contract.

27 **Comment.** Section 14975 is amended to correct a cross-reference.

28 **Gov't Code § 27287 (amended). Recordation of instrument**

29 SEC. \_\_\_\_\_. Section 27287 of the Government Code is amended to read:

30 27287. Unless it belongs to the class provided for in either Sections 27282 to  
31 27286, inclusive, or Sections 1202 or 1203, of the Civil Code, or is a fictitious  
32 mortgage or deed of trust as provided in Sections 2952, or 2963, of the Civil Code,  
33 or is a fictitious oil and gas lease as provided in Section 1219 of the Civil Code, or  
34 is a claim of lien, as provided in Section ~~3084~~ 7418 of the Civil Code, or a notice  
35 of completion, as provided in Section ~~3093~~ 7152 of the Civil Code or 42220 of the  
36 Public Contract Code, before an instrument can be recorded its execution shall be  
37 acknowledged by the person executing it, or if executed by a corporation, by its  
38 president or secretary or other person executing it on behalf of the corporation, or,  
39 except for any quitclaim deed or grant deed other than a trustee's deed or a deed of  
40 reconveyance, mortgage, deed of trust, or security agreement, proved by

1 subscribing witness or as provided in Sections 1198 and 1199 of the Civil Code,  
2 and the acknowledgment or proof certified as prescribed by law.

3 **Comment.** Section 27287 is amended to correct cross-references.

4 **Gov't Code § 27361.9 (repealed). Filing fee for preliminary notice**

5 SEC. \_\_\_\_\_. Section 27361.9 of the Government Code is repealed.

6 ~~27361.9 The board of supervisors of any county may provide for an additional~~  
7 ~~fee for filing every preliminary 20 day notice pursuant to paragraph (1) of~~  
8 ~~subdivision (o) of Section 3097 of the Civil Code for the exclusive purpose of~~  
9 ~~defraying the cost of implementing and maintaining a system to facilitate~~  
10 ~~compliance with paragraph (2) of subdivision (o) of Section 3097 of the Civil~~  
11 ~~Code.~~

12 **Comment.** Section 27361.9 is not continued. Preliminary notice may no longer be filed with  
13 the county recorder. See Civ. Code § 7218.

14 **Gov't Code § 66499.2 (amended). Form of surety bond**

15 SEC. \_\_\_\_\_. Section 66499.2 of the Government Code is amended to read:

16 66499.2. A bond or bonds by one or more duly authorized corporate sureties for  
17 the security of laborers and ~~materialmen~~ material suppliers shall be in substantially  
18 the following form:

19 Whereas, The Board of Supervisors of the County of \_\_\_\_ (or City Council of  
20 the City of \_\_\_\_), State of California, and \_\_\_\_ (hereinafter designated as “the  
21 principal”) have entered into an agreement whereby the principal agrees to install  
22 and complete certain designated public improvements, which agreement, dated  
23 \_\_\_\_, 20\_\_, and identified as project \_\_\_\_, is hereby referred to and made a part  
24 hereof; and

25 Whereas, Under the terms of the agreement, the principal is required before  
26 entering upon the performance of the work, to file a good and sufficient payment  
27 bond with the County of \_\_\_\_ (or the City of \_\_\_\_) to secure the claims to which  
28 reference is made in ~~Title 15 (commencing with Section 3082) of Part 4 of~~  
29 ~~Division 3 of the Civil~~ Part 6 (commencing with Section 41010 of Division 2 of  
30 the Public Contract Code of the State of California.

31 Now, therefore, the principal and the undersigned as corporate surety, are held  
32 firmly bound unto the County of \_\_\_\_ (or the City of \_\_\_\_) and all contractors,  
33 subcontractors, laborers, ~~materialmen,~~ material suppliers and other persons  
34 employed in the performance of the agreement and referred to in ~~Title 15~~  
35 ~~(commencing with Section 3082) of Part 4 of Division 3 of the Civil~~ Part 6  
36 (commencing with Section 41010 of Division 2 of the Public Contract Code in the  
37 sum of \_\_\_\_ dollars (\$\_\_\_\_), for materials furnished or labor thereon of any kind,  
38 or for amounts due under the Unemployment Insurance Act with respect to this  
39 work or labor, that the surety will pay the same in an amount not exceeding the  
40 amount hereinabove set forth, and also in case suit is brought upon this bond, will  
41 pay, in addition to the face amount thereof, costs and reasonable expenses and

1 fees, including reasonable attorney's fees, incurred by county (or city) in  
2 successfully enforcing this obligation, to be awarded and fixed by the court, and to  
3 be taxed as costs and to be included in the judgment therein rendered.

4 It is hereby expressly stipulated and agreed that this bond shall inure to the  
5 benefit of any and all persons, companies, and corporations entitled to file claims  
6 under ~~Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the~~  
7 Civil Part 6 (commencing with Section 41010 of Division 2 of the Public Contract  
8 Code, so as to give a right of action to them or their assigns in any suit brought  
9 upon this bond.

10 Should the condition of this bond be fully performed, then this obligation shall  
11 become null and void, otherwise it shall be and remain in full force and effect.

12 The surety hereby stipulates and agrees that no change, extension of time,  
13 alteration, or addition to the terms of the agreement or the specifications  
14 accompanying the same shall in any manner affect its obligations on this bond,  
15 and it does hereby waive notice of any such change, extension, alteration, or  
16 addition.

17 In witness whereof, this instrument has been duly executed by the principal and  
18 surety above named, on \_\_\_\_\_, 20\_\_.

19 **Comment.** Section 66499.2 is amended to correct cross-references and obsolete terminology.

20 **Gov't Code § 66499.7 (amended). Release of improvement security**

21 SEC. \_\_\_\_\_. Section 66499.7 of the Government Code is amended to read:

22 66499.7. The security furnished by the subdivider shall be released in whole or  
23 in part in the following manner:

24 (a) Security given for faithful performance of any act or agreement shall be  
25 released upon the performance of the act or final completion and acceptance of the  
26 required work. The legislative body may provide for the partial release of the  
27 security upon the partial performance of the act or the acceptance of the work as it  
28 progresses, consistent with the provisions of this section. The security may be a  
29 surety bond, a cash deposit, a letter of credit, escrow account, or other form of  
30 performance guarantee required as security by the legislative body that meets the  
31 requirements as acceptable security pursuant to law. If the security furnished by  
32 the subdivider is a documentary evidence of security such as a surety bond or a  
33 letter of credit, the legislative body shall release the documentary evidence and  
34 return the original to the issuer upon performance of the act or final completion  
35 and acceptance of the required work. In the event that the legislative body is  
36 unable to return the original documentary evidence to the issuer, the security shall  
37 be released by written notice sent by certified mail to the subdivider and issuer of  
38 the documentary evidence within 30 days of the acceptance of the work. The  
39 written notice shall contain a statement that the work for which the security was  
40 furnished has been performed or completed and accepted by the legislative body, a  
41 description of the project subject to the documentary evidence and the notarized  
42 signature of the authorized representative of the legislative body.

1 (b) At such time that the subdivider believes that the obligation to perform the  
2 work for which security was required is complete, the subdivider may notify the  
3 public entity in writing of the completed work, including a list of work completed.  
4 Upon receipt of the written notice, the public entity shall have 45 days to review  
5 and comment or approve the completion of the required work. If the public entity  
6 does not agree that all work has been completed in accordance with the plans and  
7 specifications for the improvements, it shall supply a list of all remaining work to  
8 be completed.

9 (c) Within 45 days of receipt of the list of remaining work from the public  
10 entity, the subdivider may then provide cost estimates for all remaining work for  
11 review and approval by the public entity. Upon receipt of the cost estimates, the  
12 public entity shall then have 45 days to review, comment, and approve, modify, or  
13 disapprove those cost estimates. No public entity shall be required to engage in  
14 this process of partial release more than once between the start of work and  
15 completion and acceptance of all work; however, nothing in this section prohibits  
16 a public entity from allowing for a partial release as it otherwise deems  
17 appropriate.

18 (d) If the public entity approves the cost estimate, the public entity shall release  
19 all performance security except for security in an amount up to 200 percent of the  
20 cost estimate of the remaining work. The process allowing for a partial release of  
21 performance security shall occur when the cost estimate of the remaining work  
22 does not exceed 20 percent of the total original performance security unless the  
23 public entity allows for a release at an earlier time. Substitute bonds or other  
24 security may be used as a replacement for the performance security, subject to the  
25 approval of the public entity. If substitute bonds or other security is used as a  
26 replacement for the performance security released, the release shall not be  
27 effective unless and until the public entity receives and approves that form of  
28 replacement security. A reduction in the performance security, authorized under  
29 this section, is not, and shall not be deemed to be, an acceptance by the public  
30 entity of the completed improvements, and the risk of loss or damage to the  
31 improvements and the obligation to maintain the improvements shall remain the  
32 sole responsibility of the subdivider until all required public improvements have  
33 been accepted by the public entity and all other required improvements have been  
34 fully completed in accordance with the plans and specifications for the  
35 improvements.

36 (e) The subdivider shall complete the works of improvement until all remaining  
37 items are accepted by the public entity.

38 (f) Upon the completion of the improvements, the subdivider, or his or her  
39 assigns, shall be notified in writing by the public entity within 45 days.

40 (g) Within 45 days of the issuance of the notification by the public entity, the  
41 release of any remaining performance security shall be placed upon the agenda of  
42 the legislative body of the public entity for approval of the release of any  
43 remaining performance security. If the public entity delegates authority for the

1 release of performance security to a public official or other employee, any  
2 remaining performance security shall be released within 60 days of the issuance of  
3 the written statement of completion.

4 (h) Security securing the payment to the contractor, his or her subcontractors  
5 and to persons furnishing labor, materials or equipment shall, after passage of the  
6 time within which claims of lien are required to be recorded pursuant to ~~Article 3~~  
7 ~~(commencing with Section 3114) of Chapter 2 of Title 15 of Part 4 of Division 3~~  
8 Article 2 (commencing with Section 7410) of Chapter 4 of Part 6 of Division 4 of  
9 the Civil Code and after acceptance of the work, be reduced to an amount equal to  
10 the total claimed by all claimants for whom claims of lien have been recorded and  
11 notice thereof given in writing to the legislative body, and if no claims have been  
12 recorded, the security shall be released in full.

13 (i) The release shall not apply to any required guarantee and warranty period  
14 required by Section 66499.9 for the guarantee or warranty nor to the amount of the  
15 security deemed necessary by the local agency for the guarantee and warranty  
16 period nor to costs and reasonable expenses and fees, including reasonable  
17 attorneys' fees.

18 (j) The legislative body may authorize any of its public officers or employees to  
19 authorize release or reduction of the security in accordance with the conditions  
20 hereinabove set forth and in accordance with any rules that it may prescribe.

21 (k) This section shall remain in effect only until January 1, 2011, and as of that  
22 date is repealed, unless a later enacted statute, that is enacted before January 1,  
23 2011, deletes or extends that date.

24 **Comment.** Section 66499.7 is amended to correct a cross-reference.

## 25 HEALTH AND SAFETY CODE

### 26 **Health & Safety Code § 5463 (amended). Sewer system construction**

27 SEC. \_\_\_\_\_. Section 5463 of the Health and Safety Code is amended to read:

28 5463. Any health officer or governing board of any city, county, sanitary  
29 district, or other district having the power to operate and maintain a sewerage  
30 system, having served written notice upon the owner or reputed owner of land  
31 upon which there is a dwelling house, and such owner or reputed owner, after 30  
32 days, having refused, neglected, or failed to connect such dwelling house, together  
33 with all toilets, sinks, and other plumbing therein, properly vented, and in a  
34 sanitary manner, with the adjoining street sewer, may construct the same at a  
35 reasonable cost, and the person doing said work at the request of such health  
36 officer or governing board has a lien upon said real estate for his work done and  
37 materials furnished, and such work done and materials furnished shall be held to  
38 have been done and furnished at the instance of such owner or reputed owner, or  
39 person claiming or having any interest therein. Such governing board may pay all  
40 or any part of the cost or price of such connection to the person or persons who

1 furnished labor, materials, or equipment for the same, and, to the extent such  
2 governing board pays the cost or price of said connection, it shall succeed to and  
3 have all the rights, including the lien provided for above, of such person or persons  
4 against the real estate and against the owner or reputed owner thereof.

5 As an alternative power to the enforcement of the lien provided for in this  
6 section, the governing body of the public agency performing the work of  
7 connection to the public sewer may, by order entered upon its minutes, declare  
8 that the amount of the costs of such work and the administrative expenses incurred  
9 by the governing body incident to the proceedings, together with other charges  
10 uniformly applicable within the jurisdiction of the governing body for the  
11 connection of the premises to the public sewer, shall be transmitted to the assessor  
12 and tax collector of the public agency, whereupon it shall be the duty of those  
13 officers to add the amount of the assessment to the next regular bill for taxes  
14 levied against the lot or parcel of land.

15 The liens provided for by this section shall be enforced in the same manner as  
16 those provided for by ~~Title 15 (commencing with Section 3082), Part 4, Division~~  
17 ~~3, Part 6 (commencing with Section 7000) of Division 4~~ of the Civil Code.

18 The governing board may also use the procedures in Section 5474 for levying  
19 the costs incurred for the construction of the improvements for the connection of  
20 the premises to the public sewer.

21 **Comment.** Section 5463 is amended to correct a cross-reference.

22 **Health & Safety Code § 16017.5 (amended). Stop work order**

23 SEC. \_\_\_\_\_. Section 16017.5 of the Health and Safety Code is amended to read:

24 16017.5. (a) Notwithstanding any provision of law to the contrary, including,  
25 but not limited to, ~~Title 15 (commencing with Section 3082) of Part 4~~ Part 6  
26 (commencing with Section 7000) of Division 4 of the Civil Code, the Department  
27 of General Services may issue a stop work order when construction work on an  
28 essential services facility is not being performed in accordance with existing law  
29 and would compromise the structural integrity of the building, thereby  
30 endangering the public safety. The Department of General Services shall allow  
31 construction of incidental and minor nonstructural additions or nonstructural  
32 alterations without invoking its stop work authority.

33 (b) A public board, body, or officer whose construction work on an essential  
34 services facility is subject to a stop work order issued pursuant to subdivision (a)  
35 shall not be held liable in any action filed against the public board, body, or officer  
36 for stopping work as required by the stop work order, or for any delays caused by  
37 compliance with the stop work order, except to the extent that an error or omission  
38 by the public board, body, or officer is the basis for the issuance of the stop work  
39 order.

40 **Comment.** Section 16017.5 is amended to correct a cross-reference.

1 **Health & Safety Code § 19825 (amended). Building permit**

2 SEC. \_\_\_\_\_. Section 19825 of the Health and Safety Code is amended to read:

3 19825. Every city or county that requires the issuance of a permit as a condition  
4 precedent to the construction, alteration, improvement, demolition, or repair of any  
5 building or structure shall, in addition to any other requirements, require the  
6 following declarations in substantially the following form upon the issuance of  
7 any building permit:

8 **BUILDING PROJECT IDENTIFICATION**

9 Applicant's Mailing Address

10 \_\_\_\_\_

11 \_\_\_\_\_  
12 Address of Building

13 \_\_\_\_\_

14 \_\_\_\_\_  
15 Owner's Name if Known

16 \_\_\_\_\_

17 Telephone No.

18 \_\_\_\_\_

19 Contractor's Name

20 \_\_\_\_\_

21 Contractor's Mailing Address

22 \_\_\_\_\_

23 \_\_\_\_\_  
24 Lic. No. \_\_\_\_\_

25 Architect or Engineer

26 \_\_\_\_\_

27 Architect's or Engineer's Address

28 \_\_\_\_\_

29 \_\_\_\_\_  
30 Lic. No. \_\_\_\_\_

31 In addition the city or county may require that there be included, in the building  
32 project identification portion of a building permit, the following:

33 Assessor's Parcel Number\*

34 \_\_\_\_\_

35 Permit Date

36 \_\_\_\_\_

37 Permit Number

38 \_\_\_\_\_

39 Description of Work

40 \_\_\_\_\_

41 Building Permit Valuation

42 \_\_\_\_\_

43 \*To be entered by issuing agency.

1 LICENSED CONTRACTOR'S DECLARATION

2 I hereby affirm under penalty of perjury that I am licensed under provisions of  
3 Chapter 9 (commencing with Section 7000) of Division 3 of the Business and  
4 Professions Code, and my license is in full force and effect.

5 License Class \_\_\_\_\_ Lic. No. \_\_\_\_\_

6 Date \_\_\_\_\_ Contractor \_\_\_\_\_

7 OWNER-BUILDER DECLARATION

8 I hereby affirm under penalty of perjury that I am exempt from the Contractors'  
9 State License Law for the following reason (Sec. 7031.5, Business and Professions  
10 Code: Any city or county that requires a permit to construct, alter, improve,  
11 demolish, or repair any structure, prior to its issuance, also requires the applicant  
12 for the permit to file a signed statement that he or she is licensed pursuant to the  
13 provisions of the Contractors' State License Law (Chapter 9 (commencing with  
14 Section 7000) of Division 3 of the Business and Professions Code) or that he or  
15 she is exempt therefrom and the basis for the alleged exemption. Any violation of  
16 Section 7031.5 by any applicant for a permit subjects the applicant to a civil  
17 penalty of not more than five hundred dollars (\$500).):

18  I, as owner of the property, or my employees with wages as their sole  
19 compensation, will do the work, and the structure is not intended or offered for  
20 sale (Sec. 7044, Business and Professions Code: The Contractors' State License  
21 Law does not apply to an owner of property who builds or improves thereon, and  
22 who does the work himself or herself or through his or her own employees,  
23 provided that the improvements are not intended or offered for sale. If, however,  
24 the building or improvement is sold within one year of completion, the owner-  
25 builder will have the burden of proving that he or she did not build or improve for  
26 the purpose of sale.).

27  I, as owner of the property, am exclusively contracting with licensed  
28 contractors to construct the project (Sec. 7044, Business and Professions Code:  
29 The Contractors' State License Law does not apply to an owner of property who  
30 builds or improves thereon, and who contracts for the projects with a contractor(s)  
31 licensed pursuant to the Contractors' State License Law.).

32  I am exempt under Sec. \_\_\_\_\_, B.& P.C. for this reason

33 \_\_\_\_\_

34 Date \_\_\_\_\_ Owner \_\_\_\_\_

35 WORKERS' COMPENSATION DECLARATION

36 I hereby affirm under penalty of perjury one of the following declarations: \_\_\_ I  
37 have and will maintain a certificate of consent to self-insure for workers'  
38 compensation, as provided for by Section 3700 of the Labor Code, for the  
39 performance of the work for which this permit is issued. \_\_\_ I have and will  
40 maintain workers' compensation insurance, as required by Section 3700 of the  
41 Labor Code, for the performance of the work for which this permit is issued. My  
42 workers' compensation insurance carrier and policy number are:

43 Carrier \_\_\_\_\_

1 Policy Number \_\_\_\_\_

2 I certify that, in the performance of the work for which this permit is issued, I  
3 shall not employ any person in any manner so as to become subject to the  
4 workers' compensation laws of California, and agree that, if I should become  
5 subject to the workers' compensation provisions of Section 3700 of the Labor  
6 Code, I shall forthwith comply with those provisions.

7 Date: \_\_\_\_\_ Applicant: \_\_\_\_\_

8  
9 **WARNING: FAILURE TO SECURE WORKERS' COMPENSATION**  
10 **COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO**  
11 **CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED**  
12 **THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF**  
13 **COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF**  
14 **THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.**

15 **CONSTRUCTION LENDING AGENCY**

16 I hereby affirm under penalty of perjury that there is a construction lending  
17 agency for the performance of the work for which this permit is issued (Sec. ~~3097~~  
18 7132, Civ. C.).

19 Lender's Name \_\_\_\_\_

20 Branch Designation \_\_\_\_\_

21 Lender's Address \_\_\_\_\_

22 I certify that I have read this application and state that the above information is  
23 correct. I agree to comply with all city and county ordinances and state laws  
24 relating to building construction, and hereby authorize representatives of this  
25 county to enter upon the above-mentioned property for inspection purposes.

26  
27 \_\_\_\_\_ Date

28 **Comment.** Section 19825 is amended to correct a cross-reference and conform the provision to  
29 Civil Code Section 7132 (designation of construction lender on building permit).

30 **Health & Safety Code § 34218 (amended). Comprehensive improvement assistance**  
31 **program housing projects**

32 SEC. \_\_\_\_\_. Section 34218 of the Health and Safety Code is amended to read:  
33 34218. ~~Chapter 7 (commencing with Section 3247) of Title 15 of Part 4 of~~  
34 ~~Division 3 of the Civil Code Chapter 5 (commencing with Section 45010) of Part~~  
35 6 of Division 2 of the Public Contract Code applies to any housing project  
36 constructed under this chapter. Notwithstanding the provisions of this section, a  
37 housing authority may require a 20 percent cash escrow or a 25 percent  
38 irrevocable letter of credit or the payment bond required by this section if the  
39 contract is for work undertaken pursuant to the Comprehensive Improvement  
40 Assistance Program established by Section 14 of the United States Housing Act of  
41 1937, as amended (42 U.S.C.A. Secs. 1437d and 1437l), or the Public Housing

1 Modernization Act established by Section 5(c)(3)(C) of the United States Housing  
2 Act of 1937, as amended (42 U.S.C.A. Secs. 1437d and 1437l).

3 **Comment.** Section 34218 is amended to correct a cross-reference.

#### 4 INSURANCE CODE

##### 5 **Ins. Code § 11751.82 (amended). Wrap-up insurance policy**

6 SEC. \_\_\_\_\_. Section 11751.82 of the Insurance Code is amended to read:

7 11751.82. (a) An insurer under a wrap-up insurance policy shall report workers'  
8 compensation losses and payroll information for each contractor and subcontractor  
9 to its rating organization on a timely basis and in accordance with the uniform  
10 statistical plan. Within 10 days, upon request, the insurer shall provide to each  
11 contractor and subcontractor copies of the report covering workers' compensation  
12 losses and payroll information for that contractor or subcontractor.

13 (b) For the purposes of this section, a "wrap-up insurance policy" is an insurance  
14 policy, or series of policies, written to cover risks associated with a work of  
15 improvement, as defined in Section ~~3106~~ 7046 of the Civil Code, and covering  
16 two or more of the contractors or subcontractors that work on that work of  
17 improvement.

18 **Comment.** Section 11751.82 is amended to correct a cross-reference.

#### 19 LABOR CODE

##### 20 **Lab. Code § 218.5 (amended). Nonpayment action**

21 SEC. \_\_\_\_\_. Section 218.5 of the Labor Code is amended to read:

22 218.5. In any action brought for the nonpayment of wages, fringe benefits, or  
23 health and welfare or pension fund contributions, the court shall award reasonable  
24 attorney's fees and costs to the prevailing party if any party to the action requests  
25 attorney's fees and costs upon the initiation of the action. This section shall not  
26 apply to an action brought by the Labor Commissioner. This section shall not  
27 apply to a surety issuing a bond pursuant to Chapter 9 (commencing with Section  
28 7000) of Division 3 of the Business and Professions Code or to an action to  
29 enforce a mechanics lien brought under ~~Chapter 2 (commencing with Section~~  
30 ~~3109) of Title 15 of Part 4 of Division 3~~ Chapter 4 (commencing with Section  
31 7400) of Part 6 of Division 4 of the Civil Code.

32 This section does not apply to any action for which attorney's fees are  
33 recoverable under Section 1194.

34 **Comment.** Section 218.5 is amended to correct a cross-reference.

1 PUBLIC CONTRACT CODE

2 **Pub. Cont. Code § 4107.7 (amended). Hazardous waste contract**

3 SEC. \_\_\_\_\_. Section 4107.7 of the Public Contract Code is amended to read:

4 4107.7 If a contractor who enters into a contract with a public entity for  
5 investigation, removal or remedial action, or disposal relative to the release or  
6 presence of a hazardous material or hazardous waste fails to pay a subcontractor  
7 registered as a hazardous waste hauler pursuant to Section 25163 of the Health and  
8 Safety Code within 10 days after the investigation, removal or remedial action, or  
9 disposal is completed, the subcontractor may serve a stop payment notice upon the  
10 public entity in accordance with ~~Chapter 4 (commencing with Section 3179) of~~  
11 ~~Title 15 of Part 4 of Division 3 of the Civil Code~~ Chapter 4 (commencing with  
12 Section 44110) of Part 6 of Division 2 of this code.

13 **Comment.** Section 4107.7 is amended to correct a cross-reference and terminology.

14 **Pub. Cont. Code § 7103 (amended). Payment bond on state contract**

15 SEC. \_\_\_\_\_. Section 7103 of the Public Contract Code is amended to read:

16 7103. (a) Every original contractor to who is awarded a contract by a state  
17 entity, as defined in subdivision (d), involving an expenditure in excess of five  
18 thousand dollars (\$5,000) for any public work shall, before entering up the  
19 performance of the work, file a payment bond with and approved by the officer or  
20 state entity by who the contract was awarded. The bond shall be in a sum not less  
21 than one hundred percent of the total amount payable by the terms of the contract.

22 The state entity shall state in its call for bids for any contract that a payment  
23 bond is required in the case of such an expenditure.

24 (b) A payment bond filed and approved in accordance with this section shall be  
25 sufficient to enter upon the performance of work under a duly authorized contract  
26 which supplements the contract for which the payment bond was filed if the  
27 requirement of a new bond is waived by the state entity.

28 (c) For purposes of this section, providers of architectural, engineering and land  
29 surveying services pursuant to a contract with a state entity for a public work shall  
30 not be deemed an original contractor and shall not be required to post or file the  
31 payment bond required in subdivisions (a) and (b).

32 (d) For purposes of this section, "state entity" means every state office  
33 department, division, bureau, board, or commission, but does not include the  
34 Legislature, the courts, any agency in the judicial branch of government, or the  
35 University of California. All other public entities shall be governed by the  
36 provisions of ~~Section 3247 of the Civil Code~~ Section 45010.

37 (e) For purposes of this section, "public work" includes the erection,  
38 construction, alteration, repair or improvement of any state structure, building,  
39 road, or other state improvement of any kind.

40 **Comment.** Section 7103 is amended to correct a cross-reference.

1 **Pub. Cont. Code § 10222 (amended). Amount of payment bond**

2 SEC. \_\_\_\_\_. Section 10222 of the Public Contract Code is amended to read:

3 10222. (a) Each bond shall equal at least one-half of the contract price, except as  
4 otherwise provided in ~~Section 3248 of the Civil Code~~ Section 45030, in the  
5 California Toll Bridge Authority Act (Chapter 1 (commencing with Section  
6 30000) of Division 7 of the Streets and Highways Code), or in subdivision (b).

7 (b) Notwithstanding subdivision (a), for projects with a contract price greater  
8 than two hundred fifty million dollars (\$250,000,000), the Department of  
9 Transportation shall have the discretion to specify that the payment bond shall  
10 equal not less than one-half of the contract price or five hundred million dollars  
11 (\$500,000,000), whichever is less.

12 **Comment.** Section 10222 is amended to correct a cross-reference.

13 **Pub. Cont. Code § 10822 (amended). Amount of bond**

14 SEC. \_\_\_\_\_. Section 10822 of the Public Contract Code is amended to read:

15 10822. Each bond shall be in a sum equal to at least one-half of the contract  
16 price, except as otherwise provided in ~~Section 3248 of the Civil Code~~ Section  
17 45030.

18 **Comment.** Section 10822 is amended to correct a cross-reference.

19 **Pub. Cont. Code § 20104 (amended). Resolution of construction claims**

20 SEC. \_\_\_\_\_. Section 20104 of the Public Contract Code is amended to read:

21 20104. (a) (1) This article applies to all public works claims of three hundred  
22 seventy-five thousand dollars (\$375,000) or less which arise between a contractor  
23 and a local agency.

24 (2) This article shall not apply to any claims resulting from a contract between a  
25 contractor and a public agency when the public agency has elected to resolve any  
26 disputes pursuant to Article 7.1 (commencing with Section 10240) of Chapter 1 of  
27 Part 2.

28 (b) (1) “Public work” ~~has the same meaning as in Sections 3100 and 3106 of the~~  
29 ~~Civil Code, except that “public work”~~ means “public works contract” as defined in  
30 Section 1101 but does not include any work or improvement contracted for by the  
31 state or the Regents of the University of California.

32 (2) “Claim” means a separate demand by the contractor for (A) a time extension,  
33 (B) payment of money or damages arising from work done by, or on behalf of, the  
34 contractor pursuant to the contract for a public work and payment of which is not  
35 otherwise expressly provided for or the claimant is not otherwise entitled to, or (C)  
36 an amount the payment of which is disputed by the local agency.

37 (c) The provisions of this article or a summary thereof shall be set forth in the  
38 plans or specifications for any work which may give rise to a claim under this  
39 article.

40 (d) This article applies only to contracts entered into on or after January 1, 1991.

41 **Comment.** Section 20104 is amended to correct cross-references.

1 **Pub. Cont. Code § 20134 (amended). Emergency repairs**

2 SEC. \_\_\_\_\_. Section 20134 of the Public Contract Code is amended to read:

3 20134. (a) In cases of emergency, when repair or replacements are necessary to  
4 permit the continued conduct of county operations or services, the board of  
5 supervisors, by majority consent, may proceed at once to replace or repair any and  
6 all structures without adopting the plans, specifications, strain sheets, or working  
7 details or, subject to Chapter 2.5 (commencing with Section 22050), giving notice  
8 for bids to let contracts. If notice for bids to let contracts will not be given, the  
9 board shall comply with Chapter 2.5 (commencing with Section 22050). The work  
10 may be done by day labor under the direction of the board, by contract, or by a  
11 combination of the two. If the work is done wholly or in part by contract, the  
12 contractor shall be paid the actual cost of the use of machinery and tools and of  
13 material, and labor and of workers' compensation insurance expended by him or  
14 her in doing the work, plus not more than 15 percent to cover all profits and  
15 administration. No more than the lowest current market prices shall be paid for  
16 materials whenever possible.

17 (b) In a county of the first, second, third, or fourth class, which is under court  
18 order to relieve jail overcrowding or in which the sheriff certifies that the inmate  
19 capacity of the county jail system is exceeded by more than 20 percent and that the  
20 overpopulation is likely to continue and poses a threat to public safety, health, and  
21 welfare, the board of supervisors may contract for the construction or expansion of  
22 jail facilities without the formality of obtaining bids, adopting plans and  
23 specifications, or complying with other requirements of this article, except as  
24 required by this subdivision. The person to whom the contract is awarded shall  
25 execute a bond for faithful performance in accordance with Section 20129. Any  
26 plans and specifications adopted by the board may only be altered or changed in  
27 accordance with Section 20135 and all contracts awarded pursuant to this  
28 subdivision may only be altered or changed in accordance with Sections 20136,  
29 20137, and 20138. The award of the contract shall be made after a public hearing  
30 on the basis of a request for proposals advertised in accordance with Section 6062  
31 or 6062a of the Government Code. The contract may be awarded only to a  
32 contractor who has responded to the request for proposals and who is licensed to  
33 do the work in accordance with Chapter 9 (commencing with Section 7000) of  
34 Division 3 of the Business and Professions Code. The contract shall be upon terms  
35 which the board determines are necessary for the expeditious completion of the  
36 work. A contract shall not be entered into unless at least three proposals to do the  
37 work have been evaluated by a competitive process established by the board. If the  
38 board does not select the lowest bid, it shall make a finding stating the reasons that  
39 the lowest bid was not selected.

40 (c) In any county that has agreed to permit the transfer of prisoners or parole  
41 violators under Section 2910 or 2910.5 of the Penal Code or of wards under  
42 Section 1753.3 of the Welfare and Institutions Code, the board of supervisors may  
43 contract for the construction or expansion of the facilities to be used for that

1 purpose without the formality of obtaining bids, adopting plans and specifications,  
2 or complying with other requirements of this article, except as required by this  
3 subdivision. The person to whom the contract is awarded shall execute a bond for  
4 faithful performance in accordance with Section 20129. Any plans and  
5 specifications adopted by the board may only be altered or changed in accordance  
6 with Section 20135 and all contracts awarded pursuant to this subdivision may  
7 only be altered or changed in accordance with Sections 20136, 20137, and 20138.  
8 The award of the contract shall be made after a public hearing on the basis of a  
9 request for proposals advertised in accordance with Section 6062 or 6062a of the  
10 Government Code. The contract may be awarded only to a contractor who has  
11 responded to the request for proposals and who is licensed to do the work in  
12 accordance with Chapter 9 (commencing with Section 7000) of Division 3 of the  
13 Business and Professions Code. The contract shall be upon terms which the board  
14 determines are necessary for the expeditious completion of the work. A contract  
15 shall not be entered into unless at least three proposals to do the work have been  
16 evaluated by a competitive process established by the board and the lowest bid is  
17 selected.

18 (d) Proposed construction or expansion of jail or return-to-custody facilities as  
19 authorized under subdivision (b) or (c) shall not commence in a county of the third  
20 class without the affirmative vote of a majority of the city council of the  
21 incorporated city within which the construction or expansion is proposed.

22 (e) The board of supervisors may waive the requirements of ~~Title 15~~  
23 ~~(commencing with Section 3082) of Part 4 of Division 3 of the Civil Code~~ Part 6  
24 (commencing with Section 41010) for work performed pursuant to subdivision (b)  
25 or (c).

26 (f) If any county that is under court order to relieve overcrowding in a county  
27 juvenile facility, as defined by subdivision (c) of Section 4481 of the Penal Code  
28 or in which the chief probation officer certifies that the juvenile detention capacity  
29 of the county juvenile facilities is exceeded by more than 20 percent and that the  
30 overpopulation is likely to continue and poses a threat to public safety, health, and  
31 welfare, the board of supervisors may contract for the construction or expansion of  
32 county juvenile facilities without the formality of obtaining bids, adopting plans  
33 and specifications, or complying with other requirements of this article, except as  
34 required by this subdivision. The person to whom the contract is awarded shall  
35 execute a bond for faithful performance in accordance with Section 20129. Any  
36 plans and specifications adopted by the board may only be altered or changed in  
37 accordance with Section 20135 and all contracts awarded pursuant to this  
38 subdivision may only be altered or changed in accordance with Sections 20136,  
39 20137, and 20138. The award of the contract shall be made after a public hearing  
40 on the basis of a request for proposals advertised in accordance with Section 6062  
41 or 6062a of the Government Code. The contract may be awarded only to a  
42 contractor who has responded to the request for proposals and who is licensed to  
43 do the work in accordance with Chapter 9 (commencing with Section 7000) of

1 Division 3 of the Business and Professions Code. The contract shall be upon terms  
2 which the board determines are necessary for the expeditious completion of the  
3 work. A contract shall not be entered into unless at least three proposals to do the  
4 work have been evaluated by a competitive process established by the board. If the  
5 board does not select the lowest bidder, it shall make a finding stating the reasons  
6 that the lowest bidder was not selected.

7 (g) In a county of the third class in which there are no available courtrooms to  
8 accommodate all authorized judicial positions or in which the board of supervisors  
9 certifies that there is a significant need to expeditiously construct new court and  
10 court support facilities, the board of supervisors may contract for the construction  
11 or expansion of court and court support facilities without the formality of  
12 obtaining bids, adopting plans and specifications, or complying with other  
13 requirements of this article, except as required by this subdivision. The person to  
14 whom the contract is awarded shall execute a bond for faithful performance in  
15 accordance with Section 20129. Any plans and specifications adopted by the board  
16 may only be altered or changed in accordance with Section 20135 and all contracts  
17 awarded pursuant to this subdivision may only be altered or changed in  
18 accordance with Sections 20136, 20137, and 20138. The award of the contract  
19 shall be made after a public hearing on the basis of a request for proposals  
20 advertised in accordance with Section 6062 or 6062a of the Government Code.  
21 The contract may be awarded only to a contractor who has responded to the  
22 request for proposals and who is licensed to do the work in accordance with  
23 Chapter 9 (commencing with Section 7000) of Division 3 of the Business and  
24 Professions Code. The contract shall be upon terms which the board determines  
25 are necessary for the expeditious completion of the work. A contract shall not be  
26 entered into unless at least three proposals to do the work have been evaluated by  
27 a competitive process established by the board and the lowest bid is selected. This  
28 subdivision shall remain in effect until December 31, 1994.

29 **Comment.** Section 20134 is amended to correct a cross-reference.

30 **Pub. Cont. Code § 20461 (amended). Assignment by contractor**

31 SEC. \_\_\_\_\_. Section 20461 of the Public Contract Code is amended to read:

32 20461. No assignment by the contractor of the whole or any part of the money,  
33 assessment, partial assessment, any reassessment and any bonds which may be  
34 issued to represent any assessment or reassessment, due ~~him~~ or to be due ~~him~~  
35 under the contract, or for “extras” in connection therewith, whether made before or  
36 after a verified claim is filed pursuant to this chapter, shall take priority over ~~such~~  
37 the claims, and ~~such~~ the assignment shall have no binding force insofar as the  
38 rights of the claimants, or their assigns, are concerned. None of the provisions of  
39 ~~Title 15 (commencing with Section 3082), Part 4, Division 3, of the Civil Code~~  
40 Part 6 (commencing with Section 41010), shall be applicable to any assessment,  
41 partial assessment, reassessment, bonds, moneys or funds payable to the contractor  
42 or ~~his~~ assignee under this division or to any matter contained in this chapter.

1 **Comment.** Section 20461 is amended to correct a cross-reference. The other changes are  
2 technical.

3 **Pub. Cont. Code § 20496 (amended). Municipal Improvement Act of 1913**

4 SEC. \_\_\_\_\_. Section 20496 of the Public Contract Code is amended to read:  
5 20496. The provisions of ~~Title 15 (commencing with Section 3082), Part 4,~~  
6 ~~Division 3, of the Civil Code~~ Part 6 (commencing with Section 41010) are hereby  
7 expressly made applicable to the construction of works and improvements under  
8 this article.

9 **Comment.** Section 20496 is amended to correct a cross-reference.

10 **Pub. Cont. Code § 20688.4 (amended). Redevelopment agencies**

11 SEC. \_\_\_\_\_. Section 20688.4 of the Public Contract Code is amended to read:  
12 20688.4 An agency shall require each successful bidder to file with it good and  
13 sufficient bonds, to be approved by it. The bonds shall be conditioned upon the  
14 faithful performance of the contract and upon the payment of all claims for labor  
15 and material in connection with the contract. The bonds shall contain the terms  
16 and conditions set forth in ~~Chapter 7 (commencing with Section 3247) of Title 15~~  
17 ~~of Part 4 of Division 3 of the Civil Code~~ Chapter 5 (commencing with Section  
18 45010) of Part 6 and are subject to the provisions of that chapter.

19 **Comment.** Section 20688.4 is amended to correct a cross-reference.

20 **Pub. Cont. Code § 20813 (amended). Fire protection districts**

21 SEC. \_\_\_\_\_. Section 20813 of the Public Contract Code is amended to read:  
22 20813. (a) All contracts for the construction or completion of any building,  
23 structure, or improvement, when the expenditure required for the work exceeds ten  
24 thousand dollars (\$10,000), shall be contracted for and let to the lowest  
25 responsible bidder after notice. If two or more bids are the same and the lowest,  
26 the district board may accept the one it chooses.

27 (b) The notice inviting bids shall set a date for the opening of bids. The first  
28 publication or posting of the notice shall be at least 10 days before the date of  
29 opening the bids. Notice shall be published at least twice, not less than five days  
30 apart, in a newspaper of general circulation in the district, or if there is none, it  
31 shall be posted in at least three public places in the district. The notice shall  
32 distinctly state the work to be done.

33 (c) In its discretion, the district board may reject any bids presented and  
34 readvertise.

35 (d) In the case of an emergency, the district board may act pursuant to Chapter  
36 2.5 (commencing with Section 22050).

37 (e) The district board may, subject to the provisions of ~~Chapter 7 (commencing~~  
38 ~~with Section 3247) of Title 15 of Part 4 of Division 3 of the Civil Code~~ Chapter 5  
39 (commencing with Section 45010) of Part 6, require the posting of those bonds it  
40 deems desirable as a condition to the filing of a bid or the letting of a contract.

1 (f) Cost records of the work shall be kept in the manner provided in Chapter 1  
2 (commencing with Section 4000) of Division 5 of Title 1 of the Government  
3 Code.

4 **Comment.** Section 20813 is amended to correct a cross-reference.

5 **Pub. Cont. Code § 20815.3 (amended). Recreation and park districts**

6 SEC. \_\_\_\_\_. Section 20815.3 of the Public Contract Code is amended to read:

7 20815.3. (a) A district shall publish notice inviting bids for any contract for  
8 which competitive bidding is required at least one time in a newspaper of general  
9 circulation in the district at least one week before the time specified for receiving  
10 bids. The notice shall distinctly state the work to be done.

11 (b) In its discretion, the board of directors may do any of the following:

12 (1) Reject all bids and readvertise.

13 (2) By a four-fifths vote, elect to purchase the materials or supplies in the open  
14 market.

15 (3) By a four-fifths vote, elect to construct the building, structure, or  
16 improvement by force account.

17 (c) In the case of an emergency, the board of directors may act pursuant to  
18 Chapter 2.5 (commencing with Section 22050).

19 (d) The board of directors may, subject to the provisions of ~~Chapter 7~~  
20 ~~(commencing with Section 3247) of Title 15 of Part 4 of Division 3 of the Civil~~  
21 ~~Code Chapter 5 (commencing with Section 45010) of Part 6,~~ require the posting of  
22 those bonds it deems as a condition to the filing of a bid or the letting of a  
23 contract.

24 (e) The district shall keep cost records of the work pursuant to Chapter 1  
25 (commencing with Section 4000) of Division 5 of Title 1 of the Government  
26 Code.

27 **Comment.** Section 20815.3 is amended to correct a cross-reference.

28 **Pub. Cont. Code § 20991 (amended). Los Angeles County Flood Control District**

29 SEC. \_\_\_\_\_. Section 20991 of the Public Contract Code is amended to read:

30 20991. All contracts for any improvement or unit of work, except as provided in  
31 this article, estimated to cost in excess of twenty-five thousand dollars (\$25,000),  
32 shall be let to the lowest responsible bidder in the manner provided in this article.  
33 The board of supervisors of the district shall advertise by five or more insertions in  
34 a daily newspaper of general circulation, or by two or more insertions in a weekly  
35 newspaper of general circulation, printed and published in the district, inviting  
36 sealed proposals for the construction of the improvement or work. The board shall  
37 require the successful bidder or bidders to file with the board good and sufficient  
38 bonds, to be approved by the board, conditioned upon the faithful performance of  
39 the contract and upon the payment of all claims for labor and material. The bonds  
40 shall contain the terms and conditions set forth in ~~Chapter 7 (commencing with~~  
41 ~~Section 3247) of Title 15 of Part 4 of Division 3 of the Civil Code Chapter 5~~

1 (commencing with Section 45010) of Part 6 and shall be subject to the provisions  
2 of that chapter. The board shall have the right to reject any bid not suitable to the  
3 best interests of the district. In the event all proposals are rejected or no proposals  
4 are received pursuant to advertisement, or the estimated cost of the work does not  
5 exceed ten thousand dollars (\$10,000), or the work consists of channel protection,  
6 dam protection, temporary work, maintenance work, or emergency work, the  
7 board of supervisors may, without advertising for bids, have the work done by  
8 force account. Emergency work may also be done by negotiated contract without  
9 advertising for bids. In case of an emergency, if notice for bids to let contracts will  
10 not be given, the board shall comply with Chapter 2.5 (commencing with Section  
11 22050).

12 **Comment.** Section 20991 is amended to correct a cross-reference.

13 **Pub. Cont. Code § 21061 (amended). San Bernardino County Flood Control District**

14 SEC. \_\_\_\_\_. Section 21061 of the Public Contract Code is amended to read:

15 21061. (a) All contracts for any improvement or unit of work, except as  
16 provided in this article, estimated to cost in excess of twenty-five thousand dollars  
17 (\$25,000), shall be let to the lowest responsible bidder in the manner provided in  
18 this article.

19 (b) The board of supervisors of the district shall advertise by five or more  
20 insertions in a daily newspaper of general circulation, or by two or more insertions  
21 in a weekly newspaper of general circulation, printed and published in the district,  
22 inviting sealed proposals for the construction of the improvement or work. The  
23 board shall require the successful bidder or bidders to file with the board good and  
24 sufficient bonds, to be approved by the board, conditioned upon the faithful  
25 performance of the contract and upon the payment of all claims for labor and  
26 material, the bonds to contain the terms and conditions set forth in ~~Chapter 7~~  
27 ~~(commencing with Section 3247) of Title 15 of Part 4 of Division 3 of the Civil~~  
28 ~~Code Chapter 5 (commencing with Section 45010) of Part 6~~ and to be subject to  
29 that chapter.

30 (c) The board may also reject any bid not suitable to the best interests of the  
31 district. If all proposals are rejected or no proposals are received pursuant to  
32 advertisement therefor, or the work consists of channel protection, dam protection,  
33 temporary work, maintenance work, or of emergency work, the board of  
34 supervisors may, without advertising for bids, have the work done by force  
35 account. Emergency work may also be done by negotiated contract without  
36 advertising for bids or requiring bonds. In case of an emergency, if notice for bids  
37 to let contracts will not be given, the board shall comply with Chapter 2.5  
38 (commencing with Section 22050).

39 (d) The board of supervisors, acting as the board of the district, may, by  
40 ordinance, resolution, or board order, authorize the flood control engineer or other  
41 county officer to order changes or additions in work being performed under a  
42 construction contract. When so authorized, any change or addition in the work

1 shall be ordered in writing by the flood control engineer, or other designated  
2 officer, and the extra cost for any change or addition to the work so ordered shall  
3 not exceed five thousand dollars (\$5,000) when the total amount of the original  
4 contract does not exceed fifty thousand dollars (\$50,000), nor 10 percent of the  
5 amount of any original contract that exceeds fifty thousand dollars (\$50,000), but  
6 does not exceed two hundred fifty thousand dollars (\$250,000). For contracts  
7 whose original cost exceeds two hundred fifty thousand dollars (\$250,000), the  
8 extra cost for any change or addition to the work so ordered shall not exceed  
9 twenty-five thousand dollars (\$25,000), plus 5 percent of the amount of the  
10 original contract costs in excess of two hundred fifty thousand dollars (\$250,000).  
11 In no event shall any such change or alteration exceed one hundred fifty thousand  
12 dollars (\$150,000).

13 **Comment.** Section 21061 is amended to correct a cross-reference.

14 **Pub. Cont. Code § 21081 (amended). Humboldt County Flood Control District**

15 SEC. \_\_\_\_\_. Section 21081 of the Public Contract Code is amended to read:

16 21081. All contracts for any improvement or unit of work, when the cost,  
17 according to the estimate of the engineer, will exceed five thousand dollars  
18 (\$5,000), shall be let to the lowest responsible bidder or bidders in the manner  
19 provided in this article. The board shall first determine whether the contract shall  
20 be let as a single unit for the whole of the work, or shall be divided into severable  
21 parts, or both, according to the best interests of the district. The board shall call for  
22 bids and advertise the call by three insertions in a daily newspaper of general  
23 circulation or by two insertions in a weekly newspaper of general circulation  
24 printed and published in the district inviting sealed proposals for the construction  
25 or performance of the improvement or work before any contract is made. The call  
26 for bids shall state whether the work is to be performed as a unit or divided into  
27 severable specific parts, or both, as stated in the call. The board may let the work  
28 by single contract for the whole or it may divide such work into severable parts by  
29 separate contracts, as stated in such call, according to the best interests of the  
30 district. The board shall require the successful bidder or bidders to file with the  
31 board good and sufficient bonds to be approved by the board conditioned upon the  
32 faithful performance of the contract and upon the payment of their claims for labor  
33 and material, the bonds to contain the terms and conditions set forth in ~~Title 15~~  
34 ~~(commencing with Section 3082) of Part 4 of Division 3 of the Civil Code~~ Part 6  
35 (commencing with Section 41010) and to be subject to the provisions of that title.  
36 The board shall also have the right to reject any bid. In the event all proposals are  
37 rejected or no proposals are received pursuant to advertisement, or the estimated  
38 cost of such work does not exceed five thousand dollars (\$5,000), or the work  
39 consists of channel protection, maintenance work, or emergency work, the board  
40 of supervisors may, without advertising for bids, have the work done by force  
41 account. The district may purchase in the open market, without advertising for

1 bids, materials and supplies for use in any work either under contract or by force  
2 account.

3 **Comment.** Section 21081 is amended to correct a cross-reference.

4 **Pub. Cont. Code § 21091 (amended). Riverside County Flood Control and Water**

5 **Conservation District**

6 SEC. \_\_\_\_\_. Section 21091 of the Public Contract Code is amended to read:

7 21091. All contracts for any improvement or unit of work, except as otherwise  
8 provided in this act, estimated to cost in excess of fifteen thousand dollars  
9 (\$15,000) shall be let to the lowest responsible bidder in the manner provided in  
10 this article. The board of supervisors of the district shall advertise by three  
11 insertions in a daily newspaper of general circulation or two insertions in a weekly  
12 newspaper of general circulation printed and published in the district inviting  
13 sealed proposals for the construction of the improvement or work before any  
14 contract is made, and may let by contract separately any part of the work or  
15 improvement. The board shall require the successful bidder to file with the board  
16 good and sufficient bonds to be approved by the board conditioned upon the  
17 faithful performance of the contract and upon the payment of their claims for labor  
18 and material. The bonds shall contain the terms and conditions set forth in  
19 Sections 10223 and 10224 of the Public Contract Code and Section 3248 of the  
20 Civil Code, 10224, and 45030 and be subject to those sections. The board shall  
21 also have the right to reject any bid. If all proposals are rejected or no proposals  
22 are received pursuant to advertisement, or where the estimated cost of the work  
23 does not exceed fifteen thousand dollars (\$15,000), or the work consists of channel  
24 protection, maintenance work, or emergency work, the board of supervisors may,  
25 without advertising for bids, have the work done by force account. In case of an  
26 emergency, if notice for bids to let contracts will not be given, the board shall  
27 comply with Chapter 2.5 (commencing with Section 22050). The district may  
28 purchase in the open market, without advertising for bids, materials and supplies  
29 for use in any improvement or unit of work either under contract or by force  
30 account.

31 **Comment.** Section 21091 is amended to correct a cross-reference.

32 **Pub. Cont. Code § 21101. San Luis Obispo County Flood Control and Water Conservation**  
33 **District**

34 SEC. \_\_\_\_\_. Section 21101 of the Public Contract Code is amended to read:

35 21101. All contracts for any improvement or unit of work, when the cost,  
36 according to the estimate of the engineer, will exceed five thousand dollars  
37 (\$5,000), shall be let to the lowest responsible bidder or bidders in the manner  
38 provided in this article. The board shall first determine whether the contract shall  
39 be let as a single unit for the whole of the work, or shall be divided into parts, or  
40 both, according to the best interests of the district. The board shall call for bids and  
41 advertise the call by three insertions in a daily newspaper of general circulation or

1 two insertions in a weekly newspaper of general circulation printed and published  
2 in the district inviting sealed proposals for the construction or performance of the  
3 improvement or work before any contract shall be made. The call for bids shall  
4 state whether the work is to be performed as a unit or is to be divided into  
5 severable specific parts, or both, as stated in the call. The board may let the work  
6 by single contract for the whole as a unit or it may divide the work into severable  
7 parts by separate contracts, as stated in the call, according to the best interests of  
8 the district. The board shall require the successful bidder or bidders to file with the  
9 board good and sufficient bonds to be approved by the board conditioned upon the  
10 faithful performance of the contract and upon the payment of their claims for labor  
11 and material, the bonds to contain the terms and conditions set forth in ~~Title 15~~  
12 ~~(commencing with Section 3082) of Part 4 of Division 3 of the Civil Code~~ Part 6  
13 (commencing with Section 41010) and to be subject to the provisions of that ~~title~~  
14 part. The board shall also have the right to reject any bid. In the event all proposals  
15 are rejected or no proposals are received pursuant to advertisement, or the  
16 estimated cost of the work does not exceed five thousand dollars (\$5,000), or the  
17 work consists of channel protection, maintenance work, or emergency work, the  
18 board of supervisors may, without advertising for bids, have the work done by  
19 force account. In case of an emergency, if notice for bids to let contracts will not  
20 be given, the board shall comply with Chapter 2.5 (commencing with Section  
21 22050). The district shall have the power to purchase in the open market without  
22 advertising for bids, materials and supplies for use in any work either under  
23 contract or by force account.

24 **Comment.** Section 21101 is amended to correct a cross-reference.

25 **Pub. Cont. Code § 21111 (amended). Santa Barbara County Water Agency**

26 **SEC. \_\_\_\_.** Section 21111 of the Public Contract Code is amended to read:

27 21111. (a) All contracts for the construction of any unit of work, except as  
28 provided in this article, estimated to cost in excess of ten thousand dollars  
29 (\$10,000) shall be let to the lowest responsible bidder in the manner provided in  
30 this article. The board of directors of the agency shall advertise by three insertions  
31 in a daily newspaper of general circulation or two insertions in a weekly  
32 newspaper of general circulation published in the agency's jurisdiction inviting  
33 sealed proposals for the construction of the work before any contract shall be  
34 made, and may let by contract separately any part of the work. The board shall  
35 require the successful bidder to file with the board good and sufficient bonds to be  
36 approved by the board conditioned upon the faithful performance of the contract  
37 and upon the payment of the claims for labor and material. The faithful  
38 performance bond shall contain terms and conditions as the board may specify,  
39 and the payment bond shall be subject to the provisions of, and shall contain the  
40 terms and conditions set forth in ~~Title 15 (commencing with Section 3082) of Part~~  
41 ~~4 of Division 3 of the Civil Code~~ Part 6 (commencing with Section 41010), as  
42 applicable. The board shall also have the right to reject any bid, in which case the

1 board may advertise for new bids. In the event no proposals are received pursuant  
2 to advertisement, or where the estimated cost of the work does not exceed ten  
3 thousand dollars (\$10,000), or the work consists of emergency work, the board of  
4 directors by unanimous vote of all members present may, without advertising for  
5 bids, have the work done by force account. In case of an emergency, if notice for  
6 bids to let contracts will not be given, the board shall comply with Chapter 2.5  
7 (commencing with Section 22050). The agency may purchase in the open market,  
8 and may authorize the Purchasing Agent of the County of Santa Barbara to  
9 purchase, without advertisement for bids, materials and supplies for use in any  
10 work either under contract or by force account.

11 (b) If the work to be performed by or on behalf of the agency does not involve  
12 an expenditure of ten thousand dollars (\$10,000) or more, or if the work consists  
13 of emergency work, the agency may require a faithful performance bond. The  
14 agency may require a payment bond on work performed on behalf of the agency  
15 which does not involve an expenditure of more than ten thousand dollars  
16 (\$10,000).

17 **Comment.** Section 21111 is amended to correct a cross-reference.

18 **Pub. Cont. Code § 21121 (amended). Monterey County Flood Control and Water**  
19 **Conservation District**

20 SEC. \_\_\_\_\_. Section 21121 of the Public Contract Code is amended to read:

21 21121. (a) All contracts for any improvement or unit of work, if the cost  
22 according to the estimate of the engineer, exceeds five thousand dollars (\$5,000),  
23 shall be let to the lowest responsible bidder or bidders.

24 (b) The board shall first determine whether the contract shall be let as a single  
25 unit for the whole of the work, or shall be divided into severable parts, or both,  
26 according to the best interests of the agency.

27 (c) The board shall call for bids and advertise the call by three insertions in a  
28 daily newspaper of general circulation or by two insertions in a weekly newspaper  
29 of general circulation printed and published in the territory of the agency inviting  
30 sealed proposals for the construction or performance of the improvement or work  
31 before any contract is entered into. The call for bids shall state whether the work is  
32 to be performed as a unit or shall be divided into severable specific parts, or both,  
33 as stated in the call. The board may let the work by single contract or it may divide  
34 the work into severable parts by separate contracts, as stated in the call, according  
35 to the best interests of the agency.

36 (d) The board shall require the successful bidder or bidders to file with the board  
37 good and sufficient bonds to be approved by the board conditioned upon the  
38 faithful performance of the contract and upon the payment of their claims for labor  
39 and material in connection with the contract. The bonds shall contain the terms  
40 and conditions set forth in ~~Title 15 (commencing with Section 3082) of Part 4 of~~  
41 ~~Division 3 of the Civil Code~~ Part 6 (commencing with Section 41010) and are  
42 subject to the provisions of that ~~title~~ part.

1 (e) The board may reject any bid. The board of supervisors may, without  
2 advertising for bids, have the work done by force account if any of the following  
3 requirements are met:

4 (1) All the projects are rejected.

5 (2) No proposals are received in response to the advertisement.

6 (3) The estimated cost of the work does not exceed five thousand dollars  
7 (\$5,000).

8 (4) The work consists of channel protection, maintenance work, or emergency  
9 work. In case of an emergency, if notice for bids to let contracts will not be given,  
10 the board shall comply with Chapter 2.5 (commencing with Section 22050).

11 (f) The agency may purchase in the open market, without advertising for bids,  
12 materials and supplies for use in any work either under contract or by force  
13 account.

14 (g) The Monterey County Board of Supervisors may grant to the board of  
15 directors, appointed pursuant to Section 49 of the Monterey County Water  
16 Resources Agency Act (Chapter 1159 of the Statutes of 1990), any of the powers  
17 or duties granted to the Monterey County Board of Supervisors by this section.

18 **Comment.** Section 21121 is amended to correct a cross-reference.

19 **Pub. Cont. Code § 21131 (amended). Sonoma County Flood Control and Water**  
20 **Conservation District**

21 SEC. \_\_\_\_\_. Section 21131 of the Public Contract Code is amended to read:

22 21131. (a) All contracts for the construction of any unit of work, except as  
23 provided in this article, estimated to cost in excess of two thousand five hundred  
24 dollars (\$2,500) shall be let to the lowest responsible bidder in the manner  
25 provided in this article. The board shall advertise by three placements in a daily  
26 newspaper of general circulation or two insertions in a weekly newspaper of  
27 general circulation published in the district inviting sealed proposals for the  
28 construction of the work before any contract is made, and may let by contract  
29 separately any part of the work. The board shall require the successful bidder to  
30 file with the board good and sufficient bonds to be approved by the board  
31 conditioned upon the faithful performance of the contract and upon the payment of  
32 the claims for labor and material in connection therewith, the bonds to contain the  
33 terms and conditions set forth in ~~Title 15 (commencing with Section 3082) of Part~~  
34 ~~4 of Division 3 of the Civil Code, Part 6 (commencing with Section 41010)~~ and to  
35 be subject to the provisions of that ~~title~~ part. The board may reject any bid, in  
36 which case the board may advertise for new bids.

37 (b) In the event no proposals are received pursuant to advertisement therefor, or  
38 where the work consists of emergency work, the board of directors, by unanimous  
39 vote of all members present, may, without advertising for bids, have the work  
40 done by force account. In case of an emergency, if notice for bids to let contracts  
41 will not be given, the board shall comply with Chapter 2.5 (commencing with  
42 Section 22050).

1 (c) The district may purchase in the open market without advertisement for bids,  
2 materials and supplies for use in any work either under contract or by force  
3 account; provided, however, that materials and supplies for use in any new  
4 construction work or improvement, except work authorized and required under  
5 circumstances referred to in subdivision (b), may not be purchased if the cost  
6 exceeds two thousand five hundred dollars (\$2,500), without advertising for bids  
7 and awarding the contract to the lowest responsible bidder.

8 (d) This section does not apply to a contract entered into with the United States  
9 or the State of California or other governmental agency under the authority of  
10 Section 3 of Chapter 2126 of the Statutes of 1959, or to a contract authorized by a  
11 vote of the electorate of the district.

12 (e) The district may rent or otherwise contract for equipment with or without an  
13 operator and use it on works of the district, if the contract is approved by the  
14 board.

15 **Comment.** Section 21131 is amended to correct a cross-reference.

16 **Pub. Cont. Code § 21141 (amended). Mendocino County Flood Control and Water**  
17 **Conservation District**

18 SEC. \_\_\_\_\_. Section 21141 of the Public Contract Code is amended to read:

19 21141. (a) All contracts for the construction of any unit of work, except as  
20 provided in this article, estimated to cost in excess of two thousand dollars  
21 (\$2,000) shall be let to the lowest responsible bidder in the manner provided in  
22 this article. The board shall advertise by three insertions in a daily newspaper of  
23 general circulation or two insertions in a weekly newspaper of general circulation  
24 published in the district inviting sealed proposals for the construction of the work  
25 before any contract shall be made, and may let by contract separately any part of  
26 the work. The board shall require the successful bidder to file with the board good  
27 and sufficient bonds to be approved by the board conditioned upon the faithful  
28 performance of the contract and upon the payment of the claims for labor and  
29 material, the bonds to contain the terms and conditions set forth in ~~Title 15~~  
30 ~~(commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, Part 6~~  
31 (commencing with Section 41010) and to be subject to the provisions of that ~~title~~  
32 part. The board shall also have the right to reject any bid, in which case the board  
33 may advertise for new bids.

34 (b) In the event no proposals are received pursuant to advertisement, where the  
35 estimated cost of the work does not exceed the sum of two thousand dollars  
36 (\$2,000), or where the work consists of emergency work, the board of directors,  
37 by unanimous vote of all members present, may, without advertising for bids, have  
38 the work done by force account. In case of an emergency, if notice for bids to let  
39 contracts will not be given, the board shall comply with Chapter 2.5 (commencing  
40 with Section 22050).

41 (c) The district may purchase in the open market, without advertisement for  
42 bids, materials and supplies for use in any work either under contract or by force

1 account; provided, however, that materials and supplies for use in any new  
2 construction work or improvement, except work referred to in subdivision (b),  
3 may not be purchased if the cost exceeds two thousand five hundred dollars  
4 (\$2,500), without advertising for bids and awarding the contract therefor to the  
5 lowest responsible bidder.

6 (d) The provisions of this section have no application to a contract entered into  
7 with the United States under the authority of Section 3, or to a contract authorized  
8 by a vote of the electorate of the district.

9 **Comment.** Section 21141 is amended to correct a cross-reference.

10 **Pub. Cont. Code § 21151 (amended). Alameda County Flood Control and Water**  
11 **Conservation District**

12 SEC. \_\_\_\_\_. Section 21151 of the Public Contract Code is amended to read:

13 21151. All contracts for any improvement or unit of work when the cost  
14 according to the estimate of the engineer will exceed twenty-five thousand dollars  
15 (\$25,000), with or without the furnishing of materials or supplies, shall be let to  
16 the lowest responsible bidder or bidders in the manner provided in this article.

17 Construction of improvements or works shall not be staged to avoid the bidding  
18 process. The board shall first determine whether the contract shall be let as a  
19 single unit for the whole of the work, or shall be divided into severable parts, or  
20 both, according to the best interests of the district. The board shall call for bids and  
21 advertise the call by inviting sealed proposals for the construction or performance  
22 of the improvement or work before any contract is made. The board shall invite  
23 the bids by publishing a notice of the call for bids pursuant to Section 6062 or  
24 6066 of the Government Code in a newspaper of general circulation in the county.  
25 The call for bids shall state whether the work is to be performed as a unit or shall  
26 be divided into severable specific parts, or both, as stated in the call. The board  
27 may let the work by single contract or it may divide the work into severable parts  
28 by separate contracts, as stated in the call, according to the best interests of the  
29 district. The board shall require the successful bidder or bidders to file with the  
30 board good and sufficient bonds to be approved by the board conditioned upon the  
31 faithful performance of the contract and upon the payment of their claims for labor  
32 and material, the bonds to contain the terms and conditions set forth in ~~Title 15~~  
33 ~~(commencing with Section 3082) of Part 4 of Division 3 of the Civil Code~~ Part 6  
34 (commencing with Section 41010) and to be subject to the provisions of that ~~title~~  
35 part. The board shall also have the right to reject any bid. In the event the  
36 engineer's estimate is twenty-five thousand dollars (\$25,000) or less, or in the  
37 event no proposals are received pursuant to advertisement therefor, or in the event  
38 the work consists of channel protection or maintenance work, or emergency work,  
39 the board of supervisors may, without advertising for bids, have the work done by  
40 day labor under the direction of the board, by contract, or by a combination of the  
41 two. In case of an emergency, if notice for bids to let contracts will not be given,  
42 the board shall comply with Chapter 2.5 (commencing with Section 22050). The

1 district may acquire in the open market without advertising for bids, materials,  
2 equipment, and supplies for use in any work or for any other purpose.

3 **Comment.** Section 21151 is amended to correct a cross-reference.

4 **Pub. Cont. Code § 21161 (amended). Santa Clara Valley Water District**

5 SEC. \_\_\_\_\_. Section 21161 of the Public Contract Code is amended to read:

6 21161. (a) Any improvement or unit of work not performed by district personnel  
7 and estimated by the engineer to cost in excess of twenty-five thousand dollars  
8 (\$25,000) shall be done by contract. All contracts shall be let to the lowest  
9 responsible bidder or bidders in the manner provided in this article. The board  
10 shall first determine whether the contract shall be let as a single unit for the whole  
11 of the work, or shall be divided into severable parts, or both, according to the best  
12 interests of the district. The board shall call for bids and advertise the call by three  
13 insertions in a daily newspaper of general circulation or by two insertions in a  
14 weekly newspaper of general circulation printed and published in the district  
15 inviting sealed proposals for the construction or performance of the improvement  
16 or work before any contract is made. The call for bids shall state whether the work  
17 is to be performed as a unit for the whole thereof or shall be divided into severable  
18 specific parts, or both, as stated in the call. The board may let the work by single  
19 contract or it may divide the work into severable parts by separate contracts, as  
20 stated in the call, according to the best interests of the district. The board shall  
21 require the successful bidder or bidders to file with the board good and sufficient  
22 bonds to be approved by the board conditioned upon the faithful performance of  
23 the contract and upon the payment of their claims for labor and material, the bonds  
24 to contain the terms and conditions set forth in ~~Title 15 (commencing with Section~~  
25 ~~3082) of Part 4 of Division 3 of the Civil Code~~ Part 6 (commencing with Section  
26 41010) and to be subject to the provisions of that ~~title~~ part. The board shall also  
27 have the right to reject any bid. In the event all proposals are rejected or no  
28 proposals are received pursuant to advertisement, or the estimated cost of the work  
29 does not exceed five thousand dollars (\$5,000), or the work consists of channel  
30 protection, maintenance work, or emergency work, the board may, without  
31 advertising for bids, have the work done by force account. In case of an  
32 emergency, if notice for bids to let contracts will not be given, the board shall  
33 comply with Chapter 2.5 (commencing with Section 22050). The district may  
34 purchase in the open market, without advertising for bids, materials and supplies  
35 for use in any work either under contract or by force account.

36 (b) The provisions of this section requiring competitive bidding and the award of  
37 contracts to the lowest responsible bidder are inapplicable to the extent the  
38 improvement or unit of work is to be performed on its own facilities by a public  
39 utility subject to the jurisdiction of the California Public Utilities Commission.

40 **Comment.** Section 21161 is amended to correct a cross-reference.

1 **Pub. Cont. Code § 21171 (amended). Napa County Flood Control and Water Conservation**  
2 **District**

3 SEC. \_\_\_\_\_. Section 21171 of the Public Contract Code is amended to read:

4 21171. (a) All contracts for any improvement or unit of work when the cost,  
5 according to the estimate of the engineer, will exceed two thousand dollars  
6 (\$2,000), shall be let to the lowest responsible bidder or bidders in the manner  
7 provided in this article. The board shall first determine whether the contract shall  
8 be let as a single unit for the whole of the work, or shall be divided into severable  
9 parts, or both, according to the best interests of the district. The board shall call for  
10 bids and advertise the call by three insertions in a daily newspaper of general  
11 circulation or by two insertions in a weekly newspaper of general circulation  
12 printed and published in the district inviting sealed proposals for the construction  
13 or performance of the improvement or work before any contract is made. The call  
14 for bids shall state whether the work is to be performed as a unit for the whole  
15 thereof or shall be divided into severable specific parts, or both, as stated in the  
16 call. The board may let the work by single contract as a unit or it may divide the  
17 work into severable parts by separate contracts, as stated in the call, according to  
18 the best interests of the district. The board shall require the successful bidder or  
19 bidders to file with the board good and sufficient bonds to be approved by the  
20 board conditioned upon the faithful performance of the contract and upon the  
21 payment of their claims for labor and material, the bonds to contain the terms and  
22 conditions set forth in ~~Title 15 (commencing with Section 3082) of Part 4 of~~  
23 ~~Division 3 of the Civil Code Part 6 (commencing with Section 41010)~~ and to be  
24 subject to the provisions of that ~~title~~ part. The board shall also have the right to  
25 reject any bid.

26 (b) In the event all proposals are rejected or no proposals are received pursuant  
27 to advertisement, or the estimated cost of the work does not exceed two thousand  
28 dollars (\$2,000), or the work consists of channel protection, maintenance work, or  
29 emergency work, the board of supervisors may, without advertising for bids, have  
30 the work done by force account. In case of an emergency, if notice for bids to let  
31 contracts will not be given, the board shall comply with Chapter 2.5 (commencing  
32 with Section 22050).

33 (c) The district may purchase in the open market, without advertising for bids,  
34 materials and supplies for use in any work either under contract or by force  
35 account; provided, however, that materials and supplies for use in any new  
36 construction work or improvements, except work referred to in subdivision (b),  
37 may not be purchased if the cost exceeds two thousand five hundred dollars  
38 (\$2,500), without advertising for bids and awarding the contract to the lowest  
39 responsible bidder.

40 **Comment.** Section 21171 is amended to correct a cross-reference.

1 **Pub. Cont. Code § 21181 (amended). Lake County Flood Control and Water Conservation**  
2 **District**

3 SEC. \_\_\_\_\_. Section 21181 of the Public Contract Code is amended to read:

4 21181. All contracts for any improvement or unit of work when the cost  
5 according to the estimate of the engineer, will exceed four thousand dollars  
6 (\$4,000), shall be let to the lowest responsible bidder or bidders in the manner  
7 provided in this article. The board shall first determine whether the contract shall  
8 be let as a single unit or shall be divided into severable parts, or both, according to  
9 the best interests of the district. The board shall call for bids and advertise the call  
10 in the district pursuant to Section 6066 of the Government Code inviting sealed  
11 proposals for the construction or performance of the improvement or before any  
12 contract is made. The call for bids shall state whether the work is to be performed  
13 as a unit or shall be divided into severable specific parts, or both, as stated in the  
14 call. The board may let the work by single contract or it may divide the work into  
15 severable parts by separate contracts, as stated in the call, according to the best  
16 interests of the district. The board shall require the successful bidder or bidders to  
17 file with the board good and sufficient bonds to be approved by the board  
18 conditioned upon the faithful performance of the contract and upon the payment of  
19 their claims for labor and material, the bonds to contain the terms and conditions  
20 set forth in ~~Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the~~  
21 ~~Civil Code Part 6 (commencing with Section 41010)~~ and to be subject to the  
22 provisions of that ~~title part~~. The board shall also have the right to reject any bid.

23 (b) In the event no proposals are received pursuant to advertisement or the  
24 estimated cost of the work does not exceed four thousand dollars (\$4,000), or the  
25 work consists of channel protection, maintenance work, or emergency work, the  
26 board of supervisors may, without advertising for bids, have the work done by day  
27 labor, under the direction of the board, by contract, or by the combination of the  
28 two. In case of an emergency, if notice for bids to let contracts will not be given,  
29 the board shall comply with Chapter 2.5 (commencing with Section 22050).

30 (c) The district may acquire in the open market, without advertising for bids,  
31 materials, equipment, and supplies for use in any work or for any other purpose;  
32 provided, however, that materials and supplies for use in any new construction  
33 work or improvement, except work referred to in subdivision (b), may not be  
34 purchased if the cost exceeds two thousand five hundred dollars (\$2,500), without  
35 advertising for bids and awarding the contract to the lowest responsible bidder.

36 **Comment.** Section 21811 is amended to correct a cross-reference.

37 **Pub. Cont. Code § 21196 (amended). Solano County Water Agency**

38 SEC. \_\_\_\_\_. Section 21196 of the Public Contract Code is amended to read:

39 21196. (a) All contracts for the construction of any unit of work, except as  
40 provided in this article, estimated to cost in excess of two thousand five hundred  
41 dollars (\$2,500) shall be let to the lowest responsible bidder in the manner  
42 provided in this article. The board of directors of the district shall call for bids and

1 advertise the call by three insertions in a daily newspaper of general circulation or  
2 two insertions in a weekly newspaper of general circulation published in the  
3 district inviting sealed proposals for the construction of the work before any  
4 contract is made, and may let by contract separately any part of the work. The  
5 board shall require the successful bidder to file with the board good and sufficient  
6 bonds to be approved by the board conditioned upon the faithful performance of  
7 the contract and upon the payment of the claims for labor and material, the bonds  
8 to contain the terms and conditions set forth in ~~Title 15 (commencing with Section~~  
9 ~~3082) of Part 4 of Division 3 of the Civil Code~~ Part 6 (commencing with Section  
10 41010) and to be subject to the provisions of ~~this title~~ that part. The board shall  
11 also have the right to reject any bid, in which case the board may advertise for new  
12 bids.

13 (b) In the event no proposals are received pursuant to advertisement, or where  
14 the estimated cost of the work does not exceed two thousand five hundred dollars  
15 (\$2,500), or the work consists of emergency work, the board of directors by  
16 unanimous vote of all members present, may, without advertising for bids, have  
17 the work done by force account. In case of an emergency, if notice for bids to let  
18 contracts will not be given, the board shall comply with Chapter 2.5 (commencing  
19 with Section 22050). The district may purchase in the open market, without  
20 advertisement for bids, materials and supplies for use in any work either under  
21 contract or by force account.

22 (c) The provisions of this section have no application to a contract entered into  
23 with the United States under the authority of the Solano County Flood Control and  
24 Water Conservation District Act, or to a contract authorized by a vote of the  
25 electorate of the district.

26 **Comment.** Section 21196 is amended to correct a cross-reference.

27 **Pub. Cont. Code § 21212 (amended). Sacramento County Water Agency**

28 SEC. \_\_\_\_\_. Section 21212 of the Public Contract Code is amended to read:

29 21212. (a) All contracts for the construction of any unit of work, except as  
30 provided in this article, estimated to cost in excess of three thousand dollars  
31 (\$3,000), shall be let to the lowest responsible bidder in the manner provided in  
32 this article. The board of directors of the agency shall advertise pursuant to Section  
33 6066 of the Government Code in a newspaper of general circulation published in  
34 the agency's jurisdiction inviting sealed proposals for the construction of the work  
35 before any contract is made, and may let by contract separately any part of the  
36 work. The board shall require the successful bidder to file with the board good and  
37 sufficient bonds to be approved by the board conditioned upon the faithful  
38 performance of the contract and upon the payment of any claims for labor and  
39 material and containing the terms and conditions set forth in ~~Title 15 (commencing~~  
40 ~~with Section 3082) of Part 4 of Division 3 of the Civil Code~~ Part 6 (commencing  
41 with Section 41010) and to be subject to the provisions of that ~~title~~ part. The board

1 shall also have the right to reject any bid, in which case the board may advertise  
2 for new bids.

3 (b) In the event no proposals are received pursuant to advertisement, or where  
4 the estimated cost of the work does not exceed three thousand dollars (\$3,000), or  
5 the work consists of emergency work, the board of directors, by unanimous vote  
6 of all members present, may, without advertising for bids, have the work done by  
7 force account. In case of an emergency, if notice for bids to let contracts will not  
8 be given, the board shall comply with Chapter 2.5 (commencing with Section  
9 22050).

10 (c) The agency may purchase in the open market without advertisement for bids,  
11 materials and supplies for use in any work either under contract or by force  
12 account.

13 (d) The provisions of this section have no application to a contract entered into  
14 with the United States under the authority of Section 6 of Chapter 10 of the  
15 Statutes of the 1952 First Extraordinary Session, or to a contract authorized by a  
16 vote of the electorate of the agency.

17 **Comment.** Section 21212 is amended to correct a cross-reference.

18 **Pub. Cont. Code § 21231 (amended). Marin County Flood Control and Water Conservation**  
19 **District**

20 SEC. \_\_\_\_\_. Section 21231 of the Public Contract Code is amended to read:

21 21231. Any improvement or unit of work when the cost, according to the  
22 estimate of the engineer, will exceed five thousand dollars (\$5,000), shall be done  
23 by contract let to the lowest responsible bidder or bidders in the manner provided  
24 in this article. The board shall first determine whether the contract will be let as a  
25 single unit, or will be divided into severable parts, or both, according to the best  
26 interests of the district. The board shall call for bids and advertise the call pursuant  
27 to Section 6066 of the Government Code in the district, inviting sealed proposals  
28 for the construction or performance of the improvement or before any contract is  
29 made. The call for bids shall state whether the work is to be performed as a unit or  
30 shall be divided into separate specific parts, or both, as stated in the call. The  
31 board may let the work by single contract or it may divide the work into severable  
32 parts by separate contracts, as stated in the call, according to the best interests of  
33 the district. The board shall require the successful bidder or bidders to file with the  
34 board good and sufficient bonds to be approved by the board conditioned upon the  
35 faithful performance of the contract and upon the payment of their claims for labor  
36 and material, the bonds to contain the terms and conditions set forth in ~~Title 15~~  
37 ~~(commencing with Section 3082) of Part 4 of Division 3 of the Civil Code~~ Part 6  
38 (commencing with Section 41010) and to be subject to the provisions of that ~~title~~  
39 part. The board shall also have the right to reject any bid. In the event no proposals  
40 are received pursuant to advertisement, or the estimated cost of the work does not  
41 exceed five thousand dollars (\$5,000), or the work consists of channel protection,  
42 maintenance work, or emergency work, the board of supervisors may, without

1 advertising for bids, have the work done by day labor, under the direction of the  
2 board, by contract, or by a combination of the two. In case of an emergency, if  
3 notice for bids to let contracts will not be given, the board shall comply with  
4 Chapter 2.5 (commencing with Section 22050).The district may acquire in the  
5 open market without advertising for bids, materials, equipment and supplies for  
6 use in any work or for any other purpose; provided, however, that materials and  
7 supplies for use in any new construction work or improvement, except work  
8 referred to in the preceding sentence, may not be purchased if the cost exceeds  
9 five thousand dollars (\$5,000), without advertising for bids and awarding the  
10 contract to the lowest responsible bidder.

11 **Comment.** Section 21231 is amended to correct a cross-reference.

12 **Pub. Cont. Code § 21241 (amended). Contra Costa County**

13 SEC. \_\_\_\_\_. Section 21241 of the Public Contract Code is amended to read:

14 21241. All contracts for any improvement or unit of work when the cost,  
15 according to the estimate of the engineer, will exceed two thousand dollars  
16 (\$2,000), shall be let to the lowest responsible bidder or bidders in the manner  
17 provided in this article. The board shall first determine whether the contract shall  
18 be let as a single unit or shall be divided into severable parts, or both, according to  
19 the best interests of the zone. The board shall call for bids and advertise the call  
20 pursuant to Section 6066 of the Government Code in the district inviting sealed  
21 proposals for the construction or performance of the improvement or work before  
22 any contract is made. The call for bids shall state whether the work is to be  
23 performed as a unit or shall be divided into severable specific parts, or both, as  
24 stated in the call. The board may let the work by single contract or it may divide  
25 the work into severable parts by separate contracts, as stated in the call, according  
26 to the best interests of the district. The board shall require the successful bidder or  
27 bidders to file with the board good and sufficient bonds to be approved by the  
28 board conditioned upon the faithful performance of the contract and upon the  
29 payment of their claims for labor and material, the bonds to contain the terms and  
30 conditions set forth in ~~Title 15 (commencing with Section 3082) of Part 4 of~~  
31 ~~Division 3 of the Civil Code~~ Part 6 (commencing with Section 41010) and to be  
32 subject to the provisions of that ~~title part~~ part. The board shall also have the right to  
33 reject any bid. In the event no proposals are received pursuant to advertisement, or  
34 the estimated cost of the work does not exceed two thousand dollars (\$2,000), or  
35 the work consists of emergency work, the board of supervisors may, without  
36 advertising for bids, have the work done by day labor, under the direction of the  
37 board, by contract, or by a combination of the two. In case of an emergency, if  
38 notice for bids to let contracts will not be given, the board shall comply with  
39 Chapter 2.5 (commencing with Section 22050). The board may acquire in the open  
40 market, without advertising for bids, materials, equipment, and supplies for use in  
41 any work or for any other purpose; provided, however, that materials and supplies  
42 for use in any new construction work or improvement, except work referred to in

1 the preceding sentence, may not be purchased if the cost exceeds two thousand  
2 five hundred dollars (\$2,500), without advertising for bids and awarding the  
3 contract to the lowest responsible bidder.

4 **Comment.** Section 21241 is amended to correct a cross-reference.

5 **Pub. Cont. Code § 21251 (amended). San Benito County Water Conservation and Flood**  
6 **Control District**

7 SEC. \_\_\_\_\_. Section 21251 of the Public Contract Code is amended to read:

8 21251. (a) (1) All contracts for any improvement or unit of work, if the cost  
9 according to the estimate of the engineer will exceed thirty thousand dollars  
10 (\$30,000), shall be let to the lowest responsible bidder or bidders as provided in  
11 this article. The board shall first determine whether the contract shall be let as a  
12 single unit or divided into severable parts, or both.

13 (2) All contracts for any improvement or unit of work, if the cost according to  
14 the estimate of the engineer is thirty thousand dollars (\$30,000) or less, may be let  
15 without advertising for bids in accordance with procedures adopted by the board.

16 (b) The board shall call for bids and advertise the call pursuant to Section 6063  
17 of the Government Code in the district, inviting sealed proposals for the  
18 construction or performance of the improvement or work before any contract is  
19 made. The call for bids shall state whether the work is to be performed as one unit  
20 or divided into severable specific parts.

21 (c) The work may be let under a single contract or several contracts, or both, as  
22 stated in the call. The board shall require the successful bidder or bidders to file  
23 with the board good and sufficient bonds to be approved by the board conditioned  
24 upon the faithful performance of the contract and upon the payment of their claims  
25 for labor and material. The bonds shall comply with ~~Title 15 (commencing with~~  
26 ~~Section 3082) of Part 4 of Division 3 of the Civil Code~~ Part 6 (commencing with  
27 Section 41010). The board may reject any bid.

28 (d) If all proposals are rejected or no proposals are received, or the estimated  
29 cost of the work does not exceed five thousand dollars (\$5,000), or the work  
30 consists of channel protection, maintenance work, or emergency work, the board  
31 may have the work done by force account without advertising for bids. In case of  
32 an emergency, if notice for bids to let contracts will not be given, the board shall  
33 comply with Chapter 2.5 (commencing with Section 22050).

34 (e) The district may purchase in the open market, without advertising for bids,  
35 materials and supplies for use in any work either under contract or by force  
36 account.

37 **Comment.** Section 21251 is amended to correct a cross-reference.

38 **Pub. Cont. Code § 21261 (amended). Del Norte County Flood Control District**

39 SEC. \_\_\_\_\_. Section 21261 of the Public Contract Code is amended to read:

40 21261. All contracts for any improvement or unit of work when the cost,  
41 according to the estimate of the engineer, will exceed two thousand dollars

1 (\$2,000), shall be let to the lowest responsible bidder or bidders in the manner  
2 provided in this article. The board shall first determine whether the contract shall  
3 be let as a single unit for the work, or shall be divided into severable parts, or both,  
4 according to the best interests of the district. The board shall call for bids and  
5 advertise the call pursuant to Section 6066 of the Government Code in the district  
6 inviting sealed proposals for the construction or performance of the improvement  
7 or work before any contract is made. The call for bids shall state whether the work  
8 is to be performed as a unit or shall be divided into severable specific parts, or  
9 both, as stated in the call. The board may let the work by single contract or it may  
10 divide the work into severable parts by separate contracts, as stated in the call,  
11 according to the best interests of the district. The board shall require the successful  
12 bidder or bidders to file with the board good and sufficient bonds to be approved  
13 by the board conditioned upon the faithful performance of the contract and upon  
14 the payment of their claims for labor and material, the bonds to contain the terms  
15 and conditions set forth in ~~Title 15 (commencing with Section 3082) of Part 4 of~~  
16 ~~Division 3 of the Civil Code~~ Part 6 (commencing with Section 41010) and to be  
17 subject to the provisions of that ~~title~~ part. The board shall also have the right to  
18 reject any bid. In the event all proposals are rejected or no proposals are received  
19 pursuant to advertisement, or the estimated cost of the work does not exceed two  
20 thousand dollars (\$2,000), or the work consists of channel protection, maintenance  
21 work, or emergency work, the board of supervisors may, without advertising for  
22 bids, have the work done by force account. In case of an emergency, if notice for  
23 bids to let contracts will not be given, the board shall comply with Chapter 2.5  
24 (commencing with Section 22050). The district may purchase in the open market,  
25 without advertising for bids, materials and supplies for use in any work either  
26 under contract or by force account.

27 **Comment.** Section 21261 is amended to correct a cross-reference.

28 **Pub. Cont. Code § 21271 (amended). Santa Barbara County Flood Control and Water**  
29 **Conservation District**

30 SEC. \_\_\_\_\_. Section 21271 of the Public Contract Code is amended to read:

31 21271. All improvement and units of work to be performed by or for the district  
32 shall be performed in accordance with the following procedures and requirements:

33 (a) If the work consists of the protection or maintenance of channels, storm  
34 drains, dams or other flood control works, or emergency work, the board of  
35 directors may, without advertising for bids therefor, have the work done by day  
36 labor under the direction of the board, by contract, or by a combination of the two.  
37 In case of an emergency, if notice for bids to let contracts will not be given, the  
38 board shall comply with Chapter 2.5 (commencing with Section 22050).

39 (b) If the work consists of the construction of new flood control channels, storm  
40 drains, dams, or other unit or units of work, and if the cost of the work, according  
41 to the estimate of the engineer, will exceed ten thousand dollars (\$10,000), and if  
42 the work is not the type of work referred to in subdivision (a) or (c) of this section,

1 the new construction shall be performed under a contract or contracts which shall  
2 be let to the lowest responsible bidder or bidders in the manner provided in  
3 subdivision (d) of this section.

4 (c) If the work consists of the maintenance or alteration of existing facilities,  
5 including electrical, painting, and roofing work, and if the cost of labor and  
6 materials for the work according to the engineer's estimate, will exceed three  
7 thousand five hundred dollars (\$3,500), and if the work is not the type of work  
8 referred to in subdivision (a) or (b) of this section, the maintenance and alteration  
9 work shall be performed under a contract or contracts which shall be let to the  
10 lowest responsible bidder or bidders in the manner provided in subdivision (d) of  
11 this section.

12 (d) The board shall first determine whether the work shall be let as a single unit  
13 or shall be divided into severable parts, or both, according to the best interests of  
14 the district. The board shall call for bids and advertise the call pursuant to Section  
15 6066 of the Government Code in the district inviting sealed proposals for the  
16 construction or performance of the work before any contract is made. The call for  
17 bids shall state whether the work is to be performed as a unit or shall be divided  
18 into severable, specific parts, or both, as stated in the call. The board may let the  
19 work by single contract or it may divide the work into severable parts by separate  
20 contracts, as stated in the call, according to the best interests of the district. The  
21 board shall require the successful bidder or bidders to file with the board good and  
22 sufficient bond to be approved by the board conditioned upon the faithful  
23 performance of the contract and upon the payment of the claims for labor and  
24 material. The faithful performance bond shall contain the terms and conditions as  
25 the board may specify, and the payment bond shall contain the terms and  
26 conditions set forth in, and shall be subject to, the provisions of ~~Title 15~~  
27 ~~(commencing with Section 3082) of Part 4 of Division 3 of the Civil Code~~ Part 6  
28 (commencing with Section 41010). If the work to be performed on behalf of the  
29 district does not involve an expenditure of fifteen thousand dollars (\$15,000) or  
30 more, the district may require a faithful performance bond or a payment bond. The  
31 board shall also have the right to reject any bid.

32 (e) If no proposals are received pursuant to advertisement, or if the estimated  
33 cost of work of the type referred to in subdivision (b) of this section does not  
34 exceed ten thousand dollars (\$10,000), or if the estimated cost of work of the type  
35 referred to in subdivision (c) of this section does not exceed three thousand five  
36 hundred dollars (\$3,500), the board of directors may, without advertising for bids,  
37 have the work done by day labor, under the direction of the board, by contract, or  
38 by combination of the two. If any change or alteration in a contract awarded under  
39 the provisions of this section for work of the type referred to in subdivision (b) or  
40 (c) is deemed necessary and the cost does not exceed 10 percent of the original  
41 contract price, the board may authorize the contractor to proceed with the change  
42 or alteration without the formality of obtaining bids.

1 (f) Notwithstanding the foregoing provisions, the district shall have the power to  
2 acquire in the open market, and may authorize the Purchasing Agents of the  
3 County of Santa Barbara to acquire in the open market, without advertising for  
4 bids, materials, equipment and supplies for use in any work or for any other  
5 purpose; provided, however, that materials and supplies for use in any new  
6 construction work or improvement, except work referred to in subdivision (a) of  
7 this section, may not be purchased without advertising for bids and awarding the  
8 contract to the lowest responsible bidder if the cost exceeds two thousand five  
9 hundred dollars (\$2,500), unless the purchase is made by the county purchasing  
10 agent at the request of the district, in which case the cost shall not exceed six  
11 thousand five hundred dollars (\$6,500).

12 **Comment.** Section 21271 is amended to correct a cross-reference.

13 **Pub. Cont. Code § 21311 (amended). San Joaquin County Flood Control and Water**  
14 **Conservation District**

15 SEC. \_\_\_\_\_. Section 21311 of the Public Contract Code is amended to read:

16 21311. (a) All contracts for any improvement or unit of work when the cost,  
17 according to the estimate of the engineer, will exceed two thousand dollars  
18 (\$2,000), shall be let to the lowest responsible bidder or bidders in the manner  
19 provided in this article. The board shall first determine whether the contract shall  
20 be let as a single unit, or shall be divided into severable parts, or both, according to  
21 the best interests of the district. The board shall call for bids and advertise the call  
22 by three insertions in a daily newspaper of general circulation or by two insertions  
23 in a weekly newspaper of general circulation printed and published in the district  
24 inviting sealed proposals for the construction or performance of the improvement  
25 or work before any contract is made. The call for bids shall state whether the work  
26 is to be performed as a unit or shall be divided into severable specific parts, or  
27 both, as stated in the call. The board may let the work by single contract for the  
28 whole as a unit or it may divide the work into severable parts by separate  
29 contracts, as stated in the call, according to the best interests of the district. The  
30 board shall require the successful bidder or bidders to file with the board good and  
31 sufficient bonds to be approved by the board conditioned upon the faithful  
32 performance of the contract and upon the payment of their claims for labor and  
33 material, the bonds to contain the terms and conditions set forth in ~~Title 15~~  
34 ~~(commencing with Section 3082) of Part 4 of Division 3 of the Civil Code~~ Part 6  
35 (commencing with Section 41010) and to be subject to the provisions of that ~~title~~  
36 part. The board shall also have the right to reject any bid.

37 (b) In the event no proposals are received pursuant to advertisement, or the  
38 estimated cost of the work does not exceed two thousand dollars (\$2,000), or the  
39 work consists of channel protection, maintenance work, or emergency work, the  
40 board of supervisors may, without advertising for bids, have the work done by day  
41 labor, under the direction of the board, by contract, or by a combination of the

1 two. In case of an emergency, if notice for bids to let contracts will not be given,  
2 the board shall comply with Chapter 2.5 (commencing with Section 22050).

3 (c) The district may acquire in the open market, without advertising for bids,  
4 materials, equipment, and supplies for use in any work or for any other purpose;  
5 provided, however, that materials and supplies for use in any new construction  
6 work or improvement, except work referred to in subdivision (b), shall not be  
7 purchased if the cost exceeds two thousand five hundred dollars (\$2,500), without  
8 advertising for bids and awarding the contract to the lowest responsible bidder.

9 **Comment.** Section 21311 is amended to correct a cross-reference.

10 **Pub. Cont. Code § 21321 (amended). Placer County Water Agency**

11 SEC. \_\_\_\_\_. Section 21321 of the Public Contract Code is amended to read:

12 21321. (a) All contracts for any improvement or unit of work, when the cost  
13 according to the estimate of the engineer will exceed thirty thousand dollars  
14 (\$30,000), shall be let to the lowest responsible bidder or bidders as provided in  
15 this article. The board shall first determine whether the contract shall be let as a  
16 single unit, or divided into severable parts. The board shall advertise for bids by  
17 three insertions in a daily newspaper of general circulation or by two insertions in  
18 a weekly newspaper of general circulation printed and published in the agency's  
19 jurisdiction, inviting sealed proposals for the construction or performance of the  
20 improvement or work. The call for bids shall state whether the work shall be  
21 performed in one unit or divided into parts. The work may be let under a single  
22 contract or several contracts, as stated in the call.

23 The board shall require the successful bidders to file with the board good and  
24 sufficient bonds to be approved by the board conditioned upon the faithful  
25 performance of the contract and upon the payment of their claims for labor and  
26 material. The bonds shall comply with ~~Title 15 (commencing with Section 3082)~~  
27 ~~of Part 4 of Division 3 of the Civil Code~~ Part 6 (commencing with Section 41010).

28 (b) The board may reject any bid. In the event all proposals are rejected or no  
29 proposals are received, or the estimated cost of the work does not exceed five  
30 thousand dollars (\$5,000), or the work consists of channel protection,  
31 maintenance, or emergency work, the board may have the work done by force  
32 account without advertising for bids. In case of an emergency, if notice for bids to  
33 let contracts will not be given, the board shall comply with Chapter 2.5  
34 (commencing with Section 22050). In the event that no proposals are received, or  
35 if only one responsive proposal is received, the board may negotiate a contract for  
36 construction or performance of the work or improvement or substantially similar  
37 work or improvement. However, if only one responsive proposal is received, the  
38 contract must be negotiated with the bidder.

39 (c) The agency may purchase in the open market without advertising for bids,  
40 materials and supplies for use in any work, either under contract or by force  
41 account.

1 (d) Sections 4300 to 4305, inclusive, of the Government Code do not apply to  
2 the agency's Middle Fork American River Project.

3 (e) This section applies to all proposals or contracts whether or not received or  
4 entered into prior to the effective date of the amendment of this provision made at  
5 the 1963 Regular Session of the Legislature.

6 **Comment.** Section 21321 is amended to correct a cross-reference.

7 **Pub. Cont. Code § 21331 (amended). Tehama County Flood Control and Water**  
8 **Conservation District**

9 SEC. \_\_\_\_\_. Section 21331 of the Public Contract Code is amended to read:

10 21331. (a) All contracts for the construction of any unit of work, except as  
11 provided in this article, estimated to cost in excess of three thousand five hundred  
12 dollars (\$3,500) shall be let to the lowest responsible bidder in the manner  
13 provided in this article. The board shall advertise by three insertions in a daily  
14 newspaper of general circulation or two insertions in a weekly newspaper of  
15 general circulation published in the district inviting sealed proposals for the  
16 construction of the work before any contract shall be made, and may let by  
17 contract separately any part of the work. The board shall require the successful  
18 bidder to file with the board good and sufficient bonds to be approved by the  
19 board conditioned upon the faithful performance of the contract and upon the  
20 payment of all claims for labor and material, the bonds to contain the terms and  
21 conditions set forth in ~~Title 15 (commencing with Section 3082) of Part 4 of~~  
22 ~~Division 3 of the Civil Code, Part 6 (commencing with Section 41010)~~ and to be  
23 subject to the provisions of that ~~title part~~. The board shall also have the right to  
24 reject any bid, in which case the board may advertise for new bids.

25 (b) In the event no proposals are received pursuant to advertisement, where the  
26 estimated cost of the work does not exceed five thousand dollars (\$5,000), or  
27 where the work consists of emergency work, the board of directors, by unanimous  
28 vote of all members present, may, without advertising for bids, have the work  
29 done by force account. In case of an emergency, if notice for bids to let contracts  
30 will not be given, the board shall comply with Chapter 2.5 (commencing with  
31 Section 22050).

32 (c) The district may purchase in the open market, without advertisement for  
33 bids, materials and supplies for use in any work either under contract or by force  
34 account; provided, however, that materials and supplies for use in any new  
35 construction work or improvement, except work referred to in subdivision (b),  
36 may not be purchased if the cost exceeds five thousand dollars (\$5,000), without  
37 advertising for bids and awarding the contract to the lowest responsible bidder.

38 (d) The provisions of this section have no application to a contract entered into  
39 with the United States under the authority of Section 3 of Chapter 1280 of the  
40 Statutes of 1957, or to a contract authorized by a vote of the electorate of the  
41 district.

42 **Comment.** Section 21331 is amended to correct a cross-reference.

1 **Pub. Cont. Code § 21341 (amended). Shasta County Water Agency**

2 SEC. \_\_\_\_\_. Section 21341 of the Public Contract Code is amended to read:

3 21341. (a) All contracts for the construction of any unit of work, except as  
4 provided in this article, estimated to cost in excess of five thousand dollars  
5 (\$5,000) shall be let to the lowest responsible bidder. The board shall advertise by  
6 three insertions in a daily newspaper of general circulation or two insertions in a  
7 weekly newspaper of general circulation published by the agency inviting sealed  
8 proposals for the construction of the work before any contract is made, and may  
9 let by contract separately any part of the work. The board shall require the  
10 successful bidder to file with the board good and sufficient bonds to be approved  
11 by the board conditioned upon the faithful performance of the contract and upon  
12 the payment of the claims for labor and material, the bonds to contain the terms  
13 and conditions set forth in ~~Title 15 (commencing with Section 3082) of Part 4 of~~  
14 ~~Division 3 of the Civil Code, Part 6 (commencing with Section 41010)~~ and to be  
15 subject to the provisions of that ~~title~~ part. The board shall also have the right to  
16 reject any bid, in which case the board may advertise for new bids. In the event no  
17 proposals are received pursuant to advertisement or where the estimated cost of  
18 the work does not exceed five thousand dollars (\$5,000), or where the work  
19 consists of emergency work, the board, by unanimous vote of all members present,  
20 may, without advertising for bids, have the work done by force account. In case of  
21 an emergency, if notice for bids to let contracts will not be given, the board shall  
22 comply with Chapter 2.5 (commencing with Section 22050). The agency may  
23 purchase in the open market, without advertisement for bids, materials and  
24 supplies for use in any work either under contract or by force account.

25 (b) The provisions of this section have no application to a contract entered into  
26 with the United States under the authority of Section 59 of Chapter 1512 of the  
27 Statutes of 1957, or to a contract authorized by a vote of the electorate of the  
28 agency.

29 **Comment.** Section 21341 is amended to correct a cross-reference.

30 **Pub. Cont. Code § 21351 (amended). Yuba County Water Agency**

31 SEC. \_\_\_\_\_. Section 21351 of the Public Contract Code is amended to read:

32 21351. All contracts for any improvement or unit of work, when the cost  
33 according to the estimate of the engineer will exceed five thousand dollars  
34 (\$5,000), shall be let to the lowest responsible bidder or bidders as provided in this  
35 article. The board shall first determine whether the contract shall be let as a single  
36 unit, or divided into severable parts. The board shall advertise for bids by three  
37 insertions in a daily newspaper of general circulation or by two insertions in a  
38 weekly newspaper of general circulation printed and published by the agency,  
39 inviting sealed proposals for the construction or performance of the improvement  
40 or work. The call for bids shall state whether the work shall be performed in one  
41 unit or divided into parts. The work may be let under a single contract or several  
42 contracts, as stated in the call. The board shall require the successful bidders to file

1 with the board good and sufficient bonds to be approved by the board conditioned  
2 upon the faithful performance of the contract and upon the payment of their claims  
3 for labor and material. The bonds shall comply with ~~Title 15 (commencing with~~  
4 ~~Section 3082) of Part 4 of Division 3 of the Civil Code~~ Part 6 (commencing with  
5 Section 41010). The board may reject any bid. In the event all proposals are  
6 rejected or no proposals are received, or the estimated cost of the work does not  
7 exceed five thousand dollars (\$5,000), or the work consists of channel protection,  
8 maintenance work, or emergency work, the board may have the work done by  
9 force account without advertising for bids.

10 In case of an emergency, if notice for bids to let contracts will not be given, the  
11 board shall comply with Chapter 2.5 (commencing with Section 22050). The  
12 board may purchase in the open market without advertising for bids, materials and  
13 supplies for use in any work, either under contract or by force account. In  
14 awarding any contract or authorizing any work, the board shall comply with the  
15 provisions of Article 2 (commencing with Section 1770) of Chapter 1 of Part 7 of  
16 Division 2 of the Labor Code.

17 **Comment.** Section 21351 is amended to correct a cross-reference.

18 **Pub. Cont. Code § 21361 (amended). Mariposa County Water Agency**

19 SEC. \_\_\_\_\_. Section 21361 of the Public Contract Code is amended to read:

20 21361. All contracts for any improvement or unit of work, when the cost  
21 according to the estimate of the engineer will exceed five thousand dollars  
22 (\$5,000), shall be let to the lowest responsible bidder or bidders as provided in this  
23 article. The board shall first determine whether the contract shall be let as a single  
24 unit, or divided into severable parts. The board shall advertise for bids by three  
25 insertions in a daily newspaper of general circulation or by two insertions in a  
26 weekly newspaper of general circulation printed and published in the agency's  
27 jurisdiction, inviting sealed proposals for the construction or performance of the  
28 improvement or work. The call for bids shall state whether the work shall be  
29 performed in one unit or divided into parts. The work may be let under a single  
30 contract or several contracts, as stated in the call. The board shall require the  
31 successful bidders to file with the board good and sufficient bonds to be approved  
32 by the board conditioned upon the faithful performance of the contract and upon  
33 the payment of their claims for labor and material. The bonds shall comply with  
34 ~~Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code~~  
35 Part 6 (commencing with Section 41010). The board may reject any bid. In the  
36 event all proposals are rejected or no proposals are received, or the estimated cost  
37 of the work does not exceed five thousand dollars (\$5,000), or the work consists of  
38 channel protection, maintenance work, or emergency work, the board of  
39 supervisors may have the work done by force account without advertising for bids.  
40 In case of an emergency, if notice for bids to let contracts will not be given, the  
41 board shall comply with Chapter 2.5 (commencing with Section 22050). The

1 district may purchase in the open market without advertising for bids, materials  
2 and supplies for use in any work, either under contract or by force account.

3 **Comment.** Section 21361 is amended to correct a cross-reference.

4 **Pub. Cont. Code § 21371 (amended). Sutter County Water Agency**

5 SEC. \_\_\_\_\_. Section 21371 of the Public Contract Code is amended to read:

6 21371. All contracts for any improvement or unit of work, when the cost  
7 according to the estimate of the engineer will exceed five thousand dollars  
8 (\$5,000), shall be let to the lowest responsible bidder or bidders as provided in this  
9 article. The board shall first determine whether the contract shall be let as a single  
10 unit, or divided into severable parts. The board shall advertise for bids by three  
11 insertions in a daily newspaper of general circulation or by two insertions in a  
12 weekly newspaper of general circulation printed and published in the agency's  
13 jurisdiction, inviting sealed proposals for the construction or performance of the  
14 improvement or work. The call for bids shall state whether the work shall be  
15 performed in one unit or divided into parts. The work may be let under a single  
16 contract or several contracts, as stated in the call. The board shall require the  
17 successful bidders to file with the board good and sufficient bonds to be approved  
18 by the board conditioned upon the faithful performance of the contract and upon  
19 the payment of their claims for labor and material. The bonds shall comply with  
20 ~~Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code~~  
21 Part 6 (commencing with Section 41010). The board may reject any bid. In the  
22 event all proposals are rejected or no proposals are received, or the estimated cost  
23 of the work does not exceed five thousand dollars (\$5,000), or the work consists of  
24 emergency work, the board may have the work done by force account without  
25 advertising for bids. In case of an emergency, if notice for bids to let contracts will  
26 not be given, the board shall comply with Chapter 2.5 (commencing with Section  
27 22050). The district may purchase in the open market without advertising for bids,  
28 materials and supplies for use in any work, either under contract or by force  
29 account.

30 **Comment.** Section 21371 is amended to correct a cross-reference.

31 **Pub. Cont. Code § 21381 (amended). San Mateo County Flood Control District**

32 SEC. \_\_\_\_\_. Section 21381 of the Public Contract Code is amended to read:

33 21381. All contracts for any improvement or unit of work, except as provided in  
34 this article, estimated to cost in excess of five thousand dollars (\$5,000) shall be  
35 let to the lowest responsible bidder in the manner provided in this article. The  
36 board of supervisors of the district shall advertise by three insertions in a daily  
37 newspaper of general circulation or two insertions in a weekly newspaper of  
38 general circulation printed and published in the district inviting sealed proposals  
39 for the construction of the improvement or work before any contract shall be  
40 made, and may let by contract separately any part of said work or improvement.  
41 The board shall require the successful bidder to file with the board good and

1 sufficient bonds to be approved by the board conditioned upon the faithful  
2 performance of the contract and upon the payment of their claims for labor and  
3 material, the bonds to contain the terms and conditions set forth in ~~Title 15~~  
4 ~~(commencing with Section 3082) of Part 4 of Division 3 of the Civil Code~~ Part 6  
5 (commencing with Section 41010) and to be subject to the provisions of that ~~title~~  
6 part. The board shall also have the right to reject any bid. In the event all proposals  
7 are rejected or no proposals are received pursuant to advertisement, or where the  
8 estimated cost of the work does not exceed five thousand dollars (\$5,000), or the  
9 work consists of channel protection, maintenance work, or emergency work, the  
10 board of supervisors may, without advertising for bids, have the work done by  
11 force account. In case of an emergency, if notice for bids to let contracts will not  
12 be given, the board shall comply with Chapter 2.5 (commencing with Section  
13 22050). The district may purchase in the open market without advertising for bids,  
14 materials and supplies for use in any work either under contract or by force  
15 account.

16 **Comment.** Section 21381 is amended to correct a cross-reference.

17 **Pub. Cont. Code § 21391 (amended). Plumas County Flood Control and Water**  
18 **Conservation District**

19 SEC. \_\_\_\_\_. Section 21391 of the Public Contract Code is amended to read:

20 21391. (a) All contracts for the construction of any unit of work, except as  
21 provided in this article, estimated to cost in excess of two thousand dollars  
22 (\$2,000) shall be let to the lowest responsible bidder in the manner provided in  
23 this article. The board shall advertise by three insertions in a daily newspaper of  
24 general circulation or two insertions in a weekly newspaper of general circulation  
25 published in the district, inviting sealed proposals for the construction of the work  
26 before any contract shall be made, and may let by contract separately any part of  
27 the work. The board shall require the successful bidder to file with the board good  
28 and sufficient bonds to be approved by the board conditioned upon the faithful  
29 performance of the contract and upon the payment of all claims for labor and  
30 material, the bonds to contain the terms and conditions set forth in ~~Title 15~~  
31 ~~(commencing with Section 3082) of Part 4 of Division 3 of the Civil Code~~, Part 6  
32 (commencing with Section 41010) and to be subject to the provisions of that ~~title~~  
33 part. The board shall also have the right to reject any and all bids, in which case  
34 the board may advertise for new bids.

35 (b) In the event no proposals are received pursuant to  
36 advertisement therefor, where the estimated cost of the work does not exceed  
37 two thousand dollars (\$2,000), or where the work consists of emergency work  
38 necessary in order to protect life and property, the board of directors, by  
39 unanimous vote of all members present, may, without advertising for bids, have  
40 the work done by force account. In case of an emergency, if notice for bids to let  
41 contracts will not be given, the board shall comply with Chapter 2.5 (commencing  
42 with Section 22050).

1 (c) The district may purchase in the open market without advertisement for bids,  
2 materials and supplies for use in any work either under contract or by force  
3 account; provided, however, that materials and supplies for use in any new  
4 construction work or improvement, except work referred to in subdivision (b),  
5 may not be purchased if the cost exceeds two thousand five hundred dollars  
6 (\$2,500), without advertising for bids and awarding the contract to the lowest  
7 responsible bidder.

8 (d) The provisions of this section have no application to a contract entered into  
9 with the United States under the authority of Section 3 of Chapter 2114 of the  
10 Statutes of 1959, or to a contract authorized by a vote of the electorate of the  
11 district.

12 **Comment.** Section 21391 is amended to correct a cross-reference.

13 **Pub. Cont. Code § 21401 (amended). Siskiyou County Flood Control and Water**  
14 **Conservation District**

15 SEC. \_\_\_\_\_. Section 21401 of the Public Contract Code is amended to read:

16 21401. (a) All contracts for the construction of any unit of work, except as  
17 provided in this article, estimated to cost in excess of two thousand dollars  
18 (\$2,000) shall be let to the lowest responsible bidder in the manner provided in  
19 this article. The board shall advertise by three insertions in a daily newspaper of  
20 general circulation or two insertions in a weekly newspaper of general circulation  
21 published in the district inviting sealed proposals for the construction of the work  
22 before any contract shall be made, and may let by contract separately any part of  
23 the work. The board shall require the successful bidder to file with the board good  
24 and sufficient bonds to be approved by the board conditioned upon the faithful  
25 performance of the contract and upon the payment of all claims for labor and  
26 material, the bonds to contain the terms and conditions set forth in ~~Title 15~~  
27 ~~(commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, Part 6~~  
28 (commencing with Section 41010) and to be subject to the provisions of that ~~title~~  
29 part. The board shall also have the right to reject any bids, in which case the board  
30 may advertise for new bids.

31 (b) In the event no proposals are received pursuant to advertisement, where the  
32 estimated cost of the work does not exceed two thousand dollars (\$2,000), or  
33 where work consists of emergency work, the board of directors, by unanimous  
34 vote of all members present, may, without advertising for bids, have the work  
35 done by force account. In case of an emergency, if notice for bids to let contracts  
36 will not be given, the board shall comply with Chapter 2.5 (commencing with  
37 Section 22050).

38 (c) The district may purchase in the open market without advertisement for bids,  
39 materials and supplies for use in any work either under contract or by force  
40 account; provided, however, that materials and supplies for use in any new  
41 construction work or improvement, except work referred to in subdivision (b),  
42 may not be purchased if the cost exceeds two thousand five hundred dollars

1 (\$2,500), without advertising for bids and awarding the contract to the lowest  
2 responsible bidder.

3 (d) The provisions of this section have no application to a contract entered into  
4 with the United States under the authority of Section 3 of Chapter 2121 of the  
5 Statutes of 1959, or to a contract authorized by a vote of the electorate of the  
6 district.

7 **Comment.** Section 21401 is amended to correct a cross-reference.

8 **Pub. Cont. Code § 21411 (amended). Nevada County Water Agency**

9 SEC. \_\_\_\_\_. Section 21411 of the Public Contract Code is amended to read:

10 21411. All contracts for any improvement or unit of work, when the cost  
11 according to the estimate of the engineer will exceed five thousand dollars  
12 (\$5,000) shall be let to the lowest responsible bidder or bidders as provided in this  
13 article. The board shall first determine whether the contract shall be let as a single  
14 unit, or divided into severable parts. The board shall advertise for bids by three  
15 insertions in a daily newspaper of general circulation or by two insertions in a  
16 weekly newspaper of general circulation printed and published in the agency's  
17 jurisdiction, inviting sealed proposals for the construction or performance of the  
18 improvement or work. The call for bids shall state whether the work shall be  
19 performed in one unit or divided into parts. The work may be let under a single  
20 contract or several contracts, as stated in the call. The board shall require the  
21 successful bidders to file with the board good and sufficient bonds to be approved  
22 by the board conditioned upon the faithful performance of the contract and upon  
23 the payment of their claims for labor and material. The bonds shall comply with  
24 ~~Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code~~  
25 Part 6 (commencing with Section 41010). The board may reject any bid. In the  
26 event all proposals are rejected or no proposals are received, or the estimated cost  
27 of the work does not exceed five thousand dollars (\$5,000), or the work consists of  
28 channel protection, maintenance work, or emergency work, the board may have  
29 the work done by force account without advertising for bids. In case of an  
30 emergency, if notice for bids to let contracts will not be given, the board shall  
31 comply with Chapter 2.5 (commencing with Section 22050). In that event a  
32 majority vote of all board members shall be required. The board may purchase in  
33 the open market, without advertising for bids, materials and supplies for use in any  
34 work, either under contract or by force account.

35 **Comment.** Section 21411 is amended to correct a cross-reference.

36 **Pub. Cont. Code § 21421 (amended). Sierra County Flood Control and Water Conservation**  
37 **District**

38 SEC. \_\_\_\_\_. Section 21421 of the Public Contract Code is amended to read:

39 21421. (a) All contracts for the construction of any unit of work, except as  
40 provided in this article, estimated to cost in excess of two thousand dollars  
41 (\$2,000), shall be let to the lowest responsible bidder in the manner provided in

1 this article. The board shall advertise by three insertions in a daily newspaper of  
2 general circulation or two insertions in a weekly newspaper of general circulation  
3 published in the district inviting sealed proposals for the construction of the work  
4 before any contract shall be made, and may let by contract separately any part of  
5 the work. The board shall require the successful bidder to file with the board good  
6 and sufficient bonds to be approved by the board conditioned upon the faithful  
7 performance of the contract and upon the payment of all claims for labor and  
8 material, the bonds to contain the terms and conditions set forth in ~~Title 15~~  
9 ~~(commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, Part 6~~  
10 (commencing with Section 41010) and to be subject to the provisions of that ~~title~~  
11 part. The board shall also have the right to reject any bid, in which case the board  
12 may advertise for new bids.

13 (b) In the event no proposals are received pursuant to advertisement, where the  
14 estimated cost of the work does not exceed two thousand dollars (\$2,000), or  
15 where the work consists of emergency work, the board of directors, by unanimous  
16 vote of all members present, may, without advertising for bids, have the work  
17 done by force account. In case of an emergency, if notice for bids to let contracts  
18 will not be given, the board shall comply with Chapter 2.5 (commencing with  
19 Section 22050).

20 (c) The district may purchase in the open market without advertisement for bids,  
21 materials and supplies for use in any work either under contract or by force  
22 account; provided, however, that materials and supplies for use in any new  
23 construction work or improvement, except work referred to in subdivision (b),  
24 may not be purchased if the cost exceeds two thousand five hundred dollars  
25 (\$2,500), without advertising for bids and awarding the contract to the lowest  
26 responsible bidder.

27 (d) The provisions of this section have no application to a contract entered into  
28 with the United States under the authority of Section 3 of Chapter 2123 of the  
29 Statutes of 1959, or to a contract authorized by a vote of the electorate of the  
30 district.

31 **Comment.** Section 21421 is amended to correct a cross-reference.

32 **Pub. Cont. Code § 21431 (amended). Lassen-Modoc County Flood Control and Water**  
33 **Conservation District**

34 SEC. \_\_\_\_\_. Section 21431 of the Public Contract Code is amended to read:

35 21431. (a) All contracts for the construction of any unit of work, except as  
36 provided in this article, estimated to cost in excess of two thousand dollars  
37 (\$2,000), shall be let to the lowest responsible bidder in the manner provided in  
38 this article. The board shall advertise by three insertions in a daily newspaper of  
39 general circulation or two insertions in a weekly newspaper of general circulation  
40 published in the district inviting sealed proposals for the construction of the work  
41 before any contract shall be made, and may let by contract separately any part of  
42 the work. The board shall require the successful bidder to file with the board good

1 and sufficient bonds to be approved by the board conditioned upon the faithful  
2 performance of the contract and upon the payment of all claims for labor and  
3 material, the bonds to contain the terms and conditions set forth in ~~Title 15~~  
4 ~~(commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, Part 6~~  
5 (commencing with Section 41010) and to be subject to the provisions of that ~~title~~  
6 part. The board shall also have the right to reject any bid, in which case the board  
7 may advertise for new bids.

8 (b) In the event no proposals are received pursuant to advertisement, where the  
9 estimated cost of the work does not exceed two thousand dollars (\$2,000), the  
10 board of directors, by unanimous vote of all members present, may without  
11 advertising for bids, have the work done by force account. In case of an  
12 emergency, if notice for bids to let contracts will not be given, the board shall  
13 comply with Chapter 2.5 (commencing with Section 22050).

14 (c) The district may purchase in the open market without advertisement for bids,  
15 materials and supplies for use in any work either under contract or by force  
16 account; provided, however, that materials and supplies for use in any new  
17 construction work or improvement, except work referred to in subdivision (b),  
18 may not be purchased if the cost exceeds two thousand five hundred dollars  
19 (\$2,500), without advertising for bids and awarding the contract to the lowest  
20 responsible bidder.

21 (d) The provisions of this section have no application to a contract entered into  
22 with the United States under the authority of Section 3 of Chapter 2127 of the  
23 Statutes of 1959, or to a contract authorized by a vote of the electorate of the  
24 district.

25 **Comment.** Section 21431 is amended to correct a cross-reference.

26 **Pub. Cont. Code § 21441 (amended). Yuba-Bear River Basins Authority**

27 SEC. \_\_\_\_\_. Section 21441 of the Public Contract Code is amended to read:

28 21441. (a) All contracts for any improvement or unit of work, when the cost  
29 according to the estimate of the engineer will exceed five thousand dollars  
30 (\$5,000) shall be let to the lowest responsible bidder or bidders as provided in this  
31 article. The board shall first determine whether the contract shall be let as a single  
32 unit, or divided into severable parts. The board shall advertise for bids by three  
33 insertions in a daily newspaper of general circulation or by two insertions in a  
34 weekly newspaper of general circulation printed and published in the authority,  
35 inviting sealed proposals for the construction or performance of the improvement  
36 work. The call for bids shall state whether the work shall be performed in one unit  
37 or divided into parts. The work may be let under a single contract or several  
38 contracts, as stated in the call. The board shall require the successful bidders to file  
39 with the board good and sufficient bonds to be approved by the board conditioned  
40 upon the faithful performance of the contract and upon the payment of their claims  
41 for labor and material. The bonds shall comply with ~~Title 15 (commencing with~~  
42 ~~Section 3082) of Part 4 of Division 3 of the Civil Code~~ Part 6 (commencing with

1 Section 41010). The board may reject any bid. In the event all proposals are  
2 rejected or no proposals are received, or the estimated cost of the work does not  
3 exceed five thousand dollars (\$5,000), or the work consists of channel protection,  
4 maintenance work, or emergency work, the board may have the work done by  
5 force account without advertising for bids.

6 (b) In case of an emergency, if notice for bids to let contracts will not be given,  
7 the board shall comply with Chapter 2.5 (commencing with Section 22050). The  
8 authority may purchase in the open market without advertising for bids, materials  
9 and supplies for use in any work, either under contract or by force account.

10 **Comment.** Section 21441 is amended to correct a cross-reference. The other changes are  
11 technical.

12 **Pub. Cont. Code § 21451 (amended). Amador County Water Agency**

13 SEC. \_\_\_\_\_. Section 21451 of the Public Contract Code is amended to read:

14 21451. All contracts for any improvement or unit of work, when the cost  
15 according to the estimate of the engineer will exceed twelve thousand five hundred  
16 dollars (\$12,500), shall be let to the lowest responsible bidder or bidders as  
17 provided in this article. The board shall first determine whether the contract shall  
18 be let as a single unit or divided into severable parts. The board shall advertise for  
19 bids by three insertions in a daily newspaper of general circulation or by two  
20 insertions in a weekly newspaper of general circulation printed and published in  
21 the agency, inviting sealed proposals for the construction or performance of the  
22 improvement or work. The call for bids shall state whether the work shall be  
23 performed in one unit or divided into parts. The work may be let under a single  
24 contract or several contracts, as stated in the call. The board shall require the  
25 successful bidders to file with the board good and sufficient bonds to be approved  
26 by the board conditioned upon the faithful performance of the contract and upon  
27 the payment of their claims for labor and material. The payment bonds shall  
28 comply with ~~Chapter 7 (commencing with Section 3247) of Division 3 of Title 15~~  
29 ~~of the Civil Code~~ Chapter 5 (commencing with Section 45010) of Part 6. The  
30 board may reject any bid. If all proposals are rejected or no proposals are received,  
31 or the estimated cost of the work does not exceed twelve thousand five hundred  
32 dollars (\$12,500), or the work consists of channel protection, maintenance work,  
33 or emergency work, the board may have the work done by force account without  
34 advertising for bids. In case of an emergency, if notice for bids to let contracts will  
35 not be given, the board shall comply with Chapter 2.5 (commencing with Section  
36 22050). The agency may purchase in the open market without advertising for bids,  
37 materials and supplies for use in any work, either under contract or by force  
38 account.

39 **Comment.** Section 21451 is amended to correct a cross-reference.

40 **Pub. Cont. Code § 21461 (amended). El Dorado County Water Agency**

41 SEC. \_\_\_\_\_. Section 21461 of the Public Contract Code is amended to read:

1 21461. All contracts for any improvement or unit of work, when the cost  
2 according to the estimate of the engineer will exceed five thousand dollars  
3 (\$5,000), shall be let to the lowest responsible bidder or bidders as provided in this  
4 article. The board shall first determine whether the contract shall be let as a single  
5 unit, or divided into severable parts. The board shall advertise for bids by three  
6 insertions in a daily newspaper of general circulation or by two insertions in a  
7 weekly newspaper of general circulation printed and published in the agency,  
8 inviting sealed proposals for the construction or performance of the improvement  
9 or work. The call for bids shall state whether the work shall be performed in one  
10 unit or divided into parts. The work may be let under a single contract or several  
11 contracts, as stated in such call. The board shall require the successful bidders to  
12 file with the board good and sufficient bonds to be approved by the board  
13 conditioned upon the faithful performance of the contract and upon payment of  
14 their claims for labor and material. The bonds shall comply with ~~Title 15~~  
15 ~~(commencing with Section 3082) of Part 4 of Division 3 of the Civil Code~~ Part 6  
16 (commencing with Section 41010). The board may reject any and all bids. In the  
17 event all proposals are rejected or no proposals are received, or the estimated cost  
18 of the work does not exceed five thousand dollars (\$5,000), or the work consists of  
19 channel protection, maintenance work, or emergency work, the board of  
20 supervisors may have the work done by force account without advertising for bids.  
21 In case of an emergency, if notice for bids to let contracts will not be given, the  
22 board shall comply with Chapter 2.5 (commencing with Section 22050). The  
23 district may purchase in the open market without advertising for bids, materials  
24 and supplies for use in any work, either under contract or by force account.

25 **Comment.** Section 21461 is amended to correct a cross-reference.

26 **Pub. Cont. Code § 21491 (amended). Kern County Water Agency**

27 SEC. \_\_\_\_\_. Section 21491 of the Public Contract Code is amended to read:

28 21491. (a) All contracts for any improvement or unit of work, when the cost  
29 according to the estimate of the engineer will exceed ten thousand dollars  
30 (\$10,000), shall be let to the lowest responsible bidder or bidders as provided in  
31 this article. The board shall first determine whether the contract shall be let as a  
32 single unit, or divided into severable parts. The board shall advertise for bids by  
33 three insertions in a daily newspaper of general circulation or by two insertions in  
34 a weekly newspaper of general circulation printed and published in the agency,  
35 inviting sealed proposals for the construction or performance of the improvement  
36 or work. The call for bids shall state whether the work shall be performed in one  
37 unit or divided into parts. The work may be let under a single contract or several  
38 contracts, as stated in such call. The board shall require the successful bidders to  
39 file with the board good and sufficient bonds to be approved by the board  
40 conditioned upon the faithful performance of the contract and upon the payment of  
41 their claims for labor and material. The bonds shall comply with ~~Title 15~~

1 ~~(commencing with Section 3082) of Part 4 of Division 3 of the Civil Code Part 6~~  
2 ~~(commencing with Section 41010)~~. The board may reject any bid.

3 (b) In the event all proposals are rejected or no proposals are received, or the  
4 estimated cost of the work does not exceed ten thousand dollars (\$10,000), or the  
5 work consists of channel protection, maintenance work, or emergency work, the  
6 board may have the work done by force account without advertising for bids. In  
7 case of an emergency, if notice for bids to let contracts will not be given, the board  
8 shall comply with Chapter 2.5 (commencing with Section 22050).

9 (c) The agency may purchase in the open market without advertising for bids,  
10 materials and supplies for use in any work, either under contract or by force  
11 account; provided, however, that materials and supplies for use in any new  
12 construction work or improvement, except work referred to in subdivision (b),  
13 may not be purchased if the cost exceeds ten thousand dollars (\$10,000), without  
14 advertising for bids and awarding the contract to the lowest responsible bidder.

15 **Comment.** Section 21491 is amended to correct a cross-reference.

16 **Pub. Cont. Code § 21501 (amended). Desert Water Agency**

17 SEC. \_\_\_\_\_. Section 21501 of the Public Contract Code is amended to read:

18 21501. (a) All contracts for any improvement or unit of work, when the cost  
19 according to the estimate of the engineer will exceed fifteen thousand dollars  
20 (\$15,000), shall be let to the lowest responsible bidder or bidders as provided in  
21 this article. The board shall first determine whether the contract shall be let as a  
22 single unit, or divided into severable parts. The board shall advertise for bids by  
23 three insertions in a daily newspaper of general circulation or by two insertions in  
24 a weekly newspaper of general circulation printed and published in the agency,  
25 inviting sealed proposals for the construction or performance of the improvement  
26 or work. The call for bids shall state whether the work shall be performed in one  
27 unit or divided into parts. The work may be let under a single contract or several  
28 contracts, as stated in such call. The board shall require the successful bidders to  
29 file with the board good and sufficient bonds to be approved by the board  
30 conditioned upon the faithful performance of the contract and upon the payment of  
31 their claims for labor and material. The bonds shall comply with ~~Chapter 7~~  
32 ~~(commencing with Section 3247) of Title 15 of Part 4 of Division 3 of the Civil~~  
33 ~~Code Chapter 5 (commencing with Section 45010) of Part 6~~. The board may reject  
34 any and all bids.

35 (b) The board may have work done by force account without advertising for bids  
36 or by informal bidding procedures in any of the following situations:

37 (1) All proposals are rejected.

38 (2) No proposals are received.

39 (3) The estimated cost of the work does not exceed fifteen thousand dollars  
40 (\$15,000) until January 1, 1989. After January 1, 1989, the estimated cost of the  
41 work shall not exceed ten thousand dollars (\$10,000).

42 (4) The work consists of channel protection.

1 (5) The work consists of maintenance work, except that informal bidding  
2 procedures may be used only where the estimated cost does not exceed twenty-  
3 five thousand dollars (\$25,000).

4 (6) The work consists of emergency work. In case of an emergency, if notice for  
5 bids to let contracts will not be given, the board shall comply with Chapter 2.5  
6 (commencing with Section 22050).

7 (c) The agency may purchase in the open market without advertising for bids,  
8 materials and supplies for use in any work, either under contract or by force  
9 account, except that, materials and supplies for use in any new construction work  
10 or improvement, except work referred to in subdivision (b), may not be purchased,  
11 if the cost exceeds fifteen thousand dollars (\$15,000), without advertising for bids  
12 and awarding the contract to the lowest responsible bidder.

13 (d) As used in this section, “informal bidding procedures” means that the board  
14 shall, at a minimum, award a contract to the lowest responsible bidder after  
15 publishing a notice which generally describes the work to be performed and  
16 invites written bids in a newspaper of general circulation in the agency once a  
17 week for two successive weeks. The board shall obtain a minimum of three written  
18 bids.

19 **Comment.** Section 21501 is amended to correct a cross-reference.

20 **Pub. Cont. Code § 21511 (amended). San Geronio Pass Water Agency**

21 SEC. \_\_\_\_\_. Section 21511 of the Public Contract Code is amended to read:

22 21511. (a) All contracts for any improvement or unit of work, when the cost  
23 according to the estimate of the engineer will exceed fifty thousand dollars  
24 (\$50,000), shall be let to the lowest responsible bidder or bidders as provided in  
25 this article. The board shall first determine whether the contract shall be let as a  
26 single unit or divided into severable parts. The board shall advertise for bids by  
27 three insertions in a daily newspaper of general circulation or by two insertions in  
28 a weekly newspaper of general circulation printed and published in the agency,  
29 inviting sealed proposals for the construction or performance of the improvement  
30 or work. The call for bids shall state whether the work shall be performed in one  
31 unit or divided into parts. The work may be let under a single contract or several  
32 contracts, as stated in the call. The board shall require the successful bidders to file  
33 with the board good and sufficient bonds to be approved by the board conditioned  
34 upon the faithful performance of the contract and upon the payment of their claims  
35 for labor and material. The bonds shall comply with ~~Title 15 (commencing with~~  
36 ~~Section 3082) of Part 4 of Division 3 of the Civil Code~~ Part 6 (commencing with  
37 Section 41010). The board may reject any and all bids.

38 (b) In the event all proposals are rejected or no proposals are received, or the  
39 estimated cost of the work does not exceed ten thousand dollars (\$10,000), or the  
40 work consists of channel protection, maintenance work, or emergency work, the  
41 board may have the work done by force account without advertising for bids. In

1 case of an emergency, if notice for bids to let contracts will not be given, the board  
2 shall comply with Chapter 2.5 (commencing with Section 22050).

3 (c) The agency may purchase in the open market without advertising for bids,  
4 materials and supplies for use in any work, either under contract or by force  
5 account. However, materials and supplies for use in any new construction work or  
6 improvement, except work referred to in subdivision (b), may not be purchased, if  
7 the cost exceeds fifty thousand dollars (\$50,000), without advertising for bids and  
8 awarding the contract to the lowest responsible bidder.

9 **Comment.** Section 21511 is amended to correct a cross-reference.

10 **Pub. Cont. Code § 21521 (amended). Alpine County Water Agency**

11 SEC. \_\_\_\_\_. Section 21521 of the Public Contract Code is amended to read:

12 21521. All contracts for any improvement or unit of work, when the cost  
13 according to the estimate of the engineer will exceed five thousand dollars  
14 (\$5,000) shall be let to the lowest responsible bidder or bidders as provided in this  
15 article. The board shall first determine whether the contract shall be let as a single  
16 unit, or divided into severable parts. The board shall advertise for bids by three  
17 insertions in a daily newspaper of general circulation or by two insertions in a  
18 weekly newspaper of general circulation printed and published in the agency,  
19 inviting sealed proposals for the construction or performance of the improvement  
20 or work. The call for bids shall state whether the work shall be performed in one  
21 unit or divided into parts. The work may be let under a single contract or several  
22 contracts, as stated in the call. The board shall require the successful bidders to file  
23 with the board good and sufficient bonds to be approved by the board conditioned  
24 upon the faithful performance of the contract and upon the payment of their claims  
25 for labor and material. The bonds shall comply with ~~Title 15 (commencing with~~  
26 ~~Section 3082) of Part 4 of Division 3 of the Civil Code~~ Part 6 (commencing with  
27 Section 41010). The board may reject any bid. In the event all proposals are  
28 rejected or no proposals are received, or the estimated cost of the work does not  
29 exceed five thousand dollars (\$5,000), or the work consists of channel protection,  
30 maintenance work, or emergency work, the board may have the work done by  
31 force account without advertising for bids.

32 In case of an emergency, if notice for bids to let contracts will not be given, the  
33 board shall comply with Chapter 2.5 (commencing with Section 22050). In that  
34 event a majority vote of all board members shall be required. The board may  
35 purchase in the open market without advertising for bids, materials and supplies  
36 for use in any work, either under contract or by force account.

37 **Comment.** Section 21521 is amended to correct a cross-reference.

38 **Pub. Cont. Code § 21531 (amended). Castaic Lake Water Agency**

39 SEC. \_\_\_\_\_. Section 21531 of the Public Contract Code is amended to read:

40 21531. (a) The Castaic Lake Water Agency shall have power to prescribe  
41 methods for the construction of works and for the letting of contracts for the

1 construction of works, structures, or equipment, or the performance or furnishing  
2 of labor, materials, or supplies, necessary or convenient for carrying out any of the  
3 purposes of this act or for the acquisition or disposal of any real or personal  
4 property; provided, that all contracts for any improvement or unit of work, when  
5 the cost according to the estimate of the engineer will exceed five thousand dollars  
6 (\$5,000), shall be let to the lowest responsible bidder or bidders as provided in this  
7 article. The board shall first determine whether the contract shall be let as a single  
8 unit or divided into severable parts. The board shall advertise for bids by three  
9 insertions in a daily newspaper of general circulation published in the agency or  
10 by two insertions in a nondaily newspaper of general circulation published in the  
11 agency or, if no newspaper is published in the agency, in any newspaper of general  
12 circulation distributed in the agency, inviting sealed proposals for the construction  
13 or performance of the improvement or work. The call for bids shall state whether  
14 the work shall be performed in one unit or divided into parts. The work may be let  
15 under a single contract or several contracts, as stated in the call. The board shall  
16 require the successful bidders to file with the board good and sufficient bonds to  
17 be approved by the board conditioned upon the faithful performance of the  
18 contract and upon the payment of their claims for labor and material. The bonds  
19 shall comply with ~~Title 15 (commencing with Section 3082) of Part 4 of Division~~  
20 ~~3 of the Civil Code~~ Part 6 (commencing with Section 41010). The board may  
21 reject any bid.

22 (b) In the event all proposals are rejected or no proposals are received, or the  
23 estimated cost of the work does not exceed five thousand dollars (\$5,000), or the  
24 work consists of channel protection, maintenance work, or emergency work, the  
25 board may have the work done by force account without advertising for bids. In  
26 case of an emergency, if notice for bids to let contracts will not be given. The  
27 board shall comply with Chapter 2.5 (commencing with Section 22050).

28 (c) The agency may purchase in the open market without advertising for bids,  
29 materials and supplies for use in any work, either under contract or by force  
30 account; provided, however, that materials and supplies for use in any new  
31 construction work or improvement, except work referred to in subdivision (b),  
32 may not be purchased if the cost exceeds five thousand dollars (\$5,000), without  
33 advertising for bids and awarding the contract to the lowest responsible bidder.

34 **Comment.** Section 21531 is amended to correct a cross-reference.

35 **Pub. Cont. Code § 21541 (amended). Crestline-Lake Arrowhead Water Agency**

36 SEC. \_\_\_\_\_. Section 21541 of the Public Contract Code is amended to read:

37 21541. (a) The Crestline-Lake Arrowhead Water Agency shall have power to  
38 prescribe methods for the construction of works and for the letting of contracts for  
39 the construction of works, structures, or equipment, or the performance or  
40 furnishing of labor, materials, or supplies, necessary or convenient for carrying out  
41 any of the purposes of this act or for the acquisition or disposal of any real or  
42 personal property. However, all contracts for the construction of any improvement

1 or unit of work, when the cost, according to the estimate of the engineer, will  
2 exceed twenty-five thousand dollars (\$25,000), shall be let to the lowest  
3 responsible bidder or bidders as provided in this article. The board shall first  
4 determine whether the contract shall be let as a single unit or divided into  
5 severable parts. The board shall advertise for bids by three insertions in a daily  
6 newspaper of general circulation or by two insertions in a weekly newspaper of  
7 general circulation printed and published in the agency, inviting sealed proposals  
8 for the construction or performance of the improvement or work. The call for bids  
9 shall state whether the work shall be performed in one unit or divided into parts.  
10 The work may be let under a single contract or several contracts, as stated in the  
11 call.

12 The board shall require the successful bidders to file with the board good and  
13 sufficient bonds to be approved by the board conditioned upon the faithful  
14 performance of the contract and upon the payment of their claims for labor and  
15 material. The bonds shall comply with ~~Title 15 (commencing with Section 3082)~~  
16 ~~of Part 4 of Division 3 of the Civil Code~~ Part 6 (commencing with Section 41010).  
17 The board may reject any bid.

18 (b) In the event all proposals are rejected or no proposals are received, or the  
19 estimated cost of the work does not exceed five thousand dollars (\$5,000), or the  
20 work consists of channel protection, maintenance work, or emergency work, the  
21 board may have the work done by force account without advertising for bids. In  
22 case of an emergency, if notice for bids to let contracts will not be given, the board  
23 shall comply with Chapter 2.5 (commencing with Section 22050).

24 (c) The agency may purchase in the open market without advertising for bids,  
25 materials and supplies for use in any work, either under contract or by force  
26 account. However, materials and supplies for use in any new construction work or  
27 improvement, except work referred to in subdivision (b), may not be purchased if  
28 the cost exceeds twenty-five thousand dollars (\$25,000), without advertising for  
29 bids and awarding the contract to the lowest responsible bidder.

30 **Comment.** Section 21541 is amended to correct a cross-reference.

31 **Pub. Cont. Code § 21572 (amended). Madera County Flood Control and Water**  
32 **Conservation Agency**

33 SEC. \_\_\_\_\_. Section 21572 of the Public Contract Code is amended to read:

34 21572. Any improvement or unit of work, except as provided in this article,  
35 estimated to cost in excess of five thousand dollars (\$5,000), shall be done by  
36 contract and let to the lowest responsible bidder in the manner provided in this  
37 article. The board of directors of the agency shall advertise by three insertions in a  
38 daily newspaper of general circulation or two insertions in a weekly newspaper of  
39 general circulation published in the agency, inviting sealed proposals for the  
40 construction of the work before any contract shall be made, and may let by  
41 contract separately any part of the work. The board shall require the successful  
42 bidder to file with the board good and sufficient bonds to be approved by the

1 board, conditioned upon the faithful performance of the contract, and upon the  
2 payment of the claims for labor and material, the bonds to contain the terms and  
3 conditions set forth in ~~Title 15 (commencing with Section 3082) of Part 4 of~~  
4 ~~Division 3 of the Civil Code, Part 6 (commencing with Section 41010)~~ and to be  
5 subject to the provisions of that ~~title part~~. The board shall also have the right to  
6 reject any and all bids, and readvertise for new bids, or by a two-thirds vote may  
7 elect to undertake the work by force account. In the event no proposals are  
8 received pursuant to advertisement, or where the estimated cost of such work does  
9 not exceed five thousand dollars (\$5,000), the board of directors by unanimous  
10 vote of all members present may without advertising for bids have the work done  
11 by force account. In case of an emergency, if notice for bids to let contracts will  
12 not be given, the board shall comply with Chapter 2.5 (commencing with Section  
13 22050). The agency may purchase in the open market without advertisement for  
14 bids, materials and supplies for use in any work either under contract or by force  
15 account.

16 **Comment.** Section 21572 is amended to correct a cross-reference.

17 **Pub. Cont. Code § 21581 (amended). Tulare County Flood Control District**

18 SEC. \_\_\_\_\_. Section 21581 of the Public Contract Code is amended to read:

19 21581. (a) Any improvement or unit of work when the cost according to the  
20 estimate of the engineer will exceed five thousand dollars (\$5,000), shall be done  
21 by contract and shall be let to the lowest responsible bidder or bidders in the  
22 manner provided in this article. The board shall first determine whether the  
23 contract shall be let as a single unit or shall be divided into severable parts, or  
24 both, according to the best interests of the district. The board shall call for bids and  
25 advertise the call by three insertions in a daily newspaper of general circulation or  
26 by two insertions in a weekly newspaper of general circulation printed in the  
27 district inviting sealed proposals for the construction or performance of the  
28 improvement or work before any contract is made. The call for bids shall state  
29 whether the work is to be performed as a unit or shall be divided into severable  
30 specific parts, or both, as stated in the call. The board may let the work by single  
31 contract for the whole or it may divide the work into severable parts by separate  
32 contracts, as stated in the call, according to the best interests of the district. The  
33 board shall require the successful bidder or bidders to file with the board a good  
34 and sufficient bond to be approved by the board conditioned upon the payment of  
35 their claims for labor and material, the bond to contain the terms and conditions  
36 set forth in ~~Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the~~  
37 ~~Civil Code Part 6 (commencing with Section 41010)~~ and to be subject to the  
38 provisions of that ~~title part~~. The board shall also have the right to reject any and all  
39 bids and readvertise for new bids, or by a two-thirds vote may elect to undertake  
40 the work by force account.

41 (b) In the event no proposals are received pursuant to advertisement, or the  
42 estimated cost of the work does not exceed five thousand dollars (\$5,000), or the

1 work consists of channel protection, maintenance work, or emergency work, the  
2 board of supervisors may, without advertising for bids, have the work done by  
3 employees of the district, by day labor, under the direction of the board, by  
4 contract, or by any combination of those methods. In case of an emergency, if  
5 notice for bids to let contracts will not be given, the board shall comply with  
6 Chapter 2.5 (commencing with Section 22050).

7 (c) The district may acquire in the open market without advertising for bids,  
8 materials, equipment, and supplies for use in any work or for any other purpose;  
9 provided, however, that materials and supplies for use in any new construction  
10 work or improvement, except work referred to in subdivision (b), may not be  
11 purchased if the cost exceeds five thousand dollars (\$5,000), without advertising  
12 for bids and awarding the contract to the lowest responsible bidder.

13 **Comment.** Section 21581 is amended to correct a cross-reference.

14 **Pub. Cont. Code § 21591 (amended). Bighorn Mountains Water Agency**

15 SEC. \_\_\_\_\_. Section 21591 of the Public Contract Code is amended to read:

16 21591. (a) Any improvement or unit of work, when the cost, according to the  
17 estimate of the engineer, will exceed twenty-five thousand dollars (\$25,000), shall  
18 be done by contract and shall be let to the lowest responsible bidder or bidders as  
19 provided in this article. The board shall first determine whether the contract shall  
20 be let as a single unit or divided into severable parts. The board shall advertise for  
21 bids by three insertions in a daily newspaper of general circulation or by two  
22 insertions in a weekly newspaper of general circulation printed and published in  
23 the agency, if there is a newspaper printed and published in the agency, inviting  
24 sealed proposals for the construction or performance of the improvement or work.  
25 The call for bids shall state whether the work shall be performed in one unit or  
26 divided into parts. The work may be let under a single contract or several  
27 contracts, as stated in the call. The board shall require the successful bidders to file  
28 with the board good and sufficient bonds to be approved by the board conditioned  
29 upon the faithful performance of the contract and upon the payment of their claims  
30 for labor and material. The bonds shall comply with ~~Title 15 (commencing with~~  
31 ~~Section 3082) of Part 4 of Division 3 of the Civil Code~~ Part 6 (commencing with  
32 Section 41010). The board may reject any and all bids and readvertise, or by a  
33 two-thirds vote may elect to undertake work by force account.

34 (b) If no proposals are received, or the estimated cost of the work does not  
35 exceed twenty-five thousand dollars (\$25,000), or the work consists of channel  
36 protection, maintenance work, or emergency work, the board may have the work  
37 done by force account without advertising for bids. In case of an emergency, if  
38 notice for bids to let contracts will not be given, the board shall comply with  
39 Chapter 2.5 (commencing with Section 22050).

40 (c) The agency may purchase in the open market without advertising for bids,  
41 materials and supplies for use in any work, either under contract or by force  
42 account; provided, however, that materials and supplies for use in any new

1 construction work or improvement, except work referred to in subdivision (b),  
2 may not be purchased if the cost exceeds twenty-five thousand dollars (\$25,000),  
3 without advertising for bids and awarding the contract to the lowest responsible  
4 bidder.

5 **Comment.** Section 21591 is amended to correct a cross-reference.

6 **Pub. Cont. Code § 21601 (amended). Tuolumne County Water Agency**

7 SEC. \_\_\_\_\_. Section 21601 of the Public Contract Code is amended to read:

8 21601. Any improvement or unit of work, when the cost, according to the  
9 estimate of the engineer, will exceed five thousand dollars (\$5,000), shall be done  
10 by contract and let to the lowest responsible bidder or bidders as provided in this  
11 article. The board shall first determine whether the contract shall be let as a single  
12 unit, or divided into severable parts. The board shall advertise for bids by three  
13 insertions in a daily newspaper of general circulation or by two insertions in a  
14 weekly newspaper of general circulation printed and published in the agency,  
15 inviting sealed proposals for the construction or performance of the improvement  
16 or work. The call for bids shall state whether the work shall be performed in one  
17 unit or divided into parts. The work may be let under a single contract or several  
18 contracts, as stated in the call. The board shall require the successful bidders to file  
19 with the board good and sufficient bonds to be approved by the board conditioned  
20 upon the faithful performance of the contract and upon payment of their claims for  
21 labor and material. The bonds shall comply with ~~Title 15 (commencing with~~  
22 ~~Section 3082) of Part 4 of Division 3 of the Civil Code~~ Part 6 (commencing with  
23 Section 41010). The board may reject any and all bids and readvertise, or, by a  
24 two-thirds vote, may elect to undertake the work by force account. In the event no  
25 proposals are received, or the estimated cost of the work does not exceed five  
26 thousand dollars (\$5,000), or the work consists of channel protection, maintenance  
27 work, or emergency work, the board of supervisors may have the work done by  
28 force account without advertising for bids. In case an emergency, if notice for bids  
29 to let contracts will not be given, the board shall comply with Chapter 2.5  
30 (commencing with Section 22050). The district may purchase in the open market  
31 without advertising for bids, materials, and supplies for use in any work, either  
32 under contract or by force account.

33 **Comment.** Section 21601 is amended to correct a cross-reference.

34 **Pub. Cont. Code § 21622 (amended). Monterey Peninsula Water Management District**

35 SEC. \_\_\_\_\_. Section 21622 of the Public Contract Code is amended to read:

36 21622. The board shall require the successful bidder or bidders to file with the  
37 board, good and sufficient bonds, to be approved by the board conditioned upon  
38 the faithful performance of the contract and upon the payment of their claims for  
39 labor and material in connection therewith. Such contracts shall be subject to the  
40 provisions of ~~Title 15 (commencing with Section 3082) of Part 4 of Division 3 of~~  
41 ~~the Civil Code~~ Part 6 (commencing with Section 41010).

1       **Comment.** Section 21622 is amended to correct a cross-reference.

2       **Pub. Cont. Code § 21631 (amended). Merced County Flood control District**

3       SEC. \_\_\_\_\_. Section 21631 of the Public Contract Code is amended to read:

4       21631. (a) Any improvement or unit of work when the cost, according to the  
5 estimate of the engineer, will exceed six thousand five hundred dollars (\$6,500),  
6 shall be done by contract and shall be let to the lowest responsible bidder or  
7 bidders in the manner provided in this article. The board shall first determine  
8 whether the contract shall be let as a single unit, or shall be divided into severable  
9 parts, or both, according to the best interests of the district. The board shall call for  
10 bids and advertise the call by three insertions in a daily newspaper of general  
11 circulation or by two insertions in a weekly newspaper of general circulation  
12 printed in the district inviting sealed proposals for the construction or performance  
13 of the improvement or work before any contract is made. The call for bids shall  
14 state whether the work is to be performed as a unit or shall be divided into  
15 severable parts, or both, as stated in the call. The board may let the work by single  
16 contract or it may divide the work into severable parts by separate contracts, as  
17 stated in the call, according to the best interests of the district. The board shall  
18 require the successful bidder or bidders to file with the board a good and sufficient  
19 bond, to be approved by the board, conditioned upon the payment of their claims  
20 for labor and material. The bond shall contain the terms and conditions set forth in  
21 ~~Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code~~  
22 Part 6 (commencing with Section 41010) and to be subject to the provisions of that  
23 title part. The board may reject any and all bids and readvertise for new bids, or by  
24 a two-thirds vote may elect to undertake the work by force account.

25       (b) If no proposals are received pursuant to advertisement or the estimated cost  
26 of the work does not exceed six thousand five hundred dollars (\$6,500), or the  
27 work consists of channel protection, maintenance work, or emergency work, the  
28 board of supervisors may, without advertising for bids, have the work done by  
29 employees of the district, by day labor, under the direction of the board, by  
30 contract, or by a combination of those methods. In case of an emergency, if notice  
31 for bids to let contracts will not be given, the board shall comply with Chapter 2.5  
32 (commencing with Section 22050).

33       (c) The district may acquire in the open market, without advertising for bids,  
34 materials, equipment, and supplies for use in any work or for any other purpose;  
35 provided, however, that materials and supplies for use in any new construction  
36 work or improvement, except that work referred to in subdivision (b), may not be  
37 purchased if the cost exceeds six thousand five hundred dollars (\$6,500), without  
38 advertising for bids and awarding the contract to the lowest responsible bidder.

39       **Comment.** Section 21631 is amended to correct a cross-reference.

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STREETS AND HIGHWAYS CODE

**Sts. & Hy. Code § 136.5 (amended). Competitive bidding and payment bonds**

SEC. \_\_\_\_\_. Section 136.5 of the Streets and Highways Code is amended to read:

136.5. (a) The contracts referred to in Sections 135, 136, and 136.1 are not subject to the State Contract Act (Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code). Except for emergency work of the type described in subdivision (b), whenever the estimated amount of a contract exceeds two thousand five hundred dollars (\$2,500), it shall be awarded to the lowest responsible bidder, after competitive bidding on any reasonable notice that the department may prescribe. Posting of notice for five days in a public place in the district office within which the work is to be done, or the equipment used, is sufficient. Those contracts shall be subject to the applicable payment bond provisions of ~~Chapter 7 (commencing with Section 3247) of Part 4 of Division 3 of the Civil Code~~ Chapter 5 (commencing with Section 45010) of Part 6 of Division 2 of the Public Contract Code. The department may require faithful performance bonds when considered necessary. The advertisement for each contract shall state whether or not a bond shall be required.

(b) In cases of emergency work necessitated by the imminence or occurrence of a landslide, flood, storm damage, accident, or other casualty, tools or equipment may be rented for a period of not to exceed 60 days without competitive bidding, and the department may waive the requirements of ~~Chapter 7 (commencing with Section 3247) of Part 4 of Division 3 of the Civil Code~~ Chapter 5 (commencing with Section 45010) of Part 6 of Division 2 of the Public Contract Code to the extent that a contractor may commence performance of the work under the contract for the rental of tools or equipment prior to filing a payment bond with the department. In that case, no payment shall be made to the contractor until a payment bond covering all work of the contract is filed with the department.

**Comment.** Section 136.5 is amended to correct cross-references.