

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

TENTATIVE RECOMMENDATION

Trial Court Unification: Revision of Miscellaneous Codes

September 1997

This tentative recommendation is being distributed so that interested persons will be advised of the Commission's tentative conclusions and can make their views known to the Commission. Any comments sent to the Commission will be a part of the public record and will be considered at a public meeting when the Commission determines the provisions it will include in legislation the Commission plans to recommend to the Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you believe revisions should be made in the tentative recommendation.

COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN November 21, 1997.

The Commission often substantially revises tentative recommendations as a result of the comments it receives. Hence, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

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SUMMARY OF TENTATIVE RECOMMENDATION

This tentative recommendation proposes revisions of miscellaneous codes (other than Code of Civil Procedure, Government Code, and Penal Code) to implement trial court unification under SCA 4. This is one of a series of tentative recommendations on statutory revisions necessitated by trial court unification. It is anticipated that the Law Revision Commission will issue a final recommendation, and legislation will be introduced, in the 1998 legislative session to implement SCA 4. The legislation would be contingent on voter approval of SCA 4.

This tentative recommendation was prepared pursuant to Resolution Chapter 102 of the Statutes of 1997.

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TRIAL COURT UNIFICATION: REVISION OF MISCELLANEOUS CODES

BACKGROUND

Trial Court Unification Under SCA 4

Senate Constitutional Amendment 4 (Lockyer) was enacted as Resolution Chapter 36 of the Statutes of 1996.¹ It provides for unification of the municipal and superior courts in a county on a vote of a majority of the municipal court judges and a majority of the superior court judges in that county.²

The measure is currently scheduled to be on the ballot in a statewide election on June 9, 1998.³ If it is approved by the voters, it will become operative the day after the election.⁴ The measure includes a number of provisions that are self-executing,⁵ and other provisions that apply only on unification of the municipal and superior courts in a county.⁶

Role and Methodology of Law Revision Commission

Both the self-executing provisions and the other provisions of SCA 4 require conforming or implementing legislation. The Legislature has directed the Law Revision Commission to report recommendations “pertaining to statutory changes that may be necessitated by court unification.”⁷ This assignment follows an earlier

1. A copy of the measure is attached as Appendix 1.

2. Proposed Cal. Const. art. VI, § 5(e).

3. 1996 Cal. Stat. ch. 333, § 2(i).

4. Cal. Const. art. XVIII, § 4.

5. The measure contains a number of constitutional revisions that will apply regardless of whether the courts in any county ever elect to unify. These include:

(1) Creation of an appellate division in the superior court. Cal. Const. art. VI, § 4.

(2) Changes in structure of Judicial Council. Cal. Const. art. VI, § 6.

(3) Protection of the appellate jurisdiction of the courts of appeal in causes of a type within that jurisdiction on June 30, 1995. Cal. Const. art. VI, § 11(a).

(4) Delegation of the appellate jurisdiction of the superior court to causes prescribed by statute. Cal. Const. art. VI, § 11(b).

(5) Change in the date of an election to fill a superior court vacancy (to the next general election after the second January following the vacancy). Cal. Const. art. VI, § 16(c).

6. Provisions contingent on unification within a county include:

(1) Composition of Judicial Council. Cal. Const. art. VI, § 6.

(2) Composition of Commission on Judicial Performance. Cal. Const. art. VI, § 8.

(3) Election of judges in unified counties. Cal. Const. art. VI, § 16(b)(1).

(4) Transitional provisions for unification. Cal. Const. art. VI, § 23.

7. 1997 Cal. Stat. res. ch. 102.

1 legislative assignment in which the Commission made recommendations on the
2 constitutional revisions necessary to implement trial court unification.⁸

3 The Commission engaged the services of the Institute for Legislative Practice
4 and its director, Professor Clark Kelso of McGeorge Law School, to prepare initial
5 drafts of suggested code revisions. The initial drafts are reviewed by the Judicial
6 Council, which established working groups for this purpose, and are revised
7 appropriately before being considered by the Law Revision Commission. The
8 Commission will issue a series of tentative recommendations, which will be
9 publicized and circulated for comment before the Commission adopts its final
10 recommendations for code revision.

11 It is the intention of the Commission to submit its recommendations to the
12 Governor and Legislature by the beginning of the 1998 legislative session, for
13 enactment at that session. To this end, the Commission will narrowly limit its
14 recommendations to generally preserve existing procedures for the types of cases
15 they now govern.

16 **Drafting Conventions**

17 Any legislation introduced is likely to include not only changes necessitated by
18 SCA 4, but also unrelated technical revisions requested by Legislative Counsel.⁹
19 To highlight the SCA 4 changes for those who have occasion to review them, the
20 Commission's tentative recommendations will not include technical revisions
21 unrelated to SCA 4.¹⁰

22 The drafts do, however, delete existing statutory references to justice courts.
23 Justice courts have been eliminated from California's judicial structure,¹¹ but the
24 statutes have not been revised to account for this.¹²

25 **1997 Legislation**

26 The proposed statutory revisions in this tentative recommendation are directed
27 to California law in effect during 1997, and do not take into account legislation
28 pending or enacted in the 1997 legislative session. A number of statutes will
29 require further revision, if the legislation affecting them is enacted.¹³ The
30 Commission intends to review these statutes and propose appropriate adjustments

⁸. See *Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm'n Reports 1 (1994); *Trial Court Unification: Transitional Provisions for SCA 3*, 24 Cal. L. Revision Comm'n Reports 627 (1994).

⁹. For example, Legislative Counsel habitually expunges the word "such" from the text of all statutes.

¹⁰. Gender-neutral language is adopted throughout, however.

¹¹. 1994 Cal. Stats. res. ch. 113 (SCA 7) (Prop. 191, approved Nov. 8, 1994).

¹². Statutory references to the justice court office of constable are likewise corrected in the proposed law.

¹³. See, e.g., SB 150 (Kopp), relating to criminal restitution, and AB 233 (Escutia & Pringle), relating to trial court funding.

1 before submitting a final recommendation to the Governor and Legislature in
2 1998.

3 MISCELLANEOUS CODES

4 **Differentiating Among Superior Court Civil Causes**

5 On unification of the trial courts in a county, all causes will be within the
6 original jurisdiction of the superior court. It will, however, be necessary to
7 differentiate among superior court causes to preserve economic litigation
8 procedures, local appeals, filing fees, and other procedural distinctions for matters
9 that traditionally have been within the municipal court's jurisdiction. The
10 alternative, treating all causes in the same manner as traditional superior court
11 causes, would be impractical for a number of reasons, including the prospect of
12 swamping trial and appellate court resources.

13 The statutes could differentiate among civil causes simply by referring to causes
14 that would be within the jurisdiction of the municipal court if the courts in a
15 county had not unified. But this approach is predicated on the assumption that
16 municipal courts in some counties will exist indefinitely. The approach also makes
17 it necessary to refer to statutes applicable in another county to determine
18 jurisdiction issues in a unified court. In the long run, all courts may be unified, at
19 which time further statutory revision would be necessary.

20 A preferable approach is to identify causes that are traditionally within the
21 municipal court jurisdiction and deal with them directly. In the proposed
22 legislation, these causes are listed in new Section 85 of the Code of Civil
23 Procedure and are identified as "limited cases." In a county in which the courts
24 have not unified, the municipal court would have jurisdiction of limited cases. In a
25 county in which the courts have unified, the superior court would have original
26 jurisdiction of limited cases, but such cases would be governed by economic
27 litigation procedures, local appeal, filing fees, and the other procedural distinctions
28 that characterize these causes in a municipal court.

29 **Increase in Jurisdictional Amounts**

30 A number of statutes in the Food and Agricultural Code, enacted in 1967,
31 provide municipal court jurisdiction where the amount in controversy does not
32 exceed \$5,000.¹⁴ This was the jurisdictional limit of the municipal court in civil
33 cases at that time. During the past 30 years the jurisdictional limit of the municipal
34 court in civil cases has increased to \$25,000,¹⁵ but the statutes in the Food and
35 Agricultural Code have not been adjusted. The proposed law increases the
36 amounts in those statutes to \$25,000, consistent with the contemporary civil
37 jurisdictional limit of the municipal court.

¹⁴. See Food & Agric. Code §§ 7581, 12647, 27601, 53564. See also Food & Agric. Code § 52514 (\$3,000 limit).

¹⁵. Code Civ. Proc. § 86.

Judicial Districts

Statutes refer to “judicial districts” for various purposes. The references generally intend the “municipal court district” in a county.¹⁶ On unification of the municipal and superior courts in a county, the former municipal court districts have little relevance for most purposes. The proposed law treats statutory references to judicial districts as references to the county if there is no municipal court in the county.¹⁷ Exceptions to this rule,¹⁸ and circumstances where application of the rule could result in a significant change, are noted following relevant provisions in the proposed law.

Transitional Issues in Pending Causes

On the operative date of unification, there will be causes pending in the municipal court, as well as new causes that are statutorily within the jurisdiction of the municipal court. SCA 4 includes transitional provisions that address these matters.¹⁹ The proposed law makes the constitutional transitional provisions more accessible to attorneys and others by repeating them in statutes.²⁰

Other Issues

A few noteworthy issues are highlighted in the attached draft by the mechanism of a Note following selected sections of the draft.

¹⁶. See, e.g., Elec. Code § 325. There appear to be only two instances in the codes where “judicial district” might have been intended to mean “superior court district,” (see Food & Agric. Code § 31622; Ins. Code § 11542.2 (not amended in this draft)); and one where “judicial district” means “court of appeal district.” See Pub. Util. Code § 1756. While the California Constitution does refer to “municipal court districts,” it does not equate them with “judicial districts.”

¹⁷. See proposed Code Civ. Proc. § 38.

¹⁸. See, e.g., Gov’t Code §§ 69744.5 & 69746.5 (superior court sessions). *Cf.* Gov’t Code §§ 69640-69650 (Los Angeles County superior court districts).

¹⁹. Proposed Cal. Const. art. VI, § 23(c)(4)-(5).

²⁰. The statutory transitional provisions are reproduced in Appendix 2 (SCA 4 Implementing Legislation), along with a few other general provisions for court unification under SCA 4.

APPENDIX 1: TEXT OF SCA 4

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1995-96 Regular Session commencing on the fifth day of December, 1994, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California that the Constitution of the State be amended as follows:

First — That Section 16 of Article I thereof is amended to read:

SEC. 16. Trial by jury is an inviolate right and shall be secured to all, but in a civil cause three-fourths of the jury may render a verdict. A jury may be waived in a criminal cause by the consent of both parties expressed in open court by the defendant and the defendant's counsel. In a civil cause a jury may be waived by the consent of the parties expressed as prescribed by statute.

In civil causes the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court. In civil causes ~~in municipal or justice court~~ other than causes within the appellate jurisdiction of the court of appeal the Legislature may provide that the jury shall consist of eight persons or a lesser number agreed on by the parties in open court.

In criminal actions in which a felony is charged, the jury shall consist of 12 persons. In criminal actions in which a misdemeanor is charged, the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court.

Second — That Section 1 of Article VI thereof is amended to read:

SEC. 1. The judicial power of this State is vested in the Supreme Court, courts of appeal, superior courts, and municipal courts. ~~All courts,~~ all of which are courts of record.

Third — That Section 4 of Article VI thereof is amended to read:

SEC. 4. In each county there is a superior court of one or more judges. The Legislature shall prescribe the number of judges and provide for the officers and employees of each superior court. If the governing body of each affected county concurs, the Legislature may provide that one or more judges serve more than one superior court.

~~The county clerk is an ex-officio clerk of the superior court in the county.~~

In each superior court there is an appellate division. The Chief Justice shall assign judges to the appellate division for specified terms pursuant to rules, not inconsistent with statute, adopted by the Judicial Council to promote the independence of the appellate division.

Fourth — That Section 5 of Article VI thereof is amended to read:

SEC. 5. (a) Each county shall be divided into municipal court districts as provided by statute, but a city may not be divided into more than one district. Each

1 municipal court shall have one or more judges. Each municipal court district shall
2 have no fewer than 40,000 residents; provided that each county shall have at least
3 one municipal court district. The number of residents shall be determined as
4 provided by statute.

5 (b) On the operative date of this subdivision, all existing justice courts shall
6 become municipal courts, and the number, qualifications, and compensation of
7 judges, officers, attaches, and employees shall continue until changed by the
8 Legislature. Each judge of a part-time municipal court is deemed to have agreed to
9 serve full time and shall be available for assignment by the Chief Justice for the
10 balance of time necessary to comprise a full-time workload.

11 (c) The Legislature shall provide for the organization and prescribe the
12 jurisdiction of municipal courts. It shall prescribe for each municipal court the
13 number, qualifications, and compensation of judges, officers, and employees.

14 (d) Notwithstanding subdivision (a), any city in San Diego County may be
15 divided into more than one municipal court district if the Legislature determines
16 that unusual geographic conditions warrant such division.

17 (e) Notwithstanding subdivision (a), the municipal and superior courts shall be
18 unified upon a majority vote of superior court judges and a majority vote of
19 municipal court judges within the county. In those counties, there shall be only a
20 superior court.

21 Fifth — That Section 6 of Article VI thereof is amended to read:

22 SEC. 6. The Judicial Council consists of the Chief Justice and one other judge of
23 the Supreme Court, 3 judges of courts of appeal, 5 judges of superior courts, ~~and 5~~
24 judges of municipal courts, 2 nonvoting court administrators, and such other
25 nonvoting members as determined by the voting membership of the council, each
26 appointed by the Chief Justice for a ~~2-year~~ 3-year term pursuant to procedures
27 established by the council; 4 members of the State Bar appointed by its governing
28 body for ~~2-year~~ 3-year terms; and one member of each house of the Legislature
29 appointed as provided by the house. Vacancies in the memberships on the Judicial
30 Council otherwise designated for municipal court judges shall be filled by judges
31 of the superior court in the case of appointments made when fewer than 10
32 counties have municipal courts.

33 Council membership terminates if a member ceases to hold the position that
34 qualified the member for appointment. A vacancy shall be filled by the appointing
35 power for the remainder of the term.

36 The council may appoint an Administrative Director of the Courts, who serves
37 at its pleasure and performs functions delegated by the council or the Chief
38 Justice, other than adopting rules of court administration, practice and procedure.

39 To improve the administration of justice the council shall survey judicial
40 business and make recommendations to the courts, make recommendations
41 annually to the Governor and Legislature, adopt rules for court administration,

1 practice and procedure, ~~not inconsistent with statute~~, and perform other functions
2 prescribed by statute. The rules adopted shall not be inconsistent with statute.

3 The Chief Justice shall seek to expedite judicial business and to equalize the
4 work of judges. The Chief Justice may provide for the assignment of any judge to
5 another court but only with the judge's consent if the court is of lower jurisdiction.
6 A retired judge who consents may be assigned to any court.

7 Judges shall report to the ~~Judicial Council~~ council as the Chief Justice directs
8 concerning the condition of judicial business in their courts. They shall cooperate
9 with the council and hold court as assigned.

10 Sixth — That Section 8 of Article VI thereof is amended to read:

11 SEC. 8. (a) The Commission on Judicial Performance consists of one judge of a
12 court of appeal, one judge of a superior court, and one judge of a municipal court,
13 each appointed by the Supreme Court; 2 members of the State Bar of California
14 who have practiced law in this State for 10 years, each appointed by the governor;
15 and 6 citizens who are not judges, retired judges, or members of the State Bar of
16 California, 2 of whom shall be appointed by the Governor, 2 by the Senate
17 Committee on Rules, and 2 by the Speaker of the Assembly.

18 Except as provided in ~~subdivision (b)~~ subdivisions (b) and (c), all terms are for 4
19 years. No member shall serve more than 2 4-year terms, or for more than a total of
20 10 years if appointed to fill a vacancy. A vacancy in the membership on the
21 Commission on Judicial Performance otherwise designated for a municipal court
22 judge shall be filled by a judge of the superior court in the case of an appointment
23 made when fewer than 10 counties have municipal courts.

24 (b) Commission membership terminates if a member ceases to hold the position
25 that qualified the member for appointment. A vacancy shall be filled by the
26 appointing power for the remainder of the term. A member whose term has
27 expired may continue to serve until the vacancy has been filled by the appointing
28 power. Appointing powers may appoint members who are already serving on the
29 commission prior to March 1, 1995, to a single 2-year term, but may not appoint
30 them to an additional term thereafter.

31 ~~(b)~~ (c) To create staggered terms among the members of the Commission on
32 Judicial Performance, the following members shall be appointed, as follows:

33 (1) Two members appointed by the Supreme Court to a term commencing
34 March 1, 1995, shall each serve a term of 2 years and may be reappointed to one
35 full term.

36 (2) One attorney appointed by the Governor to a term commencing March 1,
37 1995, shall serve a term of 2 years and may be reappointed to one full term.

38 (3) One citizen member appointed by the Governor to a term commencing
39 March 1, 1995, shall serve a term of 2 years and may be reappointed to one full
40 term.

1 (4) One member appointed by the Senate Committee on Rules to a term
2 commencing March 1, 1995, shall serve a term of 2 years and may be reappointed
3 to one full term.

4 (5) One member appointed by the Speaker of the Assembly to a term
5 commencing March 1, 1995, shall serve a term of 2 years and may be reappointed
6 to one full term.

7 (6) All other members shall be appointed to full 4-year terms commencing
8 March 1, 1995.

9 Seventh — That Section 10 of Article VI thereof is amended to read:

10 SEC. 10. The Supreme Court, courts of appeal, superior courts, and their judges
11 have original jurisdiction in habeas corpus proceedings. Those courts also have
12 original jurisdiction in proceedings for extraordinary relief in the nature of
13 mandamus, certiorari, and prohibition. The appellate division of the superior court
14 has original jurisdiction in proceedings for extraordinary relief in the nature of
15 mandamus, certiorari, and prohibition directed to the superior court in causes
16 subject to its appellate jurisdiction.

17 Superior courts have original jurisdiction in all other causes except those given
18 by statute to other trial courts.

19 The court may make such comment on the evidence and the testimony and
20 credibility of any witness as in its opinion is necessary for the proper
21 determination of the cause.

22 Eighth — That Section 11 of Article VI thereof is amended to read:

23 SEC. 11. (a) The Supreme Court has appellate jurisdiction when judgment of
24 death has been pronounced. With that exception courts of appeal have appellate
25 jurisdiction when superior courts have original jurisdiction in causes of a type
26 within the appellate jurisdiction of the courts of appeal on June 30, 1995, and in
27 other causes prescribed by statute. When appellate jurisdiction in civil causes is
28 determined by the amount in controversy, the Legislature may change the
29 appellate jurisdiction of the courts of appeal by changing the jurisdictional amount
30 in controversy.

31 ~~Superior courts have appellate jurisdiction in causes prescribed by statute that~~
32 ~~arise in municipal courts in their counties.~~

33 (b) Except as provided in subdivision (a), the appellate division of the superior
34 court has appellate jurisdiction in causes prescribed by statute.

35 (c) The Legislature may permit appellate courts exercising appellate jurisdiction
36 to take evidence and make findings of fact when jury trial is waived or not a
37 matter of right.

38 Ninth — That Section 16 of Article VI thereof is amended to read:

39 SEC. 16. (a) Judges of the Supreme Court shall be elected at large and judges of
40 courts of appeal shall be elected in their districts at general elections at the same

1 time and places as the Governor. Their terms are 12 years beginning the Monday
2 after January 1 following their election, except that a judge elected to an unexpired
3 term serves the remainder of the term. In creating a new court of appeal district or
4 division the Legislature shall provide that the first elective terms are 4, 8, and 12
5 years.

6 ~~(b) Judges of other~~ (1) In counties in which there is no municipal court, judges
7 of superior courts shall be elected in their counties at general elections except as
8 otherwise necessary to meet the requirements of federal law. In the latter case the
9 Legislature, by two-thirds vote of the membership of each house thereof, with the
10 advice of judges within the affected court, may provide for their election by the
11 system prescribed in subdivision (d), or by any other arrangement. The Legislature
12 may provide that an unopposed incumbent's name not appear on the ballot.

13 (2) In counties in which there is one or more municipal court districts, judges of
14 superior and municipal courts shall be elected in their counties or districts at
15 general elections. The Legislature may provide that an unopposed incumbent's
16 name not appear on the ballot.

17 (c) Terms of judges of superior courts are 6 years beginning the Monday after
18 January 1 following their election. A vacancy shall be filled by election to a full
19 term at the next general election after the second January 1 following the vacancy,
20 but the Governor shall appoint a person to fill the vacancy temporarily until the
21 elected judge's term begins.

22 (d) Within 30 days before August 16 preceding the expiration of the judge's
23 term, a judge of the Supreme Court or a court of appeal may file a declaration of
24 candidacy to succeed to the office presently held by the judge. If the declaration is
25 not filed, the Governor before September 16 shall nominate a candidate. At the
26 next general election, only the candidate so declared or nominated may appear on
27 the ballot, which shall present the question whether the candidate shall be elected.
28 The candidate shall be elected upon receiving a majority of the votes on the
29 question. A candidate not elected may not be appointed to that court but later may
30 be nominated and elected.

31 The Governor shall fill vacancies in those courts by appointment. An appointee
32 holds office until the Monday after January 1 following the first general election at
33 which the appointee had the right to become a candidate or until an elected judge
34 qualifies. A nomination or appointment by the Governor is effective when
35 confirmed by the Commission on Judicial Appointments.

36 Electors of a county, by majority of those voting and in a manner the Legislature
37 shall provide, may make this system of selection applicable to judges of superior
38 courts.

39 Tenth — That Section 23 is added to Article VI thereof, to read:

40 SEC. 23. (a) The purpose of the amendments to Sections 1, 4, 5, 6, 8, 10, 11, and
41 16, of this article, and the amendments to Section 16 of Article I, approved at the
42 November 5, 1996, general election is to permit the Legislature to provide for the

1 abolition of the municipal courts and unify their operations within the superior
2 courts. Notwithstanding Section 8 of Article IV, the implementation of, and
3 orderly transition under, the provisions of the measure adding this section may
4 include urgency statutes that create or abolish offices or change the salaries, terms,
5 or duties of offices, or grant franchises or special privileges, or create vested rights
6 or interests, where otherwise permitted under this Constitution.

7 (b) When the superior and municipal courts within a county are unified, the
8 judgeships in each municipal court in that county are abolished and the previously
9 selected municipal court judges shall become judges of the superior court in that
10 county. The term of office of a previously selected municipal court judge is not
11 affected by taking office as a judge of the superior court. The 10-year membership
12 or service requirement of Section 15 does not apply to a previously selected
13 municipal court judge. Pursuant to Section 6, the Judicial Council may prescribe
14 appropriate education and training for judges with regard to trial court unification.

15 (c) Except as provided by statute to the contrary, in any county in which the
16 superior and municipal courts become unified, the following shall occur
17 automatically in each preexisting superior and municipal court:

18 (1) Previously selected officers, employees, and other personnel who serve the
19 court become the officers and employees of the superior court.

20 (2) Preexisting court locations are retained as superior court locations.

21 (3) Preexisting court records become records of the superior court.

22 (4) Pending actions, trials, proceedings, and other business of the court become
23 pending in the superior court under the procedures previously applicable to the
24 matters in the court in which the matters were pending.

25 (5) Matters of a type previously within the appellate jurisdiction of the superior
26 court remain within the jurisdiction of the appellate division of the superior court.

27 (6) Matters of a type previously subject to rehearing by a superior court judge
28 remain subject to rehearing by a superior court judge, other than the judge who
29 originally heard the matter.

30 (7) Penal Code procedures that necessitate superior court review of, or action
31 based on, a ruling or order by a municipal court judge shall be performed by a
32 superior court judge other than the judge who originally made the ruling or order.

33 Eleventh — That if any provision of this measure or its application to any
34 person or circumstance is held invalid, the invalidity does not affect other
35 provisions or applications of this measure that can be given effect without the
36 invalid provision or application, and to this end the provisions of this measure are
37 severable.

APPENDIX 2: SCA 4 IMPLEMENTING LEGISLATION
(GENERAL PROVISIONS)

Code Civ. Proc. § 38 (added). Judicial districts

SEC. _____. Section 38 is added to the Code of Civil Procedure, to read:

38. Unless the provision or context otherwise requires, a reference in a statute to a judicial district means:

(a) As it relates to a court of appeal, the court of appeal district.

(b) As it relates to a superior court, the county.

(c) As it relates to a municipal court, the municipal court district.

Comment. Section 38 is intended for drafting convenience. Court of appeal districts and municipal court districts are constitutionally mandated. See Cal. Const. art. VI, §§ 3, 5. Superior court districts do not exist except in Los Angeles County. See Gov't Code §§ 69640-69650.

By operation of this section, in a county in which the superior and municipal courts have unified, a statutory reference to a judicial district means the county rather than a former municipal court district. This general rule is subject to exceptions. See, e.g., Gov't Code § 71042.5 (preservation of judicial districts for purpose of publication).

Code Civ. Proc. §§ 85-85.1 (added). Limited cases

SEC. _____. Chapter 5.1 (commencing with Section 85) is added to Title 1 of Part 1 of the Code of Civil Procedure, to read:

CHAPTER 5.1. LIMITED CASES

Article 1. Jurisdiction in Limited Cases

Code Civ. Proc. § 85 (added). Limited cases

85. Notwithstanding any statute that classifies an action or special proceeding as a limited case, an action or special proceeding shall be treated as a limited case only if all of the following conditions are satisfied:

(a) The amount in controversy does not exceed twenty-five thousand dollars (\$25,000). As used in this section, "amount in controversy" means the amount of the demand, or the recovery sought, or the value of the property, or the amount of the lien, which is in controversy in the action, exclusive of attorney fees, interest, and costs.

(b) The relief sought is a type that may be granted in a limited case.

(c) The relief, whether in the complaint, a cross-complaint, or otherwise, is sought exclusively pursuant to one or more statutes that classify an action or special proceeding as a limited case or that provide an action or special proceeding is within the original jurisdiction of the municipal court, including, but not limited to, the following provisions:

Civil Code Section 798.61

Civil Code Section 1719

Civil Code Section 3342.5

Code of Civil Procedure Section 86
 Code of Civil Procedure Section 86.1
 Code of Civil Procedure Section 1710.20
 Food and Agricultural Code Section 7581
 Food and Agricultural Code Section 12647
 Food and Agricultural Code Section 27601
 Food and Agricultural Code Section 31503
 Food and Agricultural Code Section 31621
 Food and Agricultural Code Section 52514
 Food and Agricultural Code Section 53564
 Government Code Section 53069.4
 Government Code Section 53075.6
 Government Code Section 53075.61
 Public Utilities Code Section 5411.5
 Vehicle Code Section 9872.1
 Vehicle Code Section 10751
 Vehicle Code Section 14607.6
 Vehicle Code Section 40230
 Vehicle Code Section 40256

Comment. Section 85 is added to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). It facilitates differentiation among civil cases for purposes such as determining original jurisdiction in a county in which there is a municipal court (see Section 85.1), applying economic litigation procedures (see Section 91), and defining appellate jurisdiction (see Section 904.5).

The amount in controversy requirement of subdivision (a) derives from the \$25,000 jurisdictional limit that applied to the municipal courts. *See, e.g.*, 2 B. Witkin, *California Procedure Courts* § 249, at 323-25 (4th ed. 1996). Now, a case is a limited case and subject to the procedures for a limited case only if the amount in controversy is \$25,000 or less. The last sentence of subdivision (a), defining “amount in controversy,” continues the second sentence of former Section 91 without change. For discussion of aggregating amounts in controversy in cases involving multiple causes, see R. Weil & I. Brown, Jr., *California Practice Guide: Civil Procedure Before Trial, Jurisdiction and Venue* §§ 3:97-3:111, at 3-22 to 3-24 (1997); 2 B. Witkin, *California Procedure Jurisdiction* §§ 38-44, at 582-86 (4th ed. 1996).

Subdivision (b) reflects and preserves limitations on the types of equitable relief awardable in a municipal court. See Section 580 & Comment. Where a money judgment for \$25,000 or less would fully resolve a dispute and there is no need for a declaration of future rights, the case is a limited case despite a prayer for declaratory relief. See *Cardellini v. Casey*, 181 Cal. App. 3d 389, 396 (1986).

Subdivision (c) continues the effect of former law, under which each county had one or more municipal courts and a superior court. Causes like those now listed in subdivision (c) were within the original jurisdiction of the municipal court and subject to procedures now applicable to a limited case. Where a cause within the original jurisdiction of the municipal court was properly joined with one within the original jurisdiction of the superior court, the entire case would be tried in the superior court. *See, e.g.*, *Wiggins v. Washington Nat’l Life Ins. Co.*, 246 Cal. App. 2d 840, 847-48, 55 Cal. Rptr. 129 (1966) (“from the moment defendant filed its cross-complaint for declaratory relief in the instant action the municipal court lost jurisdiction over the cause and was obliged to suspend further proceedings in the action and transfer it to the superior court”); *Armstrong v. Transcontinental Land & Water Co.*, 134 Cal. App. 2d Supp. 889, 285 P.2d 1031

(1955) (joinder of equitable cross-complaint compelled transfer of entire action to superior court). Subdivision (c) continues that policy by requiring that relief in a limited case be sought exclusively pursuant to one or more of the listed provisions, or pursuant to an unlisted provision if the provision places the case within the original jurisdiction of the municipal court. See, e.g., Section 688.010 (enforcement of state tax liability pursuant to warrant or notice of levy). If another type of cause is joined, the procedures for a limited case do not apply.

See Sections 22 (action defined), 23 (special proceeding defined).

Code Civ. Proc. § 85.1 (added). Original jurisdiction

85.1. Except as otherwise provided by statute, the municipal court, or the superior court in a county in which there is no municipal court, has original jurisdiction in a limited case.

Comment. Section 85.1 is added to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). This section limits the original jurisdiction of the superior court in a county in which there is a municipal court. See Cal. Const. art. VI, § 10. Although Section 85.1 states the general rule, in some circumstances the municipal and superior courts may have concurrent jurisdiction. See, e.g., Section 688.010 (enforcement of state tax liability pursuant to warrant or notice of levy).

Gov't Code §§ 70200-70214 (added). Unification of Municipal and Superior Courts

SEC. _____. Chapter 5.1 (commencing with Section 70200) is added to Title 8 of the Government Code, to read:

CHAPTER 5.1. UNIFICATION OF MUNICIPAL AND SUPERIOR COURTS

Article 1. Unification Voting Procedure

§ 70200. Unification voting procedure provided in this article

70200. (a) The municipal and superior courts in a county shall be unified on a majority vote of superior court judges and a majority vote of municipal court judges in the county, pursuant to the procedure provided in this article.

(b) The vote shall be conducted by the Judicial Council or, if authorized by the Judicial Council, the county's registrar of voters.

(c) The Judicial Council may adopt rules not inconsistent with this article for the conduct of the vote, including but not limited to rules governing the frequency of vote calls, manner of voting, duration of the voting period, and selection of the operative date of unification.

Comment. Section 70200 reiterates authority provided in Constitution Article VI, Section 5(e), for unification of the municipal and superior courts in a county. The implementation of the unification procedure is vested in the Legislature by Constitution Article VI, Section 23 (purpose of constitutional amendment is to permit Legislature to provide for unification).

For the operative date of a vote for unification, see Section 70203.

§ 70201. Conduct of vote

70201. (a) A vote of the judges in a county for unification shall be called by the Judicial Council on application of the presiding judge of the superior court in the

1 county or on application of a majority of the judges of the municipal court or a
2 majority of the judges of the superior court in the county.

3 (b) The vote shall be taken 30 days after it is called.

4 (c) A judge is eligible to vote if the judge is serving in the court pursuant to an
5 election or appointment under Section 16 of Article VI of the California
6 Constitution at the time the vote is taken.

7 (d) The ballot shall be in substantially the following form:

8 “Shall the municipal and superior courts in the County of [name county] be
9 unified on [specify date]? [Yes] [No]”

10 **Comment.** Section 70201 does not specify a manner of voting (e.g., secret ballot). This matter
11 is left to Judicial Council rules. See Section 70200(c).

12 **§ 70202. Certification of results**

13 70202. (a) The Judicial Council or registrar of voters shall certify the results of a
14 vote to unify the municipal courts and the superior courts in a county.

15 (b) Unification of the municipal and superior courts in a county requires an
16 affirmative vote of a majority of all superior court judges in the county eligible to
17 vote and a majority of all municipal court judges in the county eligible to vote.

18 (c) On certification, a vote in favor of unification of the municipal and superior
19 courts in a county is final and may not be rescinded or revoked by a subsequent
20 vote.

21 **Comment.** In the case of a vote against unification of the municipal and superior courts in a
22 county, Section 70201 does not preclude a later vote in favor of unification, subject to Judicial
23 Council rules governing the frequency of vote calls. See Section 70200(c).

24 **§ 70203. Operative date of unification**

25 70203. Unification of the municipal and superior courts in a county shall occur
26 on the earlier of the date specified in the unification vote or 180 days following
27 certification of the vote for unification.

28 **Article 2. Transitional Provisions for Unification**

29 **§ 70210. Transitional rules of court**

30 70210. The Judicial Council shall adopt rules of court not inconsistent with
31 statute for:

32 (a) The orderly conversion of proceedings pending in municipal courts to
33 proceedings in superior courts, and for proceedings commenced in superior courts
34 on and after the date the municipal and superior courts in a county are unified.

35 (b) Selection of persons to coordinate implementation activities for the
36 unification of municipal courts with superior courts in a county, including:

37 (1) Selection of a presiding judge for the unified superior court.

38 (2) Selection of a court executive officer for the unified superior court.

39 (3) Appointment of court committees or working groups to assist the presiding
40 judge and court executive officer in implementing unification.

(c) The authority of the presiding judge, in conjunction with the court executive officer and appropriate individuals or working groups of the unified superior court, to act on behalf of the court to implement unification.

(d) Preparation and submission of a written personnel plan to the judges of a unified superior court for adoption.

(e) Preparation of any necessary local court rules that shall, on the date the municipal and superior courts in a county are unified, be the rules of the unified superior court.

(f) Other necessary activities to facilitate the transition to a unified superior court.

Comment. Section 70210 mandates that the Judicial Council adopt rules of court to coordinate and guide the trial courts in effectively implementing trial court unification.

Subdivision (a) provides generally that the rules will ensure the orderly conversion of proceedings in the unified superior court as of the date the municipal and superior courts in a county are unified.

Subdivision (b) provides for the selection of the presiding judge, court executive officer, and appropriate committees or working groups to assist the presiding judge. The method of selection, and the specific duties and authorities for each will be set forth in the rules, as is currently the case in existing Rules 204, 205, 207, 532.5, 532.6, and 573 of the California Rules of Court. This preserves the balance of power that currently exists between the legislature and the judiciary.

Subdivision (c) is intended to encourage the presiding judge to work closely with the court executive officer and court committees or other working groups to implement unification decisions.

Subdivision (d) provides that the courts will develop and adopt a personnel plan. The section parallels Rule 205(11).

Subdivision (e) provides for local rule adoption. As under current practice, the Judicial Council will determine which procedural issues shall be addressed by local rule and which by statewide rule.

Examples of issues that may be addressed by rule of court under subdivision (f) include the development of informational programs for the public and the Bar about unification, and education and training programs for judicial officers and court staff to facilitate the effective transition to a unified court.

§ 70211. Conversion of judgeships

70211. When the municipal and superior courts in a county are unified:

(a) The judgeships in each municipal court in that county are abolished and the previously selected municipal court judges become judges of the superior court in that county. Until revised by statute, the total number of judgeships in the unified superior court shall equal the previously authorized number of judgeships in the municipal court and superior court combined.

(b) The term of office of a previously selected municipal court judge is not affected by taking office as a judge of the superior court.

(c) The 10-year membership or service requirement of Section 15 of Article VI of the California Constitution does not apply to a previously selected municipal court judge.

Comment. Section 70211 restates the first three sentences of Constitution Article VI, Section 23(b), with the addition in subdivision (a) of a provision maintaining the total number of

judgeships in the county. The Legislature prescribes the number of judges. Cal. Const. art. VI, §§ 4, 5.

The references in this section to a “previously selected” judge includes selection by election or by appointment to fill a vacancy. *Cf. Trial Court Unification: Constitutional Revision (SCA 3)*, 24 Cal. L. Revision Comm’n Reports 1, 82 (1994) (Article VI, § 23(b) Comment).

§ 70212. Transitional provisions

70212. In a county in which the municipal and superior courts become unified, the following shall occur automatically in each preexisting municipal and superior court:

(a) Previously selected officers, employees, and other personnel who serve the court become the officers and employees of the superior court.

(b) Preexisting court locations are retained as superior court locations.

(c) Preexisting court records become records of the superior court.

(d) Pending actions, trials, proceedings, and other business of the court become pending in the superior court under the procedures previously applicable to the matters in the court in which the matters were pending.

(e) Matters of a type previously subject to rehearing by a superior court judge remain subject to rehearing by a superior court judge, other than the judge who originally heard the matter.

(f) Penal Code procedures that necessitate superior court review of, or action based on, a ruling or order by a municipal court judge shall be performed by a superior court judge other than the judge who originally made the ruling or order.

(g) Subpoenas, summons of jurors, and other process issued by the court shall be enforceable by the superior court.

Comment. Subdivisions (a)-(f) of Section 70212 restate Constitution Article VI, Section 23(c). Although embodied in the Constitution, these provisions are subject to variation by statute. See Cal. Const. art. VI, § 23(c) (introductory clause).

Subdivision (g) makes clear that process issued by a municipal court remains enforceable by the superior court after unification.

§ 70213. Provisions relating to municipal court

70213. (a) In a county in which the municipal and superior courts become unified, until revised by the Judicial Council, forms for proceedings within the jurisdiction of municipal courts may be used as if the proceedings were in a municipal court.

(b) The Judicial Council may adopt rules resolving any problem that may arise in the conversion of statutory references from the municipal court to the superior court in a county in which the municipal and superior courts become unified.

§ 70214. Preclearance under Voting Rights Act

70214. The Attorney General shall, to the extent required by the preclearance provisions of the federal Voting Rights Act, 42 U.S.C. Section 1973 *et seq.*, seek to obtain preclearance of Section 16(b)(1) of Article VI of the California

1 Constitution as it applies in a county in which the courts are unified pursuant to
2 Section 5(e) of Article VI of the California Constitution.

3 **Comment.** Section 70214 vests preclearance duties in the Attorney General. See 42 U.S.C. §
4 1973c (preclearance submission by state's chief legal officer); Cal. Const. art. V, § 13 (Attorney
5 General state's chief law officer).

6 **Operative date**

7 This act shall become operative only upon the adoption by the voters of Senate
8 Constitutional Amendment 4 of the 1995-96 Regular Session of the Legislature, in
9 which event it shall become operative at the same time as Senate Constitutional
10 Amendment 4.

11 **Urgency clause**

12 This act is an urgency statute necessary for the immediate preservation of the
13 public peace, health, or safety within the meaning of Article IV of the Constitution
14 and shall go into immediate effect. The facts constituting the necessity are:

15 Senate Constitutional Amendment 4 of the 1995-96 Regular Session of the
16 Legislature, if approved by the voters, would change the appellate jurisdiction of
17 the courts and would enable the municipal and superior courts in a county to unify.
18 It is necessary that implementing measures be taken immediately so that an
19 orderly transition of the court system will occur.

PROPOSED LEGISLATION

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

SEC. _____. Section 6301 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

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

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

SEC. _____. Section 6301.1 of the Business and Professions Code is amended to read:

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


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

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

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

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

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

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

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

SEC. _____. Section 7028.2 of the Business and Professions Code is amended to read:

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

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

Civ. Code § 798.61 (amended). Abandoned mobilehomes

SEC. _____. Section 798.61 of the Civil Code is amended to read:

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

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

5 (B) It is unoccupied.

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

7 (2) For purposes of this section:

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

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

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

25 (c) Thirty or more days following posting pursuant to subdivision (b), the
26 management may file a petition in the municipal ~~or justice~~ court for the judicial
27 district in which the mobilehome park is located, or in the superior court in a
28 county in which there is no municipal court, for a judicial declaration of
29 abandonment of the mobilehome. A proceeding under this subdivision is a limited
30 case. Copies of the petition shall be served upon the homeowner, any known
31 registered owner, and any known person having a lien or security interest of record
32 in the mobilehome by posting a copy on the mobilehome and mailing copies to
33 those persons at their last known addresses by registered or certified mail with a
34 return receipt requested in the United States mail, postage prepaid.

35 (d)(1) Hearing on the petition shall be given precedence over other matters on
36 the court’s calendar.

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

1 right to possession of the mobilehome or a security or ownership interest in the
2 mobilehome.

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

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

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

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

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

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

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

of any prior interest, including any security interest or lien, except the lien provided for in Section 18116.1 of the Health and Safety Code, in the abandoned mobilehome.

Comment. Section 798.61 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for limited cases).

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

SEC. _____. Section 1719 of the Civil Code is amended to read:

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

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

(3) Notwithstanding paragraphs (1) and (2), a person shall not be liable for the service charge, costs to mail the written demand, or treble damages if he or she stops payment in order to resolve a good faith dispute with the payee. The payee is entitled to the service charge, costs to mail the written demand, or treble damages

1 only upon proving by clear and convincing evidence that there was no good faith
2 dispute, as defined in subdivision (b).

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

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

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

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

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

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

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

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

30 NOTICE

31 To _____

32 (name of drawer)

33 _____ is the payee of a check you wrote

34 (name of payee)

35 for \$ _____. The check was not paid because

36 (amount)

37 you stopped payment, and the payee demands payment. You may have a good faith
38 dispute as to whether you owe the full amount. If you do not have a good faith dispute
39 with the payee and fail to pay the payee the full amount of the check in cash, a service
40 charge of an amount not to exceed twenty-five dollars (\$25) for the first check passed
41 on insufficient funds and an amount not to exceed thirty-five dollars (\$35) for each
42 subsequent check passed on insufficient funds, and the costs to mail this notice within
43 30 days after this notice was mailed, you could be sued and held responsible to pay at
44 least both of the following:

1 (1) The amount of the check.

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

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

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

8 _____
9 (name of payee)

10 _____
11 (street address)

12 _____
13 (telephone number)

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

15 _____
16 (name of sender of notice)

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

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

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

36 (g) Notwithstanding subdivision (a), if the payee is ~~a municipal~~ the court, the
37 written demand for payment described in subdivision (a) may be mailed to the
38 drawer by ~~a municipal~~ the court clerk. Notwithstanding subdivision (d), in the case
39 of a stop payment where the demand is mailed by ~~a municipal~~ the court clerk, a
40 court may not award damages or costs pursuant to subdivision (d), unless the court
41 receives into evidence a copy of the written demand, and a certificate of mailing
42 by ~~a municipal~~ the court clerk in the form provided for in subdivision (4) of

Section 1013a of the Code of Civil Procedure for service in civil actions. For purposes of this subdivision, in courts where a single court clerk serves more than one court, the clerk shall be deemed the court clerk of each court.

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

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

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

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

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

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

A limited case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for limited cases).

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

Civ. Code § 3342.5 (amended). Dog bites

SEC. _____. Section 3342.5 of the Civil Code is amended to read:

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

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

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

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

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

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

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

15 (g) A proceeding under this section is a limited case.

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

18 A limited case is within the original jurisdiction of the municipal court or of the superior court
19 in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court
20 jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases). See also Code Civ. Proc. §§ 91, 904.5,
21 1085 (trial procedures and writ and appellate jurisdiction for limited cases).

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

23 SEC. _____. Section 44944 of the Education Code is amended to read:

24 44944. (a) In a dismissal or suspension proceeding initiated pursuant to Section
25 44934, if a hearing is requested by the employee, the hearing shall be commenced
26 within 60 days from the date of the employee's demand for a hearing. The hearing
27 shall be initiated, conducted, and a decision made in accordance with Chapter 5
28 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
29 Government Code. However, the hearing date shall be established after
30 consultation with the employee and the governing board, or their representatives,
31 and the Commission on Professional Competence shall have all the power granted
32 to an agency in that chapter, except that the right of discovery of the parties shall
33 not be limited to those matters set forth in Section 11507.6 of the Government
34 Code but shall include the rights and duties of any party in a civil action brought in
35 a superior court under Article 3 (commencing with Section 2016) of Chapter 3 of
36 Title 4 of Part 4 of the Code of Civil Procedure. Notwithstanding any provision to
37 the contrary, and except for the taking of oral depositions, no discovery shall occur
38 later than 30 calendar days after the employee is served with a copy of the
39 accusation pursuant to Section 11505 of the Government Code. In all cases,
40 discovery shall be completed prior to seven calendar days before the date upon
41 which the hearing commences. If any continuance is granted pursuant to Section
42 11524 of the Government Code, the time limitation for commencement of the
43 hearing as provided in this subdivision shall be extended for a period of time equal

1 to such continuance. However, the extension shall not include that period of time
2 attributable to an unlawful refusal by either party to allow the discovery provided
3 for in this section.

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

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

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

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

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

39 The member selected by the governing board and the member selected by the
40 employee shall not be related to the employee and shall not be employees of the
41 district initiating the dismissal or suspension and shall hold a currently valid
42 credential and have at least five years' experience within the past 10 years in the
43 discipline of the employee.

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

4 (1) That the employee should be dismissed.

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

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

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

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

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

18 The board may adopt from time to time such rules and procedures not
19 inconsistent with provisions of this section as may be necessary to effectuate this
20 section.

21 The governing board and the employee shall have the right to be represented by
22 counsel.

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

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

33 (e) If the Commission on Professional Competence determines that the
34 employee should be dismissed or suspended, the governing board and the
35 employee shall share equally the expenses of the hearing, including the cost of the
36 administrative law judge. The state shall pay any costs incurred under paragraph
37 (2) of subdivision (d), the reasonable expenses, as determined by the
38 administrative law judge, of the member selected by the governing board and the
39 member selected by the employee, including, but not limited to payments or
40 obligations incurred for travel, meals, and lodging, and the cost of the substitute or
41 substitutes, if any, for the member selected by the governing board and the
42 member selected by the employee. The Controller shall pay all claims submitted
43 pursuant to this paragraph from the General Fund, and may prescribe reasonable

1 rules, regulations, and forms for the submission of the claims. The employee and
2 the governing board shall pay their own attorney fees.

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

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

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

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

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

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

32 **Comment.** Section 44944 is amended to accommodate unification of the municipal and
33 superior courts in a county. Cal. Const. art. VI, § 5(e).

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

35 SEC. _____. Section 45312 of the Education Code is amended to read:

36 45312. The commission may authorize a hearing officer or other representative
37 to conduct any hearing or investigation which the commission itself is authorized
38 by this article to conduct. Any such authorized person conducting such hearing or
39 investigation may administer oaths, subpoena and require the attendance of
40 witnesses and the production of books or papers, and cause the depositions of
41 witnesses to be taken in the manner prescribed by law for like depositions in civil
42 cases in the superior court of this state under Article 3 (commencing with Section

2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure. The commission may instruct such authorized representative to present findings or recommendations. The commission may accept, reject or amend any of the findings or recommendations of the said authorized representative. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript of the hearing or investigation or upon the results of such supplementary hearing or investigation as the commission may order.

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

Comment. Section 45312 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Educ. Code § 48295 (amended). Jurisdiction

SEC. _____. Section 48295 of the Education Code is amended to read:

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

Comment. Section 48295 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Educ. Code § 87675 (amended). Arbitration proceedings

SEC. _____. Section 87675 of the Education Code is amended to read:

87675. The arbitrator shall conduct proceedings in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that the right of discovery of the parties shall not be limited to those matters set forth in Section 11507.6 of the Government Code but shall include the rights and duties of any party in a civil action brought in a superior court under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure. In all cases, discovery shall be completed prior to one week before the date set for hearing. The arbitrator shall determine whether there is cause to dismiss or penalize the employee. If the arbitrator finds cause, the arbitrator shall determine whether the employee shall be dismissed, the precise penalty to be imposed, and whether the decision should be imposed immediately or postponed pursuant to Section 87672.

No witness shall be permitted to testify at the hearing except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters that occurred more than four years prior to the date of the filing of the notice.

1 Evidence of records regularly kept by the governing board concerning the
2 employee may be introduced, but no decision relating to the dismissal or
3 suspension of any employee shall be made based on charges or evidence of any
4 nature relating to matters occurring more than four years prior to the filing of the
5 notice.

6 **Comment.** Section 87675 is amended to accommodate unification of the municipal and
7 superior courts in a county. Cal. Const. art. VI, § 5(e).

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

9 SEC. _____. Section 87679 of the Education Code is amended to read:

10 87679. The administrative law judge shall conduct proceedings in accordance
11 with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title
12 2 of the Government Code, except that the right of discovery of the parties shall
13 not be limited to those matters set forth in Section 11507.6 of the Government
14 Code but shall include the rights and duties of any party in a civil action brought in
15 a superior court under Article 3 (commencing with Section 2016) of Chapter 3 of
16 Title 4 of Part 4 of the Code of Civil Procedure. In all cases, discovery shall be
17 completed prior to one week before the date set for hearing. The written notice
18 delivered to the employee pursuant to Section 87672 shall be deemed an
19 accusation. The written objection of the employee delivered pursuant to Section
20 87673 shall be deemed the notice of defense.

21 **Comment.** Section 87679 is amended to accommodate unification of the municipal and
22 superior courts in a county. Cal. Const. art. VI, § 5(e).

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

24 SEC. _____. Section 88131 of the Education Code is amended to read:

25 88131. The commission may authorize a hearing officer or other representative
26 to conduct any hearing or investigation which the commission itself is authorized
27 by this article to conduct. Any such authorized person conducting such hearing or
28 investigation may administer oaths, subpoena and require the attendance of
29 witnesses and the production of books or papers, and cause the depositions of
30 witnesses to be taken in the manner prescribed by law for like depositions in civil
31 cases in the superior court of this state under Article 3 (commencing with Section
32 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure. The
33 commission may instruct such authorized representative to present findings or
34 recommendations. The commission may accept, reject or amend any of the
35 findings or recommendations of the said authorized representative. Any rejection
36 or amendment of findings or recommendations shall be based either on a review of
37 the transcript of the hearing or investigation or upon the results of such
38 supplementary hearing or investigation as the commission may order.

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

1 **Comment.** Section 88131 is amended to accommodate unification of the municipal and
2 superior courts in a county. Cal. Const. art. VI, § 5(e).

3 **Fam. Code § 4845 (unchanged). Evidence**

4 4845. (a) In a hearing for the civil enforcement of this chapter, the court is
5 governed by the rules of evidence applicable in a civil court action in the superior
6 court. If the action is based on a support order issued by another court, a certified
7 copy of the order shall be received as evidence of the duty of support, subject only
8 to any defenses or modification available to a defendant in a proceeding to enforce
9 a foreign support judgment.

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

13 ☞ **Note.** There is no distinction between rules of evidence applicable generally and in limited
14 cases.

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

16 SEC. _____. Section 1785 of the Financial Code is amended to read:

17 1785. (a) If the commissioner finds that any of the factors set forth in Section
18 1781 is true with respect to any foreign (other nation) bank which is licensed to
19 transact business in this state and that it is necessary for the protection of the
20 interests of the creditors of such bank's business in this state or for the protection
21 of the public interest that he or she take immediate possession of the property and
22 business of the bank, the commissioner may by order forthwith take possession of
23 the property and business of the bank and retain possession until the bank resumes
24 business in this state or is finally liquidated. The bank may, with the consent of the
25 commissioner, resume business in this state upon such conditions as the
26 commissioner may prescribe.

27 (b) (1) Whenever the commissioner takes possession of the property and
28 business of a foreign (other nation) bank pursuant to subdivision (a), such bank
29 may, within 10 days, apply to the superior court in the county in which the
30 primary office of the bank is located to enjoin further proceedings. The court may,
31 after citing the commissioner to show cause why further proceedings should not be
32 enjoined and after a hearing, dismiss such application or enjoin the commissioner
33 from further proceedings and order him or her to surrender the property and
34 business of the bank to the bank or make such further order as may be just.

35 (2) The judgment of the court may be appealed by the commissioner or by the
36 bank in the manner provided by law for appeals from the judgment of a superior
37 court to the court of appeal. In case the commissioner appeals the judgment of the
38 court, such appeal shall operate as a stay of the judgment, and the commissioner
39 shall not be required to post any bond.

40 (c) Whenever the commissioner takes possession of the property and business of
41 a foreign (other nation) bank pursuant to subdivision (a), the commissioner shall

1 conserve or liquidate the property and business of such bank pursuant to Articles 1
2 (commencing with Section 3100), 3 (commencing with Section 3160) and 6
3 (commencing with Section 3220) of Chapter 17, and the provisions of such
4 articles (except Sections 3100, 3101, 3102, and 3126) shall apply as if the bank
5 were a bank organized under the laws of this state.

6 (d) When the commissioner has completed the liquidation of the property and
7 business of a foreign (other nation) bank, the commissioner shall transfer any
8 remaining assets to such bank in accordance with such orders as the court may
9 issue. However, in case the bank has an office in another state of the United States
10 which is in liquidation and the assets of such office appear to be insufficient to pay
11 in full the creditors of the office, the court shall order the commissioner to transfer
12 to the liquidator of the office such amount of any such remaining assets as appears
13 to be necessary to cover such insufficiency; if there are two or more such offices
14 and the amount of remaining assets is less than the aggregate amount of
15 insufficiencies with respect to the offices, the court shall order the commissioner
16 to distribute the remaining assets among the liquidators of such offices in such
17 manner as the court finds equitable.

18 **Comment.** Section 1785 is amended to accommodate unification of the municipal and superior
19 courts in a county. Cal. Const. art. VI, § 5(e).

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

21 SEC. _____. Section 1824 of the Financial Code is amended to read:

22 1824. An appeal may be taken from the judgment of the court by the
23 commissioner or by the licensee in the manner provided by law for appeals from
24 the judgment of a superior court to the court of appeal.

25 **Comment.** Section 1824 is amended to accommodate unification of the municipal and superior
26 courts in a county. Cal. Const. art. VI, § 5(e).

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

28 SEC. _____. Section 1893 of the Financial Code is amended to read:

29 1893. (a) If the commissioner finds that any of the factors set forth in Section
30 1889 is true with respect to any licensee and that it is necessary for the protection
31 of the interests of purchasers or holders of traveler's checks issued by the licensee
32 or for the protection of the public interest that the commissioner take immediate
33 possession of the property and business of the licensee, the commissioner may by
34 order forthwith take possession of the property and business of the licensee and
35 retain possession until the licensee resumes business or is finally liquidated. The
36 licensee may, with the consent of the commissioner, resume business upon such
37 conditions as the commissioner may prescribe.

38 (b) Whenever the commissioner takes possession of the property and business of
39 a licensee pursuant to subdivision (a), the licensee may, within 10 days, apply to
40 the superior court in any county of this state in which an office of the licensee is
41 located (or, in case the licensee has no office in this state, in the County of
42 Sacramento, in the City and County of San Francisco, or in the County of Los

Angeles) to enjoin further proceedings. The court may, after citing the commissioner to show cause why further proceedings should not be enjoined and after a hearing, dismiss the application or enjoin the commissioner from further proceedings and order the commissioner to surrender the property and business of the licensee to the licensee or make such further order as may be just. The judgment of the superior court may be appealed by the commissioner or by the licensee in the manner provided by law for appeals from the judgment of a superior court to the court of appeal.

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

Comment. Section 1893 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 3102 (amended). Appeal

SEC. _____. Section 3102 of the Financial Code is amended to read:

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

Comment. Section 3102 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 16154 (amended). Appeal

SEC. _____. Section 16154 of the Financial Code is amended to read:

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

Comment. Section 16154 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fin. Code § 17335 (amended). Appeal

SEC. _____. Section 17335 of the Financial Code is amended to read:

17335. An appeal may be taken from the judgment of the court by the commissioner or by Fidelity Corporation in the manner provided by law for appeals from the judgment of a superior court to the court of appeal. An appeal from the judgment of the court does not operate as a stay of the judgment unless the court, on good cause, so orders. No bond need be given if the appeal is taken

1 by the commissioner, but if the appeal is taken by Fidelity Corporation a bond
2 shall be given as required by Sections 917.2 and 917.5 of the Code of Civil
3 Procedure as a condition to any stay.

4 **Comment.** Section 17335 is amended to accommodate unification of the municipal and
5 superior courts in a county. Cal. Const. art. VI, § 5(e).

6 **Fin. Code § 18415.2 (amended). Appeal**

7 SEC. _____. Section 18415.2 of the Financial Code is amended to read:

8 18415.2. An appeal may be taken from the judgment of the court by the
9 commissioner or by the industrial loan company in the manner provided by law
10 for appeals from the judgment of a superior court to the court of appeal.

11 **Comment.** Section 18415.2 is amended to accommodate unification of the municipal and
12 superior courts in a county. Cal. Const. art. VI, § 5(e).

13 **Fin. Code § 18495 (amended). Appeal**

14 SEC. _____. Section 18495 of the Financial Code is amended to read:

15 18495. An appeal may be taken from the judgment of the court by the
16 commissioner or by Guaranty Corporation in the manner provided by law for
17 appeals from the judgment of a superior court to the court of appeal. An appeal
18 from the judgment of the court does not operate as a stay of the judgment unless
19 the court, on good cause, so orders.

20 **Comment.** Section 18495 is amended to accommodate unification of the municipal and
21 superior courts in a county. Cal. Const. art. VI, § 5(e).

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

23 SEC. _____. Section 31713 of the Financial Code is amended to read:

24 31713. (a) If the commissioner finds that any of the factors set forth in Section
25 31709 is true with respect to any licensee and that it is necessary for the protection
26 of the interests of the licensee or for the protection of the public interest that the
27 commissioner take immediate possession of the property and business of the
28 licensee, the commissioner may forthwith take possession of the property and
29 business of the licensee and retain possession until the licensee resumes business
30 or is finally liquidated. The licensee may, with the consent of the commissioner,
31 resume business upon such conditions as he or she may prescribe.

32 (b) Whenever the commissioner takes possession of the property and business of
33 a licensee pursuant to subdivision (a), the licensee may apply within 10 days to the
34 superior court in the county in which the head office of the licensee is located to
35 enjoin further proceedings. The court, after citing the commissioner to show cause
36 why further proceedings should not be enjoined and after a hearing, may dismiss
37 the application or enjoin the commissioner from further proceedings and order the
38 commissioner to surrender the property and business of the licensee to the licensee
39 or make such further order as may be just.

40 (c) An appeal may be taken from the judgment of the superior court by the
41 commissioner or by the licensee in the manner provided by law for appeals from

the judgment of a superior court to the court of appeal. An appeal from the judgment of the superior court shall operate as a stay of the judgment. No bond need be given if the appeal is taken by the commissioner, but if the appeal is taken by the licensee, a bond shall be given as required by the Code of Civil Procedure.

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

Comment. Section 31713 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

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

SEC. _____. Section 34113 of the Financial Code is amended to read:

34113. (a) If the commissioner finds that any of the factors set forth in Section 34109 is true with respect to any licensee and that it is necessary for the protection of the interests of purchasers or holders of payment instruments issued by the licensee or for the protection of the public interest that the commissioner take immediate possession of the property and business of the licensee, the commissioner may by order forthwith take possession of the property and business of the licensee and retain possession until the licensee resumes business or is finally liquidated. The licensee may, with the consent of the commissioner, resume business upon such conditions as the commissioner may prescribe.

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

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

Comment. Section 34113 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fish & Game Code § 210 (amended). Regulations

SEC. _____. Section 210 of the Fish and Game Code is amended to read:

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

(b) The commission and the department may do anything that is deemed necessary and proper to publicize and distribute regulations so that persons likely to be affected will be informed of them. The failure of the commission to provide any notice of its regulations, other than by filing them in accordance with Section 215, shall not impair the validity of the regulations.

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

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

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

Fish & Game Code § 309 (amended). Depositions

SEC. _____. Section 309 of the Fish and Game Code is amended to read:

309. The commission or any person appointed by it to conduct a hearing may, in any investigation or hearing, cause the deposition of witnesses, residing within or without the state, to be taken in the manner prescribed by law for deposition in civil actions in the superior courts of this state under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure, and may compel the attendance of witnesses and the production of documents and papers. The commission shall adopt regulations which afford procedural and substantive due process to any person, whose license or permit is subject to revocation or suspension. Except upon conviction of a violation of this code or a regulation adopted pursuant to this code relating to the licensed or permitted activity and notwithstanding any other provision of this code, the commission shall not revoke or suspend any license or permit until the regulations required by this section have been adopted and approved by the Office of Administrative Law pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Comment. Section 309 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Fish & Game Code § 5934 (amended). Depositions

SEC. _____. Section 5934 of the Fish and Game Code is amended to read:

5934. The commission or any party may, in any hearing, cause the deposition of witnesses to be taken in the manner prescribed by law for depositions in civil actions in the superior courts of this State under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure.

Comment. Section 5934 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

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

SEC. _____. Section 12150 of the Fish and Game Code is amended to read:

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

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

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

Comment. Section 12150 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

☞ **Note.** Despite the fact that the proceeding under this section is noncriminal, the procedure is described as being “conducted in the same manner as an action to try a misdemeanor”. Presumably this covers fees, appeals, and other aspects of procedure, so that classification of the proceeding as a limited case is not necessary.

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

SEC. _____. Section 12151 of the Fish and Game Code is amended to read:

12151. Whenever any person, while taking a bird or mammal, kills or wounds any domestic animal belonging to another and that fact is ascertained by the department, the department shall notify the district attorney of the county in which the act occurred. The district attorney may thereupon bring an action in the

1 municipal ~~or justice~~ court of the judicial district in which the act occurred ~~or in the~~
2 superior court in a county in which there is no municipal court for the purpose of
3 determining the cause of the killing or wounding. Such proceedings shall be
4 conducted in the same manner as an action to try a misdemeanor and the defendant
5 may request that all findings of fact shall be made by a jury. The court shall
6 inform the defendant of the nature of the proceedings and of ~~his~~ the defendant's
7 right to have a jury.

8 If it is found that such person did the killing or wounding but that it was not
9 intentional or negligent, the court shall dismiss the proceeding. Otherwise, if it is
10 found that such person did the killing or wounding intentionally or negligently, the
11 court shall issue an order prohibiting ~~him~~ the defendant from taking any bird or
12 mammal for a period of five years.

13 **Comment.** Section 12151 is amended to accommodate unification of the municipal and
14 superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal
15 court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc.
16 § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination
17 of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

18 ☞ **Note.** Despite the fact that the proceeding under this section is noncriminal, the procedure is
19 described as being “conducted in the same manner as an action to try a misdemeanor”.
20 Presumably this covers fees, appeals, and other aspects of procedure, so that classification of the
21 proceeding as a limited case is not necessary.

22 **Food & Agric. Code § 7581 (amended). Court jurisdiction**

23 SEC. _____. Section 7581 of the Food and Agriculture Code is amended to read:

24 7581. ~~In actions which arise~~ A proceeding pursuant to this article:

25 ~~(a) Municipal courts shall have original jurisdiction~~ where the value of the
26 property seized amounts to ~~five~~ twenty-five thousand dollars (~~\$5,000~~ \$25,000) or
27 less is a limited case.

28 ~~(b) Justice courts shall have original jurisdiction where the value amounts to five~~
29 ~~hundred dollars (\$500) or less.~~

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

33 A limited case is within the original jurisdiction of the municipal court or of the superior court
34 in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court
35 jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases). See also Code Civ. Proc. §§ 91, 904.5,
36 1085 (trial procedures and writ and appellate jurisdiction for limited cases). The amendment to
37 Section 7581 increases the jurisdictional amount to \$25,000, consistent with general provisions
38 on limited cases and the jurisdiction of municipal courts. See Code Civ. Proc. §§ 85, 85.1.

39 ☞ **Note.** The existing statutory amounts (i.e., \$5,000 and \$500) were enacted in 1967 and never
40 amended to reflect changes in the jurisdictional amount in controversy for municipal and justice
41 court jurisdiction.

42 **Food & Agric. Code § 12647 (amended). Court jurisdiction**

43 SEC. _____. Section 12647 of the Food and Agriculture Code is amended to read:

44 12647. ~~In actions which arise~~ A proceeding pursuant to this article:

~~(a) Municipal courts shall have original jurisdiction where the value of the property seized amounts to five twenty-five thousand dollars (\$5,000 \$25,000) or less is a limited case.~~

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

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

A limited case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for limited cases). The amendment to Section 12647 increases the jurisdictional amount to \$25,000, consistent with general provisions on limited cases and the jurisdiction of municipal courts. See Code Civ. Proc. §§ 85, 85.1.

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

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

SEC. _____. Section 27601 of the Food and Agriculture Code is amended to read:

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

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

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

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

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

~~(a) Municipal courts shall have original jurisdiction where the value of the property seized amounts to five twenty-five thousand dollars (\$5,000 \$25,000) or less is a limited case.~~


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

A public nuisance described in this section may only be abated in any action or proceeding pursuant to the remedies provided by this chapter. This chapter

provides the exclusive source of costs and civil penalties which may be assessed by reason of the public nuisance against the owner of eggs and their containers which are found to be a public nuisance.

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

A limited case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for limited cases). The amendment to Section 27601 increases the jurisdictional amount to \$25,000, consistent with general provisions on limited cases and the jurisdiction of municipal courts. See Code Civ. Proc. §§ 85, 85.1.

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

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

SEC. _____. Section 30801 of the Food and Agriculture Code is amended to read:

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

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

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

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

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

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

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

SEC. _____. Section 31503 of the Food and Agriculture Code is amended to read:

31503. If any person sustains any loss or damage to any livestock or poultry which is caused by a dog, or if any livestock of any person is necessarily destroyed because of having been bitten by a dog, the person may file a complaint with any judge of the ~~justice or~~ municipal court of the county within which the damage

1 occurred or of the superior court in a county in which there is no municipal court.
2 A proceeding under this section is a limited case.

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

6 A limited case is within the original jurisdiction of the municipal court or of the superior court
7 in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court
8 jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases). See also Code Civ. Proc. §§ 91, 904.5,
9 1085 (trial procedures and writ and appellate jurisdiction for limited cases).

10 **Food & Agric. Code § 31621 (amended). Dangerous or vicious dog**

11 SEC. _____. Section 31621 of the Food and Agriculture Code is amended to read:

12 31621. If an animal control officer or a law enforcement officer has investigated
13 and determined that there exists probable cause to believe that a dog is potentially
14 dangerous or vicious, the chief officer of the public pound or animal control
15 department or his or her immediate supervisor or the head of the local law
16 enforcement agency, or his or her designee, shall petition the municipal court
17 within the judicial district wherein the dog is owned or kept or the superior court
18 in a county in which there is no municipal court for a hearing for the purpose of
19 determining whether or not the dog in question should be declared potentially
20 dangerous or vicious. A proceeding under this section is a limited case. A city or
21 county may establish an administrative hearing procedure to hear and dispose of
22 petitions filed pursuant to this chapter. Whenever possible, any complaint received
23 from a member of the public which serves as the evidentiary basis for the animal
24 control officer or law enforcement officer to find probable cause shall be sworn to
25 and verified by the complainant and shall be attached to the petition. The chief
26 officer of the public pound or animal control department or head of the local law
27 enforcement agency shall notify the owner or keeper of the dog that a hearing will
28 be held by the municipal court, the superior court, or the hearing entity, as the case
29 may be, at which time he or she may present evidence as to why the dog should
30 not be declared potentially dangerous or vicious. The owner or keeper of the dog
31 shall be served with notice of the hearing and a copy of the petition, either
32 personally or by first-class mail with return receipt requested. The hearing shall be
33 held promptly within no less than five working days nor more than 10 working
34 days after service of notice upon the owner or keeper of the dog. The hearing shall
35 be open to the public. The court may admit into evidence all relevant evidence,
36 including incident reports and the affidavits of witnesses, limit the scope of
37 discovery, and may shorten the time to produce records or witnesses. A jury shall
38 not be available. The court may find, upon a preponderance of the evidence, that
39 the dog is potentially dangerous or vicious and make other orders authorized by
40 this chapter.

41 **Comment.** Section 31621 is amended to accommodate unification of the municipal and
42 superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal
43 court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc.
44 § 38 & Comment (“judicial district” defined).

1 A limited case is within the original jurisdiction of the municipal court or of the superior court
2 in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court
3 jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases). See also Code Civ. Proc. §§ 91, 904.5,
4 1085 (trial procedures and writ and appellate jurisdiction for limited cases).

5 **Food & Agric. Code § 31622 (amended). Proceedings concerning dog**

6 SEC. _____. Section 31622 of the Food and Agriculture Code is amended to read:

7 31622. (a) After the hearing conducted pursuant to Section 31621, the owner or
8 keeper of the dog shall be notified in writing of the determination and orders
9 issued, either personally or by first-class mail postage prepaid by the court or
10 hearing entity. If a determination is made that the dog is potentially dangerous or
11 vicious, the owner or keeper shall comply with Article 3 (commencing with
12 Section 31641) in accordance with a time schedule established by the chief officer
13 of the public pound or animal control department or the head of the local law
14 enforcement agency, but in no case more than 30 days after the date of the
15 determination or 35 days if notice of the determination is mailed to the owner or
16 keeper of the dog. If the petitioner or the owner or keeper of the dog contests the
17 determination, he or she may, within five days of the receipt of the notice of
18 determination, appeal the decision of the court or hearing entity of original
19 jurisdiction to a court authorized to hear the appeal. The fee for filing an appeal
20 shall be twenty dollars (\$20), payable to the county clerk. If the original hearing
21 held pursuant to Section 31621 was before a hearing entity other than ~~the~~
22 ~~municipal~~ a court of the jurisdiction, appeal shall be to the municipal court ~~or~~
23 superior court in a county in which there is no municipal court. If the original
24 hearing was held in the municipal court, appeal shall be to the superior court
25 ~~within the judicial district wherein the dog is owned or kept~~. If the original hearing
26 was held in the superior court, appeal shall be to the superior court before a judge
27 other than the judge who originally heard the petition. The petitioner or the owner
28 or keeper of the dog shall serve personally or by first-class mail, postage prepaid,
29 notice of the appeal upon the other party.

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

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

☞ **Note.** As currently structured, in a unified court there can be two hearings before different superior court judges using limited case procedures. Does it make sense to give the dog owner a second “bite” here, rather than appellate division review?

☞ **Note.** The existing language “the superior court within the judicial district wherein the dog is owned or kept” might refer to “superior court districts” for counties that have them (i.e. Los Angeles). However, it is more likely that the language was carelessly borrowed from Section 31621, where judicial district refers to a municipal court district.

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

SEC. _____. Section 52514 of the Food and Agriculture Code is amended to read:

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

~~(a) Municipal courts shall have original jurisdiction~~ where the value of the property seized amounts to ~~three~~ twenty-five thousand dollars (~~\$3,000~~ \$25,000) or less is a limited case.

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

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

A limited case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for limited cases). The amendment to Section 52541 increases the jurisdictional amount to \$25,000, consistent with general provisions on limited cases and the jurisdiction of municipal courts. See Code Civ. Proc. §§ 85, 85.1.

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

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

SEC. _____. Section 53564 of the Food and Agriculture Code is amended to read:

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

~~(a) Municipal courts shall have original jurisdiction~~ where the value of the property seized amounts to ~~five~~ twenty-five thousand dollars (~~\$5,000~~ \$25,000) or less is a limited case.

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

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

A limited case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for limited cases). The amendment to

1 Section 53564 increases the jurisdictional amount to \$25,000, consistent with general provisions
2 on limited cases and the jurisdiction of municipal courts. See Code Civ. Proc. §§ 85, 85.1.

3 ➡ **Note.** The existing statutory amounts (i.e., \$5,000 and \$500) were enacted in 1967 and never
4 amended to reflect changes in the jurisdictional amount in controversy for municipal and justice
5 court jurisdiction.

6 **Food & Agric. Code § 55784 (amended). Witness fees and mileage**

7 SEC. _____. Section 55784 of the Food and Agriculture Code is amended to read:

8 55784. Every witness who appears pursuant to a subpoena, except a party or an
9 officer or employee of the state or any political subdivision of the state, shall
10 receive fees. Every witness who appears pursuant to a subpoena, except a party,
11 shall receive mileage in the same amount and under the same circumstances as is
12 prescribed by law for witnesses in civil actions in a superior court under Chapter 2
13 (commencing with Section 1985) of Title 3 of Part 4 of the Code of Civil
14 Procedure.

15 **Comment.** Section 55784 is amended to accommodate unification of the municipal and
16 superior courts in a county. Cal. Const. art. VI, § 5(e).

17 **Food & Agric. Code § 56473 (amended). Witness fees and mileage**

18 SEC. _____. Section 56473 of the Food and Agriculture Code is amended to read:

19 56473. Every witness who appears pursuant to a subpoena, except a party or an
20 officer or employee of the state or any political subdivision of the state, shall
21 receive fees. Every witness who appears pursuant to subpoena, except a party,
22 shall receive mileage in the same amount and under the same circumstances as
23 prescribed by law for witnesses in civil actions in a superior court under Chapter 2
24 (commencing with Section 1985) of Title 3 of Part 4 of the Code of Civil
25 Procedure.

26 **Comment.** Section 56473 is amended to accommodate unification of the municipal and
27 superior courts in a county. Cal. Const. art. VI, § 5(e).

28 **Harb. & Nav. Code § 664 (amended). Arrest procedures**

29 SEC. _____. Section 664 of the Harbors and Navigation Code is amended to read:

30 664. (a) When any person is arrested for a violation of this chapter or any
31 regulation adopted by the department pursuant to this chapter or any ordinance or
32 local law relating to the operation and equipment of vessels, and such person is not
33 immediately taken before a magistrate, the arresting officer shall prepare in
34 duplicate a written notice to appear in court, containing the name and address of
35 such person, the offense charged, and the time and place where and when such
36 person shall appear in court.

37 (b) The time specified in the notice to appear must be at least five (5) days after
38 such arrest.

39 (c) The place specified in the notice to appear shall be either:

40 1. Before a judge of a justice court or a municipal court judge, or superior court
41 judge in a county in which there is no superior court, within the county in which

1 the offense charged is alleged to have been committed and who has jurisdiction of
2 the offense and who is nearest and most accessible with reference to the place
3 where the arrest is made; or

4 2. Upon demand of the person arrested, before a ~~judge of a justice court or a~~
5 ~~municipal court judge, or superior court judge in a county in which there is no~~
6 ~~superior court,~~ having jurisdiction of such offense at the county seat of the county
7 in which such offense is alleged to have been committed; or before a municipal
8 court judge in the judicial district in which the offense is alleged to have been
9 committed.

10 3. Before an officer authorized by the county, city or city and county, to receive
11 a deposit of bail.

12 4. Before a ~~judge of a justice court or a municipal court judge, or superior court~~
13 ~~judge in a county in which there is no superior court,~~ within 50 miles by the
14 nearest road to the place of the alleged offense who has jurisdiction of the offense
15 and whose judicial district contains any portion of the body of water upon which
16 the offense charged is alleged to have been committed.

17 (d) The officer shall deliver one copy of the notice to appear to the arrested
18 person and the arrested person in order to secure release must give ~~his~~ a written
19 promise so to appear in court by signing the duplicate notice which shall be
20 retained by the officer. Thereupon the arresting officer shall forthwith release the
21 person arrested from custody.

22 (e) The officer shall, as soon as practicable, file the duplicate notice with the
23 magistrate specified therein. Thereupon the magistrate shall fix the amount of bail
24 which in ~~his~~ the magistrate's judgment, in accordance with the provisions of
25 Section 1275 of the Penal Code, will be reasonable and sufficient for the
26 appearance of the defendant and shall indorse upon the notice a statement signed
27 by ~~him~~ the defendant in the form set forth in Section 815a of the Penal Code. The
28 defendant may, prior to the date upon which ~~he~~ the defendant promised to appear
29 in court, deposit with the magistrate the amount of bail thus set. Thereafter, at the
30 time when the case is called for arraignment before the magistrate, if the defendant
31 shall not appear, either in person or by counsel, the magistrate may declare the bail
32 forfeited, and may in ~~his~~ the magistrate's discretion order that no further
33 proceedings shall be had in such case.

34 Upon the making of such order that no further proceedings be had, all sums
35 deposited as bail shall forthwith be paid into the county treasury for distribution
36 pursuant to Section 1463 of the Penal Code.

37 (f) No warrant shall issue on such charge for the arrest of a person who has
38 given such written promise to appear in court, unless and until ~~he~~ the person has
39 violated such promise or has failed to deposit bail, to appear for arraignment, trial
40 or judgment, or to comply with the terms and provisions of the judgment, as
41 required by law.

42 **Comment.** Section 664 is amended to accommodate unification of the municipal and superior
43 courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the

relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

☞ **Note.** The amendment of paragraph (c)(2) is intended to avoid potential confusion over whether the “judicial district” might be a “superior court district.” *Cf.* Code Civ. Proc. § 38 & Comment.

Harb. & Nav. Code § 667 (amended). Place of trial

SEC. _____. Section 667 of the Harbors and Navigation Code is amended to read:

667. In addition to any other court which may be a proper place of trial, any ~~justice or~~ municipal court within 50 miles by the nearest road to the place of the alleged offense having jurisdiction of the offense, or the superior court in a county in which there is no municipal court, shall be a proper place of trial of any person on a charge of violation of this chapter or any regulation adopted by the department pursuant to this chapter or any ordinance or local law relating to the operation and equipment of vessels if the ~~justice or municipal court district~~ judicial district includes any portion of the body of water upon which the offense charged is alleged to have been committed.

Comment. Section 667 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Health & Safety Code § 1428 (unchanged). Contest of citation

1428. (a) If the licensee desires to contest a citation or the proposed assessment of a civil penalty therefor, the licensee shall use the processes described in subdivisions (b) and (c) for classes “AA,” “A,” or “B” citations. As a result of a citation review conference, a citation or the proposed assessment of a civil penalty may be affirmed, modified, or dismissed by the director or the director’s designee. If the director’s designee affirms, modifies, or dismisses the citation or proposed assessment of a civil penalty, he or she shall state with particularity in writing his or her reasons for that action, and shall immediately transmit a copy thereof to each party to the original complaint. If the licensee desires to contest a decision made after the citation review conference, the licensee shall inform the director in writing within 15 business days after he or she receives the decision by the director’s designee.

(b) If a licensee notifies the director that he or she intends to contest a class “AA” or a class “A” citation, the licensee may first within 15 business days after service of the citation notify the director in writing of his or her request for a citation review conference. The licensee shall inform the director in writing, within 15 business days of the service of the citation or the receipt of the decision of the director’s designee after the citation review conference, of the licensee’s intent to adjudicate the validity of the citation in the municipal or superior court in the county in which the long-term health care facility is located. In order to perfect

1 a judicial appeal of a contested citation, a licensee shall file a civil action in the
2 municipal or superior court in the county in which the long-term health care
3 facility is located. The action shall be filed no later than 90 calendar days after a
4 licensee notifies the director he or she intends to contest the citation, or no later
5 than 90 days after the receipt of the decision by the director's designee after the
6 citation review conference, and served not later than 90 days after filing.
7 Notwithstanding any other provision of law, for those citations issued after
8 January 1, 1993, a licensee prosecuting a judicial appeal shall file and serve an at-
9 issue memorandum pursuant to Rule 209 of the California Rules of Court by July
10 1, 1993, or within six months after the state department files its answer in the
11 appeal, whichever is later. Notwithstanding subdivision (d), the court shall dismiss
12 the appeal upon motion of the state department if the at-issue memorandum is not
13 filed by the facility within the period specified.

14 (c) If a licensee desires to contest a class "B" citation, the licensee may request,
15 within 15 business days after service of the citation, a citation review conference,
16 by writing the director or the director's designee of the licensee's intent to appeal
17 the citation through the citation review conference. If the licensee wishes to appeal
18 the citation which has been upheld in a citation review conference, the licensee
19 shall, within 15 working days from the date the citation review conference
20 decision was rendered, notify the director or the director's designee that he or she
21 wishes to appeal the decision through the procedures set forth in subdivision (c) of
22 Section 14123 of the Welfare and Institutions Code. The administrative law judge
23 may affirm, modify, or dismiss the citation or the proposed assessment of a civil
24 penalty. The licensee may choose to have his or her appeal heard by the
25 administrative law judge without having first appealed the decision to a citation
26 review conference by notifying the director in writing within 15 business days of
27 the service of the citation.

28 (d) If a licensee is dissatisfied with the decision of the administrative law judge,
29 the licensee may, in lieu of seeking judicial review of the decision as provided in
30 Section 1094.5 of the Code of Civil Procedure, elect to submit the matter to
31 binding arbitration by filing, within 60 days of its receipt of the decision, a request
32 for arbitration with the American Arbitration Association. The parties shall agree
33 upon an arbitrator designated from the American Arbitration Association in
34 accordance with the association's established rules and procedures. The arbitration
35 hearing shall be set within 45 days of the election to arbitrate, but in no event less
36 than 28 days from the date of selection of an arbitrator. The arbitration hearing
37 may be continued up to 15 additional days if necessary at the arbitrator's
38 discretion. Except as otherwise specifically provided in this subdivision, the
39 arbitration hearing shall be conducted in accordance with the American
40 Arbitration Association's established rules and procedures.

41 (e) If an appeal is prosecuted under this section, including an appeal taken in
42 accordance with subdivision (c) of Section 14123 of the Welfare and Institutions
43 Code, the state department shall have the burden of establishing by a

1 preponderance of the evidence that (1) the alleged violation did occur, (2) the
2 alleged violation met the criteria for the class of citation alleged, and (3) the
3 assessed penalty was appropriate. The state department shall also have the burden
4 of establishing by a preponderance of the evidence that the assessment of a civil
5 penalty should be upheld. If a licensee fails to notify the director in writing that he
6 or she intends to contest the citation, or the proposed assessment of a civil penalty
7 therefor, or the decision made by the director's designee, after a citation review
8 conference, within the time specified in this section, the decision by the director's
9 designee after a citation review conference shall be deemed a final order of the
10 state department and shall not be subject to further administrative review, except
11 that the licensee may seek judicial relief from the time limits specified in this
12 section. If a licensee appeals a contested citation or the assessment of a civil
13 penalty, no civil penalty shall be due and payable unless and until the appeal is
14 terminated in favor of the state department.

15 (f) The director or the director's designee shall establish an independent unit of
16 trained citation review conference hearing officers within the state department to
17 conduct citation review conferences. Citation review conference hearing officers
18 shall be directly responsible to the deputy director for licensing and certification,
19 and shall not be concurrently employed as supervisors, district administrators, or
20 regional administrators with the licensing and certification division. Specific
21 training shall be provided to members of this unit on conducting an informal
22 conference, with emphasis on the regulatory and legal aspects of long-term health
23 care.

24 Where the state department issues a citation as a result of a complaint or regular
25 inspection visit, and a resident or residents are specifically identified in a citation
26 by name as being specifically affected by the violation, then the following persons
27 may attend the citation review conference:

28 (1) The complainant and his or her designated representative.

29 (2) A personal health care provider, designated by the resident.

30 (3) A personal attorney, only if the long-term health care facility has an attorney
31 present.

32 (4) Any person representing the Office of the State Long-Term Care
33 Ombudsman, as defined in subdivision (c) of Section 9701 of the Welfare and
34 Institutions Code.

35 Where the state department determines that residents in the facility were
36 threatened by the cited violation but does not name specific residents, any person
37 representing the Office of the State Long-Term Care Ombudsman, as defined in
38 subdivision (c) of Section 9701 of the Welfare and Institutions Code, and a
39 representative of the residents or family council at the facility may participate to
40 represent all residents. In this case, these representatives shall be the sole
41 participants for the residents in the conference. The residents' council shall
42 designate which representative will participate.

1 The complainant, affected resident, or their designated representatives shall be
2 notified by the state department of the conference and their right to participate.
3 The director's designee shall notify the complainant or his or her designated
4 representative and the affected resident or his or her designated representative, of
5 his or her determination based on the citation review conference.

6 (g) In assessing the civil penalty for a violation, all relevant facts shall be
7 considered, including, but not limited to, all of the following:

8 (1) The probability and severity of the risk which the violation presents to the
9 patient's or resident's mental and physical condition.

10 (2) The patient's or resident's medical condition.

11 (3) The patient's or resident's mental condition and his or her history of mental
12 disability.

13 (4) The good faith efforts exercised by the facility to prevent the violation from
14 occurring.

15 (5) The licensee's history of compliance with regulations.

16 (h) Except as otherwise provided in this subdivision, an assessment of civil
17 penalties for a class "A" or class "B" violation shall be trebled and collected for a
18 second and subsequent violation for which a citation of the same class was issued
19 within any 12-month period. Trebling shall occur only if the first citation issued
20 within the 12-month period was issued in the same class, a civil penalty was
21 assessed, and a plan of correction was submitted for the previous same-class
22 violation occurring within the period, without regard to whether the action to
23 enforce the previous citation has become final. However, the increment to the civil
24 penalty required by this subdivision shall not be due and payable unless and until
25 the previous action has terminated in favor of the state department.

26 If the class "B" citation is issued for a patient's rights violation, as defined in
27 subdivision (d) of Section 1424, it shall not be trebled unless the state department
28 determines the violation has a direct or immediate relationship to the health,
29 safety, security, or welfare of long-term health care facility residents.

30 (i) The director shall prescribe procedures for the issuance of a notice of
31 violation with respect to violations having only a minimal relationship to safety or
32 health.

33 (j) Actions brought under this chapter shall be set for trial at the earliest possible
34 date and shall take precedence on the court calendar over all other cases except
35 matters to which equal or superior precedence is specifically granted by law.
36 Times for responsive pleading and for hearing the proceeding shall be set by the
37 judge of the court with the object of securing a decision as to subject matters at the
38 earliest possible time.

39 (k) If the citation is dismissed, the state department shall take action
40 immediately to ensure that the public records reflect in a prominent manner that
41 the citation was dismissed.

42 (l) Penalties paid on violations under this chapter shall be applied against the
43 state department's accounts to offset any costs incurred by the state pursuant to

1 this chapter. Any costs or penalties assessed pursuant to this chapter shall be paid
2 within 30 days of the date the decision becomes final. If a facility does not comply
3 with this requirement, the state department shall withhold any payment under the
4 Medi-Cal program until the debt is satisfied. No payment shall be withheld if the
5 state department determines that it would cause undue hardship to the facility or to
6 patients or residents of the facility.

7 (m) The amendments made to subdivisions (a) and (c) of this section by Chapter
8 84 of the Statutes of 1988, to extend the number of days allowed for the provision
9 of notification to the director, do not affect the right, that is also contained in those
10 amendments, to request judicial relief from these time limits.

11 ☞ **Note.** Jurisdiction in an action under this section is subject to Section 86.1 of the Code of
12 Civil procedure.

13 **Health & Safety Code § 40844 (unchanged). Jurisdiction of Superior Court**

14 40844. On the return of the attachment and the production of the body of the
15 defendant, the superior court has jurisdiction of the matter. The person charged
16 may purge himself of the contempt in the same way, and the same proceeding
17 shall be had, and the same penalties may be imposed, and the same punishment
18 inflicted as in the case of a witness subpoenaed to appear and give evidence on the
19 trial of a civil cause before a superior court.

20 ☞ **Note.** There is no distinction between rules governing contempt applicable generally and in
21 limited cases.

22 **Health & Safety Code § 117070 (amended). Jurisdiction for prosecution of violations**

23 SEC. _____. Section 117070 of the Health and Safety Code is amended to read:

24 117070. Any violation of any such rule or regulation lawfully made by the
25 public agency is a misdemeanor. Any judge of a justice municipal court within any
26 judicial district within which the reservoir lies in whole or in part, or any
27 ~~municipal court within the district~~ superior court in a county in which there is no
28 municipal court, shall have jurisdiction of all prosecutions for violations of any
29 rules and regulations adopted by the public agency.

30 **Comment.** Section 117070 is amended to accommodate unification of the municipal and
31 superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal
32 court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc.
33 § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination
34 of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

35 **Health & Safety Code § 117120 (amended). Jurisdiction for prosecution of violations**

36 SEC. _____. Section 117120 of the Health and Safety Code is amended to read:

37 117120. Any violation of any rule or regulation lawfully made by the
38 governmental agency is a misdemeanor. Any judge of a justice municipal court
39 within any judicial district within which the reservoir lies in whole or in part, or
40 any ~~municipal court that may be established within the district~~ superior court in a
41 county in which there is no municipal court, shall have jurisdiction of all

prosecutions for violations of any such rules and regulations adopted by the governmental agency.

Comment. Section 117120 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Ins. Code § 12961 (amended). Annual report of tort actions

SEC. _____. Section 12961 of the Insurance Code is amended to read:

12961. (a) The commissioner shall provide the Legislature with an annual report analyzing the following types of actions:

(1) Medical malpractice actions.

(2) Toxic substance tort actions.

(3) Product and design liability actions.

(4) Tort actions in which a public entity is a defendant.

(5) Tort actions involving judgments or settlements of one million dollars (\$1,000,000) or more.

(6) Class action tort actions.

(7) Defamation and invasion of privacy actions.

(8) Other categories of tort actions involving commercial liability claims as the commissioner deems necessary.

(b) The study may exclude actions in which the only defendant is an individual sued in his or her private capacity. The study may exclude ~~actions filed in municipal court~~ limited cases.

(c) If any of the information required to be provided by the parties is confidential under any other provision of law or pursuant to any court order, the commissioner shall keep that information confidential and shall limit its analysis of that information to aggregate data or other analyses which will not reveal the identity of the parties.

Comment. Section 12961 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

A limited case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for limited cases).

Lab. Code § 5710 (amended). Depositions

SEC. _____. Section 5710 of the Labor Code is amended to read:

5710. (a) The appeals board, a workers’ compensation judge, or any party to the action or proceeding, may, in any investigation or hearing before the appeals board, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure. To that end the

attendance of witnesses and the production of records may be required. Depositions may be taken outside the state before any officer authorized to administer oaths. The appeals board or a workers' compensation judge in any proceeding before the appeals board may cause evidence to be taken in other jurisdictions before the agency authorized to hear workers' compensation matters in those other jurisdictions.

(b) Where the employer or insurance carrier requests a deposition to be taken of an injured employee, or any person claiming benefits as a dependent of an injured employee, the deponent is entitled to receive in addition to all other benefits:

(1) All reasonable expenses of transportation, meals and lodging incident to the deposition.

(2) Reimbursement for any loss of wages incurred during attendance at the deposition.

(3) A copy of the transcript of the deposition, without cost.

(4) A reasonable allowance for attorney's fees for the deponent, if represented by an attorney licensed by the state bar of this state. The fee shall be discretionary with, and, if allowed, shall be set by, the appeals board, but shall be paid by the employer or his or her insurer.

(5) A reasonable allowance for interpreter's fees for the deponent, if interpretation services are needed and provided by a language interpreter certified or deemed certified pursuant to Section 11513 or 68566 of the Government Code. The fee shall be in accordance with the fee schedule set by the administrative director and paid by the employer or his or her insurer. Payment for interpreter's services shall be allowed for deposition of a non- English-speaking injured worker, and for such other deposition-related events as permitted by the administrative director.

Comment. Section 5710 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Lab. Code § 6613 (amended). Depositions

SEC. _____. Section 6613 of the Labor Code is amended to read:

6613. The appeals board, a hearing officer, or any party to the action or proceeding, may, in any investigation or hearing before the appeals board, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure. To that end the attendance of witnesses and the production of records may be required. Depositions may be taken outside the state before any officer authorized to administer oaths. The appeals board or a hearing officer in any proceeding before the appeals board may cause evidence to be taken in other jurisdictions before the agency authorized to hear similar matters in such other jurisdictions.

Comment. Section 6613 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Pub. Res. Code § 3357 (amended). Investigative powers

SEC. _____. Section 3357 of the Public Resources Code is amended to read:

3357. In any proceeding before the director, and in any proceeding instituted by the supervisor for the purpose of enforcing or carrying out the provisions of this division, or for the purpose of holding an investigation to ascertain the condition of any well or wells complained of, or which in the opinion of the supervisor may reasonably be presumed to be improperly located, drilled, operated, maintained, or conducted, the supervisor and the director shall have the power to administer oaths and may apply to a judge of the superior court of the county in which the proceeding or investigation is pending for a subpoena for witnesses to attend the proceeding or investigation. Upon the application of the supervisor or the director, the judge of the superior court shall issue a subpoena directing the witness to attend the proceeding or investigation, and such person shall be required to produce, when directed, all records, surveys, documents, books, or accounts in ~~his~~ the witness' custody or under ~~his~~ the witness' control; except that no person shall be required to attend upon such proceeding unless ~~he~~ the person resides within the same county or within 100 miles of the place of attendance. The supervisor or the director may in such case cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in superior courts of this state under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure, and may, upon application to a judge of the superior court of the county within which the proceeding or investigation is pending, obtain a subpoena compelling the attendance of witnesses and the production of records, surveys, documents, books, or accounts at such places as the judge may designate within the limits prescribed in this section.

Comment. Section 3357 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Pub. Res. Code § 3769 (amended). Investigative powers

SEC. _____. Section 3769 of the Public Resources Code is amended to read:

3769. In any proceeding instituted by the supervisor for the purpose of enforcing or carrying out the provisions of this chapter, or for the purpose of holding an investigation to ascertain the condition of any well or wells complained of, or which in the opinion of the supervisor may reasonably be presumed to be improperly located, drilled, operated, maintained, or conducted, the supervisor shall have the power to administer oaths and may apply to a judge of the superior court of the county in which the proceeding or investigation is pending, for a subpoena for witnesses to attend the proceeding or investigation. Upon the application of the supervisor, the judge of the superior court shall issue a subpoena directing the witness to attend the proceeding or investigation, and such person shall be required to produce, when directed, all records, surveys, documents, books, or accounts in ~~his~~ the witness' custody or under ~~his~~ the witness' control;

except that no person shall be required to attend upon such proceeding, unless ~~he~~ the person resides within the same county or within 100 miles of the place of attendance.

The supervisor may in such case cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in superior courts of this state under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure, and may, upon application to a judge of the superior court of the county within which the proceeding or investigation is pending, obtain a subpoena compelling the attendance of witnesses and the production of records, surveys, documents, books, or accounts at such places as the judge may designate within the limits prescribed in this section.

Comment. Section 3769 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Pub. Res. Code § 5560 (amended). Penalties and jurisdiction

SEC. _____. Section 5560 of the Public Resources Code is amended to read:

5560. (a) Violation of any ordinance, rule, or regulation adopted pursuant to this article is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500) or by imprisonment in the county jail for a period not to exceed six months, or by both such fine and imprisonment, unless the board provides that a violation of any ordinance, rule, or regulation is an infraction, which shall be punishable by a fine not to exceed fifty dollars (\$50).

~~(b) Any judge of a justice court within any judicial district lying wholly or in part within the district, or any municipal court which may be established within the district, or superior court in a county in which there is no municipal court, shall have jurisdiction of all prosecutions under this article for violations of any ordinance, rule, or regulation adopted by the board.~~

Comment. Section 117070 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e) In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. *Cf.* Code Civ. Proc. § 38 & Comment (“judicial district” defined).. The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

☞ **Note.** “District,” as used in this section, means any “regional park district, regional park and open-space district, or regional open-space district formed pursuant to this article.” See Section 5500.

Pub. Util. Code § 1794 (amended). Depositions

SEC. _____. Section 1794 of the Public Utilities Code is amended to read:

1794. The commission or any commissioner or any party may, in any investigation or hearing before the commission, cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this State under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of

Civil Procedure and to that end may compel the attendance of witnesses and the production of books, waybills, documents, papers, and accounts.

Comment. Section 1794 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Pub. Util. Code § 5411.5 (amended). Seizure or impoundment of vehicle

SEC. _____. Section 5411.5 of the Public Resources Code is amended to read:

5411.5. Whenever a peace officer arrests a person for a violation of Section 5411 involving the operation of a charter-party carrier of passengers without a valid certificate or permit at a public airport, within 100 feet of a public airport, or within two miles of the international border between the United States and Mexico, the peace officer may impound and retain possession of the vehicle used in violation of Section 5411.

If the vehicle is seized from a person who is not the owner of the vehicle, the impounding authority shall immediately give notice to the owner by first-class mail.

The vehicle shall immediately be returned to the owner without cost to the owner if the infraction or violation is not prosecuted or is dismissed, the owner is found not guilty of the offense, or it is determined that the vehicle was used in violation of Section 5411 without the knowledge and consent of the owner. Otherwise, the vehicle shall be returned to the owner upon payment of any fine ordered by the court. After the expiration of six weeks from the final disposition of the criminal case, the impounding authority may deal with the vehicle as lost or abandoned property under Section 1411 of the Penal Code.

At any time, a person may make a motion in municipal court, or in superior court in a county in which there is no municipal court, for the immediate return of the vehicle on the ground that there was no probable cause to seize it or that there is some other good cause, as determined by the court, for the return of the vehicle. A proceeding under this section is a limited case.

No peace officer, however, shall impound any vehicle owned or operated by a nonprofit organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code which serves youth or senior citizens and provides transportation incidental to its programs or services.

Comment. Section 5411.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

A limited case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for limited cases).

Pub. Util. Code § 103100 (amended). Membership of board

SEC. _____. Section 103100 of the Public Utilities Code is amended to read:


103100. The government of the district shall be vested in a board of directors, which shall consist of nine members, selected as follows:

(a) Three members, two of whom shall, at the time of their appointments and during their service as directors, be members of the board of supervisors and one of whom shall possess expertise in the field of transportation, appointed by the board of supervisors.

(b) Three members, all of whom shall be city ~~councilmen~~ council members at the time of their appointments and during their service as directors, ~~with one from each of the judicial districts in the county,~~ appointed by the city selection committee created pursuant to Article 11 (commencing with Section 50270), Chapter 1, Part 1, Division 1, Title 5 of the Government Code.

(c) Three members, one of whom shall be a resident of the coastal zone as defined in Section 27100 of the Public Resources Code, at the time of their appointments and during their service as directors, appointed by the six members appointed pursuant to subdivisions (a) and (b).

Comment. Section 23146 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

 **Note.** As used in subdivision (a), “district” means the San Mateo County Transit District. See Pub. Util. Code § 103011.

Subdivision (b) provides for appointment of three board members, one from each of the three judicial districts in the county. However, in 1978, two of the judicial districts were combined, and in 1982 the remaining two were combined, leaving one judicial district in the county. According to the Board Secretary, the three city council members are still designated as representing the north, central, or south county, but are not appointed by reference to judicial districts.

This technical problem can be corrected in one of two ways:

(1) The simpler approach is to do away with the geographic representation provision altogether. This is the approach taken in the proposed amendment.

(2) A more complex approach is to try to recreate the geographic distinctions by reference to something other than judicial districts. Presently, the San Mateo Courts are organized into three branches, the Northern, Central, and Southern Branches, each covering a different geographical area. These branches are used for allocation of certain types of cases. The statute could be amended to refer to these branches. However, this presents the same problem that presently exists — what to do if the courts reorganize? Alternatively, the statute could refer to the cities and unincorporated areas that presently comprise each of the branches, providing a more static basis for the geographical allocation.

For the sake of simplicity, and in light of the fact that the appointment system has been working without an effective statutory reference to geographical areas for fifteen years, the draft takes the first approach.

Veh. Code § 2802.5 (amended). Commercial vehicle inspection facilities

SEC. _____. Section 2802.5 of the Vehicle Code is amended to read:

2802.5. (a) The Department of the California Highway Patrol, in cooperation with the Public Utilities Commission, the State Board of Equalization, the Department of Motor Vehicles, the Judicial Council, and other appropriate agencies, shall develop an interagency agreement under which the agencies shall assign one or more employees or interagency clerks at one or more commercial vehicle inspection facilities of the department which are open on a continuous basis. The employees or interagency clerks shall be assigned duties to perform on behalf of the state agencies which are a party to the agreement as specified in

1 subdivision (b). However, in the case of the Judicial Council, the clerk shall
2 perform duties on behalf of the clerk of the municipal court district in which the
3 inspection facility is located, or of the superior court in a county in which there is
4 no municipal court.

5 (b) The employees or interagency clerks may issue registration permits for any
6 of the state agencies which are parties to the interagency agreement, accept the
7 payment of any fees due any of the state agencies, accept payment of bail or fines,
8 set court dates, and perform other ministerial administrative functions for the state
9 agencies or ~~the municipal court district~~. The Department of the California
10 Highway Patrol, in cooperation with the other state agencies, shall provide
11 computerized equipment appropriate to identify the status of any vehicles or
12 drivers passing through the inspection facility. The employees or interagency
13 clerks shall accept payment by credit card. Assigned personnel may remain the
14 employees of their respective agencies, or as may otherwise be provided by the
15 interagency agreement. The interagency agreement shall provide for sharing of
16 associated costs between participating agencies, based on the anticipated enhanced
17 revenue collections.

18 (c) At the request of any peace officer, the employees or interagency clerks shall
19 determine the status of any outstanding warrants and whether all fees due have
20 been paid with respect to a driver or vehicle present at the inspection facility.

21 (d) A peace officer at the inspection facility may store or impound any vehicle
22 upon determination that the vehicle or the driver of the vehicle has failed to pay
23 registration, regulatory, fuel permit, or other fees, or has any outstanding warrants
24 in any county in the state. The stored or impounded vehicle shall be released upon
25 payment of those fees, fines, or the posting of bail. Upon request, the driver or
26 owner of the vehicle may request a hearing to determine the validity of the seizure.

27 (e) The Department of the California Highway Patrol may implement this
28 program as a demonstration pilot program at one or more locations. The
29 department, on or before February 1, 1992, shall report its recommendations for
30 continuation, expansion, or termination of the program to the Legislature. The
31 report shall also include comments from the trucking industry concerning the
32 benefits and problems in the program and any recommendations as a result of the
33 pilot project. The report shall also consider the potential for ports of entry at major
34 highway entry points to California, similar to programs already implemented in
35 other states.

36 **Comment.** Section 2802.5 is amended to accommodate unification of the municipal and
37 superior courts in a county. Cal. Const. art. VI, § 5(e).

38 **Veh. Code § 9872.1 (amended). Vessel with hull identification number removed**

39 SEC. _____. Section 9872.1 of the Vehicle Code is amended to read:

40 9872.1. (a) No person shall knowingly buy, sell, offer for sale, receive, or have
41 in his or her possession any vessel, or component part thereof, from which the hull
42 identification number has been removed, defaced, altered, or destroyed, unless the

1 vessel or component part has attached thereto a hull identification number
2 assigned or approved by the department in lieu of the manufacturer's number.

3 (b) Whenever a vessel, or component part thereof, from which the hull
4 identification number has been removed, defaced, altered, or destroyed, and which
5 does not have attached thereto an assigned or approved number as described in
6 subdivision (a), comes into the custody of a peace officer, the seized vessel or
7 component part is subject, in accordance with the procedures specified in this
8 section, to impoundment and to such disposition as may be provided by order of a
9 court having jurisdiction. This subdivision does not apply with respect to a seized
10 vessel or component part used as evidence in any criminal action or proceeding.

11 (c) Whenever a vessel or component part described in subdivision (a) comes into
12 the custody of a peace officer, any person from whom the property was seized, and
13 all claimants to the property whose interest or title is on registration records in the
14 department, shall be notified within five days, excluding Saturdays, Sundays, and
15 holidays, after the seizure, of the date, time, and place of the hearing required in
16 subdivision (e). The notice shall contain the information specified in subdivision
17 (d).

18 (d) Whenever a peace officer seizes a vessel or component part as provided in
19 subdivision (b), any person from whom the property was seized shall be provided
20 a notice of impoundment of the vessel or component part which shall serve as a
21 receipt and contain the following information:

22 (1) Name and address of person from whom the property was seized.

23 (2) A statement that the vessel or component part seized has been impounded for
24 investigation of a violation of this section and that the property will be released
25 upon a determination that the hull identification number has not been removed,
26 defaced, altered, or destroyed, or upon the presentation of satisfactory evidence of
27 ownership of the vessel or component part, provided that no other person claims
28 an interest in the property; otherwise, a hearing regarding the disposition of the
29 vessel or component part shall take place in the proper court.

30 (3) A statement that any person from whom the property was seized, and all
31 claimants to the property whose interest or title is on registration records in the
32 department, will receive written notification of the date, time, and place of the
33 hearing within five days, excluding Saturdays, Sundays, and holidays, after the
34 seizure.

35 (4) Name and address of the law enforcement agency where evidence of
36 ownership of the vessel or component part may be presented.

37 (5) A statement of the contents of this section.

38 (e) A hearing on the disposition of the property shall be held by the municipal or
39 justice court, or by the superior court in a county in which there is no municipal
40 court, within 60 days after the seizure. The hearing shall be before the court
41 without a jury. A proceeding under this section is a limited case.

42 (1) If the evidence reveals either that the hull identification number has not been
43 removed, altered, or destroyed or that the hull identification number has been

1 removed, altered, or destroyed but satisfactory evidence of ownership has been
2 presented to the seizing agency or court, the property shall be released to the
3 person entitled thereto.

4 (2) If the evidence reveals that the hull identification number has been removed,
5 altered, or destroyed, and satisfactory evidence of ownership has not been
6 presented, the property shall be destroyed, sold, or otherwise disposed of as
7 provided by court order.

8 (3) At the hearing, the seizing agency shall have the burden of establishing that
9 the hull identification number has been removed, defaced, altered, or destroyed
10 and that no satisfactory evidence of ownership has been presented.

11 (f) Nothing in this section precludes the return of a seized vessel or component
12 part to the owner by the seizing agency following presentation of satisfactory
13 evidence of ownership and, if determined necessary, upon the assignment of an
14 identification number to the vessel or component part by the department.

15 **Comment.** Section 9872.1 is amended to accommodate unification of the municipal and
16 superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect
17 elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

18 A limited case is within the original jurisdiction of the municipal court or of the superior court
19 in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court
20 jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases). See also Code Civ. Proc. §§ 91, 904.5,
21 1085 (trial procedures and writ and appellate jurisdiction for limited cases).

22 **Veh. Code § 10751 (amended). Removal of identifying number**

23 SEC. _____. Section 10751 of the Vehicle Code is amended to read:

24 10751. (a) No person shall knowingly buy, sell, offer for sale, receive, or have in
25 his or her possession, any vehicle, or component part thereof, from which any
26 serial or identification number, including, but not limited to, any number used for
27 registration purposes, that is affixed by the manufacturer to the vehicle or
28 component part, in whatever manner deemed proper by the manufacturer, has been
29 removed, defaced, altered, or destroyed, unless the vehicle or component part has
30 attached thereto an identification number assigned or approved by the department
31 in lieu of the manufacturer's number.

32 (b) Whenever a vehicle described in subdivision (a), including a vehicle
33 assembled with any component part which is in violation of subdivision (a), comes
34 into the custody of a peace officer, it shall be destroyed, sold, or otherwise
35 disposed of under the conditions as provided in an order by the court having
36 jurisdiction. No court order providing for disposition shall be issued unless the
37 person from whom the property was seized, and all claimants to the property
38 whose interest or title is on registration records in the Department of Motor
39 Vehicles, are provided a postseizure hearing by the court having jurisdiction
40 within 90 days after the seizure. This subdivision shall not apply with respect to a
41 seized vehicle or component part used as evidence in any criminal action or
42 proceeding. Nothing in this section shall, however, preclude the return of a seized
43 vehicle or a component part to the owner by the seizing agency following

1 presentation of satisfactory evidence of ownership and, if determined necessary,
2 upon the assignment of an identification number to the vehicle or component part
3 by the department.

4 (c) Whenever a vehicle described in subdivision (a) comes into the custody of a
5 peace officer, the person from whom the property was seized, and all claimants to
6 the property whose interest or title is on registration records in the Department of
7 Motor Vehicles, shall be notified within five days, excluding Saturdays, Sundays,
8 and holidays, after the seizure, of the date, time, and place of the hearing required
9 in subdivision (b). The notice shall contain the information specified in
10 subdivision (d).

11 (d) Whenever a peace officer seizes a vehicle described in subdivision (a), the
12 person from whom the property was seized shall be provided a notice of
13 impoundment of the vehicle which shall serve as a receipt and contain the
14 following information:

15 (1) Name and address of person from whom the property was seized.

16 (2) A statement that the vehicle seized has been impounded for investigation of
17 a violation of Section 10751 of the California Vehicle Code and that the property
18 will be released upon a determination that the serial or identification number has
19 not been removed, defaced, altered, or destroyed, or upon the presentation of
20 satisfactory evidence of ownership of the vehicle or a component part, if no other
21 person claims an interest in the property; otherwise, a hearing regarding the
22 disposition of the vehicle shall take place in the proper court.

23 (3) A statement that the person from whom the property was seized, and all
24 claimants to the property whose interest or title is on registration records in the
25 Department of Motor Vehicles, will receive written notification of the date, time,
26 and place of the hearing within five days, excluding Saturdays, Sundays, and
27 holidays, after the seizure.

28 (4) Name and address of the law enforcement agency where evidence of
29 ownership of the vehicle or component part may be presented.

30 (5) A statement of the contents of Section 10751 of the Vehicle Code.

31 (e) A hearing on the disposition of the property shall be held by the municipal or
32 justice court, or by the superior court in a county in which there is no municipal
33 court, within 90 days after the seizure. The hearing shall be before the court
34 without a jury. A proceeding under this section is a limited case.

35 (1) If the evidence reveals either that the serial or identification number has not
36 been removed, defaced, altered, or destroyed or that the number has been
37 removed, defaced, altered, or destroyed but satisfactory evidence of ownership has
38 been presented to the seizing agency or court, the property shall be released to the
39 person entitled thereto. Nothing in this section precludes the return of the vehicle
40 or a component part to a good faith purchaser following presentation of
41 satisfactory evidence of ownership thereof upon the assignment of an
42 identification number to the vehicle or component part by the department.

(2) If the evidence reveals that the identification number has been removed, defaced, altered, or destroyed, and satisfactory evidence of ownership has not been presented, the vehicle shall be destroyed, sold, or otherwise disposed of as provided by court order.

(3) At the hearing, the seizing agency has the burden of establishing that the serial or identification number has been removed, defaced, altered, or destroyed and that no satisfactory evidence of ownership has been presented.

(f) This section does not apply to a scrap metal processor engaged primarily in the acquisition, processing, and shipment of ferrous and nonferrous scrap, and who receives dismantled vehicles from licensed dismantlers, licensed junk collectors, or licensed junk dealers as scrap metal for the purpose of recycling the dismantled vehicles for their metallic content, the end product of which is the production of material for recycling and remelting purposes for steel mills, foundries, smelters, and refiners.

Comment. Section 10751 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for limited cases).

Veh. Code § 11205 (amended). Traffic violator school list (added 1991 Cal. Stat. ch. 411, § 4)

SEC. _____. Section 11205 of the Vehicle Code is amended to read:

11205. (a) The department shall publish a traffic violator school referral list of all the approved locations of traffic violator school classes, by school name, to be transmitted to each municipal ~~and justice~~ court in the state, and to each superior court in a county in which there is no municipal court, in sufficient quantity to allow the courts to provide a copy to each person referred to traffic violator school. The list shall be revised at least twice annually and transmitted to the courts by the first day of January and the first day of July. It shall include all of the following:

(1) The name of each traffic violator school or, pursuant to subdivision (d), the general term “traffic violator school” followed by its traffic violator school license number.

(2) A phone number used for student information.

(3) The county and the judicial district.

(4) The cities where classes are available.

(b) Each traffic violator school owner shall be permitted one school name in a judicial district.

(c) The list shall be organized alphabetically in sections for each county and subsections for each judicial district within the county. The order of the names

1 within each judicial district shall be random pursuant to a drawing or lottery
2 conducted by the department.

3 (d) On the list prepared by the department under subdivision (c), each traffic
4 violator school shall appear by name unless a court determines, pursuant to
5 subdivision (e), that a name is inappropriate and directs the department to delete
6 the name and instead list the school by the term “traffic violator school” followed
7 by its license number. The deletion of the name of a school from the list for a
8 judicial district shall not affect whether that school appears by name on the list for
9 any other judicial district within the state. In making a determination under this
10 subdivision regarding the deletion of a name from the list, the court shall use as its
11 criteria whether the name is misleading to the public, undignified, or implies that
12 the school offers inducements or premiums which derogate or distort the
13 instructional intent of the traffic safety program.

14 (e) When the department transmits any referral list to each municipal and justice
15 court pursuant to subdivision (a), each ~~municipal and justice~~ court shall do all of
16 the following:

17 (1) Within 30 days of receipt of the list, notify the school owner of any school
18 name that the court intends to remove from the referral list.

19 (2) Within 60 days of receipt of the list, make every effort to schedule, conduct,
20 and complete a hearing for the school owner, or a representative, if requested, at
21 which the sole issue shall be whether the name violates the standards set forth in
22 subdivision (d). A substitute name may be submitted to the court at the conclusion
23 of the hearing, pursuant to subdivision (h).

24 (3) Within 10 days of the completion of that hearing, notify the department and
25 school owner of any school names it intends to remove from the referral list.

26 (f) In order for a court action to delete a school name from the next referral list
27 published by the department, the department shall receive court notification no
28 later than 90 days prior to publication of the next referral list and, absent a direct
29 order by the appellate division of the superior court or a ~~superior court~~ or court of
30 higher jurisdiction, the department shall not fail to publish a referral list on the
31 grounds that there exists pending litigation or appeals concerning the lists.

32 (g) Any court notifying the department of a school name it intends to remove
33 from the list, pursuant to this section, shall provide the school owner with the
34 name of the judge making those findings.

35 (h) When a court informs a school owner, pursuant to subdivision (e), of its
36 decision to delete the name of a traffic violator school from that judicial district’s
37 subsection of the department’s traffic violator school referral list, the owner may,
38 on a form approved by the department, submit a substitute name to the court and
39 request approval of that name. The court shall, within 30 days of receipt of the
40 request for approval of the substitute name, inform the department and the school
41 owner, on a form approved by the department, of its approval or rejection of the
42 substitute name. The school owner may continue this appeal process for approval
43 of a substitute name until the court determines that the name does not violate the

1 standard set forth in subdivision (d). A name approval in a judicial district shall
2 not affect the school's name or listing in any other district in the state. The
3 department shall not impose any fee or license requirement under this subdivision.

4 (i) If a court fails to act within 30 days on a request of a traffic violator school
5 owner, pursuant to subdivision (h), the proposed substitute name shall be deemed
6 approved by the court for the purposes of the traffic violator school referral list.

7 (j)(1) Every application filed with the department on and after June 1, 1991, for
8 an original license by a traffic school owner or for approval to conduct classes in a
9 judicial district not previously approved, shall be accompanied by the approval of
10 the court in each judicial district proposed for those operations of the name of the
11 school, on a form approved by the department for that purpose. For the approved
12 name to be included in the traffic violator school referral list, the form shall be
13 received by the department no later than 90 days prior to publication.

14 (2) When a court disapproves a school name pursuant to this subdivision, the
15 court shall notify the school owner within 30 days of its disapproval and schedule
16 a hearing for that school owner, or a representative, if requested, at which the sole
17 issue shall be whether the name violates the standards set forth in subdivision (d).
18 A substitute name may be submitted to the court at the conclusion of the hearing,
19 pursuant to subdivision (h).

20 (3) The court shall make every effort to schedule, conduct, and complete a
21 hearing within 60 days of receipt of the school owner's request for a school name
22 approval. A name approval in a judicial district shall not affect the school's name
23 or listing in any other district in the state. A change in physical location by a
24 school within a judicial district shall not require approval pursuant to this
25 subdivision.

26 (k) The department shall publish a list of the owners of traffic violator schools.
27 One copy shall be provided to each municipal ~~and justice~~ court in the state, and to
28 each superior court in a county in which there is no municipal court. This list shall
29 be revised at least twice annually and transmitted to the courts by the first day of
30 January and the first day of July. This list shall include all of the following:

31 (1) The name of each school, grouped by owner.

32 (2) The business office address.

33 (3) The business office telephone number.

34 (4) The license number.

35 (5) The owner's name.

36 (6) The operator's name.


37 (l) Except as otherwise provided in subdivision (d) of Section 42005, the court
38 shall use either the current list of traffic violator schools published by the
39 department when it orders a person to complete a traffic violator school pursuant
40 to subdivision (a) or (b) of Section 42005 or, when a court utilizing a nonprofit
41 agency for traffic violator school administration and monitoring services in which
42 all traffic violator schools licensed by the department are allowed the opportunity
43 to participate, a statewide referral list may be published by the nonprofit agency

and distributed by the court. The agency shall monitor each classroom location represented on its referral list at least once every 90 days with reports forwarded to the department and the respective courts on a monthly basis.

(m) The court may charge a traffic violator a fee to defray the costs incurred by the agency for the monitoring reports and services provided to the court. The court may delegate collection of the fee to the agency. Fees shall be approved and regulated by the court. Until December 31, 1996, the fee shall not exceed the actual cost incurred by the agency or five dollars (\$5), whichever is less.

(n) If any provision of subdivision (d) or (e), as added by Section 4 of Assembly Bill 185 of the 1991-92 Regular Session, or the application thereof to any person, is held to be unconstitutional, this section is repealed on the date the decision of the court so holding becomes final.

Comment. Section 11205 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

 **Note.** This operation of this section is contingent on its not being held unconstitutional. See Subdivision (n). If it is held unconstitutional, it is automatically repealed and an alternate version becomes operative. Both versions are amended.

Note that the rule that a judicial district in a unified county is the county itself (Code Civ. Proc. § 38) affects how this section is administered. For example, a traffic school will only be allowed one listing per county, rather than one per former judicial district. See subdivision (b). Also, decisions regarding the deletion of inappropriate names will have county-wide effect, rather than affecting only the judicial district that objects to the name. See subdivision (d). Of course, the same result could occur under existing law, if a county chose to consolidate all of its judicial districts into a single county-wide district (as, e.g., San Mateo county has done).

The hearings available under subdivisions (e) and (j) have not been identified as limited cases. It does not appear appropriate to subject these hearings to the full panoply of procedures that apply to limited cases.

Veh. Code § 11205 (amended). Traffic violator school list (added 1991 Cal. Stat. ch. 411, § 5)

SEC. _____. Section 11205 of the Vehicle Code is amended to read:

11205. (a) The department shall publish semiannually, or more often as necessary to serve the purposes of this act, a list of all traffic violator schools which are licensed pursuant to this section. The list shall identify classroom facilities within a judicial district that are at a different location from a licensed school's principal facility. The department shall transmit the list to each municipal and justice court and to each superior court in a county in which there is no municipal court, with a sufficient number of copies to allow the courts to provide one copy to each person referred to a licensed traffic violator school. The department shall, at least semiannually, revise the list to ensure that each court has a current list of all licensed traffic violator schools.

(b) Each licensed traffic violator school owner shall be permitted one school name per judicial district.

(c) The referral list shall be organized alphabetically, in sections for each county, and contain subsections for each judicial district within the county. The

order of the names within each judicial district shall be random pursuant to a drawing or lottery conducted by the department.

(d) Except as otherwise provided in subdivision (d) of Section 42005, the court shall use either the current referral list of traffic violator schools published by the department when it orders a person to complete a traffic violator school pursuant to subdivision (a) or (b) of Section 42005 or, when a court utilizing a nonprofit agency for traffic violator school administration and monitoring services in which all traffic violator schools licensed by the department are allowed the opportunity to participate, a statewide referral list may be published by the nonprofit agency and distributed by the court. The agency shall monitor each classroom location represented on its referral list at least once every 90 days with reports forwarded to the department and the respective courts on a monthly basis.

(e) The court may charge a traffic violator a fee to defray the costs incurred by the agency for the monitoring reports and services provided to the court. The court may delegate collection of the fee to the agency. Fees shall be approved and regulated by the court. Until December 31, 1996, the fee shall not exceed the actual cost incurred by the agency or five dollars (\$5), whichever is less.

(f) If any provision of subdivision (d) or (e) of Section 11205, as added by Section 4 of Assembly Bill 185 of the 1991-92 Regular Session, or the application thereof to any person, is held to be unconstitutional, that Section 11205 is repealed on the date the decision of the court so holding becomes final, and on that date, this section shall become operative.

Comment. Section 11205 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

☞ **Note.** See note to first version of this section, above.

Veh. Code § 11301.5 (unchanged). Refund of deposit

11301.5. If a deposit is given instead of the bond required by Section 11301:

(a) The Director of Motor Vehicles may order the refund of the deposit three years from the date a vehicle verifier has ceased to be licensed, if the director is satisfied that there are no outstanding claims against the deposit. A judge of a municipal or superior court may order the return of the deposit prior to the expiration of three years from the date a vehicle verifier has ceased to be licensed if there is evidence satisfactory to the court that there are no outstanding claims against the deposit.

(b) If the director, department, or state is a defendant in any action instituted to recover all or any part of the deposit, or any action is instituted by the director, department, or state to determine those entitled to any part of the deposit, the director, department, or state shall be paid reasonable attorney fees and costs from the deposit. Costs shall include those administrative costs incurred in processing claims against the deposit.

1 ☞ **Note.** This section apparently creates concurrent jurisdiction in the superior and municipal
2 courts, without any reference to the amount in controversy. Whether the proceeding is a limited
3 case appears to depend on the designation made by the person bringing it.

4 **Veh. Code § 11710.2 (unchanged). Refund of deposit**

5 11170.2. If a deposit is given instead of the bond required by Section 11710 both
6 of the following apply:

7 (a) The director may order the deposit returned at the expiration of three years
8 from the date an applicant for a dealer's license who has operated a business of
9 selling vehicles under a temporary permit has ceased to do business, or three years
10 from the date a licensee has ceased to be licensed, if the director is satisfied that
11 there are no outstanding claims against the deposit. A judge of a municipal or
12 superior court may order the return of the deposit prior to the expiration of three
13 years upon evidence satisfactory to the judge that there are no outstanding claims
14 against the deposit.

15 (b) If either the director, department, or state is a defendant in any action
16 instituted to recover all or any part of the deposit, or any action is instituted by the
17 director, department, or state to determine those entitled to any part of the deposit,
18 the director, department, or state shall be paid reasonable attorney fees and costs
19 from the deposit. Costs shall include those administrative costs incurred in
20 processing claims against the deposit.

21 ☞ **Note.** This section apparently creates concurrent jurisdiction in the superior and municipal
22 courts, without any reference to the amount in controversy. Whether the proceeding is a limited
23 case appears to depend on the designation made by the person bringing it.

24 **Veh. Code § 14607.6 (amended). Vehicle driven by unlicensed driver**

25 SEC. _____. Section 14607.6 of the Vehicle Code is amended to read:

26 14607.6. (a) Notwithstanding any other provision of law, and except as provided
27 in this section, a motor vehicle is subject to forfeiture as a nuisance if it is driven
28 on a highway in this state by a driver with a suspended or revoked license, or by
29 an unlicensed driver, who is a registered owner of the vehicle at the time of
30 impoundment and has a previous misdemeanor conviction for a violation of
31 subdivision (a) of Section 12500 or Section 14601, 14601.1, 14601.2, 14601.3,
32 14601.4, or 14601.5.

33 (b) A peace officer shall not stop a vehicle for the sole reason of determining
34 whether the driver is properly licensed.

35 (c)(1) If a driver is unable to produce a valid driver's license on the demand of a
36 peace officer enforcing the provisions of this code, as required by subdivision (b)
37 of Section 12951, the vehicle shall be impounded regardless of ownership, unless
38 the peace officer is reasonably able, by other means, to verify that the driver is
39 properly licensed. Prior to impounding a vehicle, a peace officer shall attempt to
40 verify the license status of a driver who claims to be properly licensed but is
41 unable to produce the license on demand of the peace officer.

1 (2) A peace officer shall not impound a vehicle pursuant to this subdivision if
2 the license of the driver expired within the preceding 30 days and the driver would
3 otherwise have been properly licensed.

4 (3) A peace officer may exercise discretion in a situation where the driver
5 without a valid license is an employee driving a vehicle registered to the employer
6 in the course of employment. A peace officer may also exercise discretion in a
7 situation where the driver without a valid license is the employee of a bona fide
8 business establishment or is a person otherwise controlled by such an
9 establishment and it reasonably appears that an owner of the vehicle, or an agent
10 of the owner, relinquished possession of the vehicle to the business establishment
11 solely for servicing or parking of the vehicle or other reasonably similar situations,
12 and where the vehicle was not to be driven except as directly necessary to
13 accomplish that business purpose. In this event, if the vehicle can be returned to or
14 be retrieved by the business establishment or registered owner, the peace officer
15 may release and not impound the vehicle.

16 (4) A registered or legal owner of record at the time of impoundment may
17 request a hearing to determine the validity of the impoundment pursuant to
18 subdivision (n).

19 (5) If the driver of a vehicle impounded pursuant to this subdivision was not a
20 registered owner of the vehicle at the time of impoundment, or if the driver of the
21 vehicle was a registered owner of the vehicle at the time of impoundment but the
22 driver does not have a previous conviction for a violation of subdivision (a) of
23 Section 12500 or Section 14601, 14601.1, 14601.2, 14601.3, 14601.4, or 14601.5,
24 the vehicle shall be released pursuant to this code and is not subject to forfeiture.

25 (d)(1) This subdivision applies only if the driver of the vehicle is a registered
26 owner of the vehicle at the time of impoundment. Except as provided in paragraph
27 (5) of subdivision (c), if the driver of a vehicle impounded pursuant to subdivision
28 (c) was a registered owner of the vehicle at the time of impoundment, the
29 impounding agency shall authorize release of the vehicle if, within three days of
30 impoundment, the driver of the vehicle at the time of impoundment presents his or
31 her valid driver's license, including a valid temporary California driver's license
32 or permit, to the impounding agency. The vehicle shall then be released to a
33 registered owner of record at the time of impoundment, or an agent of that owner
34 authorized in writing, upon payment of towing and storage charges related to the
35 impoundment, and any administrative charges authorized by Section 22850.5,
36 providing that the person claiming the vehicle is properly licensed and the vehicle
37 is properly registered. A vehicle impounded pursuant to the circumstances
38 described in paragraph (3) of subdivision (c) shall be released to a registered
39 owner whether or not the driver of the vehicle at the time of impoundment
40 presents a valid driver's license.

41 (2) If there is a community property interest in the vehicle impounded pursuant
42 to subdivision (c), owned at the time of impoundment by a person other than the
43 driver, and the vehicle is the only vehicle available to the driver's immediate

1 family that may be operated with a class C driver's license, the vehicle shall be
2 released to a registered owner or to the community property interest owner upon
3 compliance with all of the following requirements:

4 (A) The registered owner or the community property interest owner requests
5 release of the vehicle and the owner of the community property interest submits
6 proof of that interest.

7 (B) The registered owner or the community property interest owner submits
8 proof that he or she, or an authorized driver, is properly licensed and that the
9 impounded vehicle is properly registered pursuant to this code.

10 (C) All towing and storage charges related to the impoundment and any
11 administrative charges authorized pursuant to Section 22850.5 are paid.

12 (D) The registered owner or the community property interest owner signs a
13 stipulated vehicle release agreement, as described in paragraph (3), in
14 consideration for the nonforfeiture of the vehicle. This requirement applies only if
15 the driver requests release of the vehicle.

16 (3) A stipulated vehicle release agreement shall provide for the consent of the
17 signator to the automatic future forfeiture and transfer of title to the state of any
18 vehicle registered to that person, if the vehicle is driven by a driver with a
19 suspended or revoked license, or by an unlicensed driver. The agreement shall be
20 in effect for only as long as it is noted on a driving record maintained by the
21 department pursuant to Section 1806.1.

22 (4) The stipulated vehicle release agreement described in paragraph (3) shall be
23 reported by the impounding agency to the department not later than 10 days after
24 the day the agreement is signed.

25 (5) No vehicle shall be released pursuant to paragraph (2) if the driving record of
26 a registered owner indicates that a prior stipulated vehicle release agreement was
27 signed by that person.

28 (e)(1) The impounding agency, in the case of a vehicle that has not been
29 redeemed pursuant to subdivision (d), or that has not been otherwise released,
30 shall promptly ascertain from the department the names and addresses of all legal
31 and registered owners of the vehicle.

32 (2) The impounding agency, within two days of impoundment, shall send a
33 notice by certified mail, return receipt requested, to all legal and registered owners
34 of the vehicle, at the addresses obtained from the department, informing them that
35 the vehicle is subject to forfeiture and will be sold or otherwise disposed of
36 pursuant to this section. The notice shall also include instructions for filing a claim
37 with the district attorney, and the time limits for filing a claim. The notice shall
38 also inform any legal owner of its right to conduct the sale pursuant to subdivision
39 (g). If a registered owner was personally served at the time of impoundment with a
40 notice containing all the information required to be provided by this paragraph, no
41 further notice is required to be sent to a registered owner. However, a notice shall
42 still be sent to the legal owners of the vehicle, if any. If notice was not sent to the
43 legal owner within two working days, the impounding agency shall not charge the

1 legal owner for more than 15-days' impoundment when the legal owner redeems
2 the impounded vehicle.

3 (3) No processing charges shall be imposed on a legal owner who redeems an
4 impounded vehicle within 15 days of the impoundment of that vehicle. If no
5 claims are filed and served within 15 days after the mailing of the notice in
6 paragraph (2), or if no claims are filed and served within five days of personal
7 service of the notice specified in paragraph (2), when no other mailed notice is
8 required pursuant to paragraph (2), the district attorney shall prepare a written
9 declaration of forfeiture of the vehicle to the state. A written declaration of
10 forfeiture signed by the district attorney under this subdivision shall be deemed to
11 provide good and sufficient title to the forfeited vehicle. A copy of the declaration
12 shall be provided on request to any person informed of the pending forfeiture
13 pursuant to paragraph (2). A claim that is filed and is later withdrawn by the
14 claimant shall be deemed not to have been filed.

15 (4) If a claim is timely filed and served, then the district attorney shall file a
16 petition of forfeiture with the appropriate justice, juvenile, or municipal, or
17 superior court within 10 days of the receipt of the claim. The district attorney shall
18 establish an expedited hearing date in accordance with instructions from the court,
19 and the court shall hear the matter without delay. The court filing fee, not to
20 exceed fifty dollars (\$50), shall be paid by the claimant, but shall be reimbursed by
21 the impounding agency if the claimant prevails. To the extent practicable, the civil
22 and criminal cases shall be heard at the same time in an expedited, consolidated
23 proceeding. A proceeding in the civil case is a limited case.

24 (5) The burden of proof in the civil case shall be on the prosecuting agency, by a
25 preponderance of the evidence. All questions that may arise shall be decided and
26 all other proceedings shall be conducted as in an ordinary civil action. A judgment
27 of forfeiture does not require as a condition precedent the conviction of a
28 defendant of an offense which made the vehicle subject to forfeiture. The filing of
29 a claim within the time limits specified in paragraph (3) is considered a
30 jurisdictional prerequisite for the availing of the action authorized by that
31 paragraph.

32 (6) All right, title, and interest in the vehicle shall vest in the state upon
33 commission of the act giving rise to the forfeiture.

34 (f) Any vehicle impounded that is not redeemed pursuant to subdivision (d) and
35 is subsequently forfeited pursuant to this section shall be sold once an order of
36 forfeiture is issued by the district attorney of the county of the impounding agency
37 or a court, as the case may be, pursuant to subdivision (e).

38 (g) Any legal owner who in the regular course of business conducts sales of
39 repossessed or surrendered motor vehicles may take possession and conduct the
40 sale of the forfeited vehicle if it notifies the agency impounding the vehicle of its
41 intent to conduct the sale within 15 days of the mailing of the notice pursuant to
42 subdivision (e). Sale of the vehicle after forfeiture pursuant to this subdivision
43 may be conducted at the time, in the manner, and on the notice usually given by

1 the legal owner for the sale of repossessed or surrendered vehicles. The proceeds
2 of any sale conducted by the legal owner shall be disposed of as provided in
3 subdivision (i).

4 (h) If the legal owner does not notify the agency impounding the vehicle of its
5 intent to conduct the sale as provided in subdivision (g), the agency shall offer the
6 forfeited vehicle for sale at public auction within 60 days of receiving title to the
7 vehicle. Low value vehicles shall be disposed of pursuant to subdivision (k).

8 (i) The proceeds of a sale of a forfeited vehicle shall be disposed of in the
9 following priority:

10 (1) To satisfy the towing and storage costs following impoundment, the costs of
11 providing notice pursuant to subdivision (e), the costs of sale, and the unfunded
12 costs of judicial proceedings, if any.

13 (2) To the legal owner in an amount to satisfy the indebtedness owed to the legal
14 owner remaining as of the date of sale, including accrued interest or finance
15 charges and delinquency charges, providing that the principal indebtedness was
16 incurred prior to the date of impoundment.

17 (3) To the holder of any subordinate lien or encumbrance on the vehicle, other
18 than a registered or legal owner, to satisfy any indebtedness so secured if written
19 notification of demand is received before distribution of the proceeds is
20 completed. The holder of a subordinate lien or encumbrance, if requested, shall
21 furnish reasonable proof of its interest and, unless it does so upon request, is not
22 entitled to distribution pursuant to this paragraph.

23 (4) To any other person, other than a registered or legal owner, who can
24 reasonably establish an interest in the vehicle, including a community property
25 interest, to the extent of his or her provable interest, if written notification is
26 received before distribution of the proceeds is completed.

27 (5) Of the remaining proceeds, funds shall be made available to pay any local
28 agency and court costs, that are reasonably related to the implementation of this
29 section, that remain unsatisfied.

30 (6) Of the remaining proceeds, half shall be transferred to the Controller for
31 deposit in the Vehicle Inspection and Repair Fund for the high-polluter repair
32 assistance and removal program created by Article 9 (commencing with Section
33 44090) of Chapter 5 of Part 5 of Division 26 of the Health and Safety Code, and
34 half shall be transferred to the general fund of the city or county of the
35 impounding agency, or the city or county where the impoundment occurred. A
36 portion of the local funds may be used to establish a reward fund for persons
37 coming forward with information leading to the arrest and conviction of hit and
38 run drivers and to publicize the availability of the reward fund.

39 (j) The person conducting the sale shall disburse the proceeds of the sale as
40 provided in subdivision (i) and shall provide a written accounting regarding the
41 disposition to the impounding agency and, on request, to any person entitled to or
42 claiming a share of the proceeds, within 15 days after the sale is conducted.

1 (k) If the vehicle to be sold pursuant to this section is not of the type that can
2 readily be sold to the public generally, the vehicle shall be conveyed to a licensed
3 dismantler or donated to an eleemosynary institution. License plates shall be
4 removed from any vehicle conveyed to a dismantler pursuant to this subdivision.

5 (l) No vehicle shall be sold pursuant to this section if the impounding agency
6 determines the vehicle to have been stolen. In this event, the vehicle may be
7 claimed by the registered owner at any time after impoundment, providing the
8 vehicle registration is current and the registered owner has no outstanding traffic
9 violations or parking penalties on his or her driving record or on the registration
10 record of any vehicle registered to the person. If the identity of the legal and
11 registered owners of the vehicle cannot be reasonably ascertained, the vehicle may
12 be sold.

13 (m) Any owner of a vehicle who suffers any loss due to the impoundment or
14 forfeiture of any vehicle pursuant to this section may recover the amount of the
15 loss from the unlicensed, suspended, or revoked driver. If possession of a vehicle
16 has been tendered to a business establishment in good faith, and an unlicensed
17 driver employed or otherwise directed by the business establishment is the cause
18 of the impoundment of the vehicle, a registered owner of the impounded vehicle
19 may recover damages for the loss of use of the vehicle from the business
20 establishment.

21 (n)(1) The impounding agency, if requested to do so not later than 10 days after
22 the date the vehicle was impounded, shall provide the opportunity for a
23 poststorage hearing to determine the validity of the storage to the persons who
24 were the registered and legal owners of the vehicle at the time of impoundment,
25 except that the hearing shall be requested within three days after the date the
26 vehicle was impounded if personal service was provided to a registered owner
27 pursuant to paragraph (2) of subdivision (e) and no mailed notice is required.

28 (2) The poststorage hearing shall be conducted not later than two days after the
29 date it was requested. The impounding agency may authorize its own officer or
30 employee to conduct the hearing if the hearing officer is not the same person who
31 directed the storage of the vehicle. Failure of either the registered or legal owner to
32 request a hearing as provided in paragraph (1) or to attend a scheduled hearing
33 shall satisfy the poststorage hearing requirement.

34 (3) The agency employing the person who directed the storage is responsible for
35 the costs incurred for towing and storage if it is determined that the driver at the
36 time of impoundment had a valid driver's license.

37 (o) As used in this section, "days" means workdays not including weekends and
38 holidays.

39 (p) Charges for towing and storage for any vehicle impounded pursuant to this
40 section shall not exceed the normal towing and storage rates for other vehicle
41 towing and storage conducted by the impounding agency in the normal course of
42 business.

(q) The Judicial Council and the Department of Justice may prescribe standard forms and procedures for implementation of this section to be used by all jurisdictions throughout the state.

(r) The impounding agency may act as the agent of the state in carrying out this section.

(s) No vehicle shall be impounded pursuant to this section if the driver has a valid license but the license is for a class of vehicle other than the vehicle operated by the driver.

(t) This section does not apply to vehicles subject to Sections 14608 and 14609, if there has been compliance with the procedures in those sections.

Comment. Section 14607.6 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for limited cases).

Veh. Code § 40230 (amended). Review; filing of appeal; notice; evidence; fee

SEC. _____. Section 40230 of the Vehicle Code is amended to read:

40230. (a) Within 30 calendar days after the mailing or personal delivery of the final decision described in subdivision (b) of Section 40215, the contestant may seek review by filing an appeal to be heard by the ~~justice or~~ municipal court, or by the superior court in a county in which there is no municipal court, where the same shall be heard de novo, except that the contents of the processing agency's file in the case shall be received in evidence. A copy of the notice of parking violation or, if the citation was issued electronically, a true and correct abstract containing the information set forth in the notice of parking violation shall be admitted into evidence as prima facie evidence of the facts stated therein. A copy of the notice of appeal shall be served in person or by first-class mail upon the processing agency by the contestant. For purposes of computing the 30 calendar-day period, Section 1013 of the Code of Civil Procedure shall be applicable. A proceeding under this subdivision is a limited case.

(b) The fee for filing the notice of appeal is twenty-five dollars (\$25). The court shall request that the processing agency's file on the case be forwarded to the court, to be received within 15 calendar days of the request. The court shall notify the contestant of the appearance date by mail or personal delivery. The court shall retain the twenty-five dollar (\$25) fee regardless of the outcome of the appeal. If the court finds in favor of the contestant, the amount of the fee shall be reimbursed to the contestant by the processing agency. Any deposit of parking penalty shall be refunded by the processing agency in accordance with the judgment of the court.

(c) The conduct of the appeal under this section is a subordinate judicial duty that may be performed by traffic trial commissioners and other subordinate judicial officials at the direction of the presiding judge of the court.

(d) If no notice of appeal of the processing agency's decision is filed within the period set forth in subdivision (a), the decision shall be deemed final.

(e) If the parking penalty has not been deposited and the decision is against the contestant, the processing agency shall, after the decision becomes final, proceed to collect the penalty pursuant to Section 40220.

Comment. Section 40230 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for limited cases).

Veh. Code § 40256 (amended). Appeals

SEC. _____. Section 40256 of the Vehicle Code is amended to read:

40256. (a) Within 20 days after the mailing of the final decision described in subdivision (b) of Section 40255, the contestant may seek review by filing an appeal to the ~~justice or~~ municipal court, or to the superior court in a county in which there is no municipal court, where the same shall be heard de novo, except that the contents of the processing agency's file in the case on appeal shall be received in evidence. A copy of the notice of toll evasion violation shall be admitted into evidence as prima facie evidence of the facts stated therein. A copy of the notice of appeal shall be served in person or by first-class mail upon the processing agency by the contestant. For purposes of computing the 20-day period, Section 1013 of the Code of Civil Procedure shall be applicable. A proceeding under this subdivision is a limited case.

(b) The fee for filing the notice of appeal shall be twenty-five dollars (\$25). If the appellant prevails, this fee, together with any deposit of toll evasion penalty, shall be promptly refunded by the processing agency in accordance with the judgment of the court.

(c) The conduct of the hearing on appeal under this section is a subordinate judicial duty which may be performed by commissioners and other subordinate judicial officials at the direction of the presiding judge of the court.

(d) If no notice of appeal of the processing agency's decision is filed within the period set forth in subdivision (a), the decision shall be deemed final.

(e) If the toll evasion penalty has not been deposited and the decision is adverse to the contestant, the processing agency may, promptly after the decision becomes final, proceed to collect the penalty under Section 40267.

Comment. Section 40256 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

A limited case is within the original jurisdiction of the municipal court or of the superior court in a county in which there is no municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases). See also Code Civ. Proc. §§ 91, 904.5, 1085 (trial procedures and writ and appellate jurisdiction for limited cases).

Veh. Code § 40502 (amended). Place to appear

SEC. _____. Section 40502 of the Vehicle Code is amended to read:

40502. The place specified in the notice to appear shall be any of the following:

(a) Before a magistrate within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the arrest is made.

(b) Upon demand of the person arrested, before a ~~municipal court~~ judge or other magistrate having jurisdiction of the offense at the county seat of the county in which the offense is alleged to have been committed. This subdivision applies only if the person arrested resides, or the person's principal place of employment is located, closer to the county seat than to the court or other magistrate nearest or most accessible to the place where the arrest is made.

(c) Before a person authorized to receive a deposit of bail.

The clerk and deputy clerks of the ~~municipal and justice courts~~ municipal court or of the superior court in a county in which there is no municipal court are persons authorized to receive bail in accordance with a schedule of bail approved by the judges of those courts.

(d) Before the juvenile court, a juvenile court referee, or a juvenile traffic hearing officer within the county in which the offense charged is alleged to have been committed, if the person arrested appears to be under the age of 18 years. The juvenile court shall by order designate the proper person before whom the appearance is to be made.

In a county which has implemented the provisions of Section 603.5 of the Welfare and Institutions Code, if the offense alleged to have been committed by a minor is classified as an infraction under this code, or is a violation of a local ordinance involving the driving, parking, or operation of a motor vehicle, the citation shall be issued as provided in subdivision (a), (b), or (c); provided, however, that if the citation combines an infraction and a misdemeanor, the place specified shall be as provided in subdivision (d).

If the place specified in the notice to appear is within a judicial district or city and county where a department of the municipal court, or of the superior court in a county in which there is no municipal court, is to hold a night session within a period of not more than 10 days after the arrest, the notice to appear shall contain, in addition to the above, a statement notifying the person arrested that the person may appear before such a night session of the court.

Comment. Section 40502 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). Cf. Penal Code § 808 (magistrates). In a county in which there is no municipal court, the relevant geographical unit is the county rather than judicial district. Cf. Code Civ. Proc. § 38 & Comment ("judicial district" defined). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

☞ **Note.** The last paragraph refers to both "district" and "department."

District. The reference to "district" is unclear, but probably means "judicial district." The amendment makes this clear.

Department. The general reference to “department” in this section probably refers to “department” to denote a numbered or named branch, division, office, or session in a multiple judge court, or a session in which a judge exercises special subject matter jurisdiction, such as criminal, probate, or juvenile court. See 2 B. Witkin, California Procedure *Courts* §§ 219-20, at 287-88 (4th ed. 1996).

Veh. Code § 40506.5 (amended). Request for continuance

SEC. _____. Section 40506.5 of the Vehicle Code is amended to read:

40506.5. Prior to the date upon which ~~he~~ the defendant promised to appear and without depositing bail, the defendant may request a continuance of ~~his~~ the written promise to appear. The judge of a municipal ~~or justice~~ court or of a superior court in a county in which there is no municipal court may authorize the clerk to grant the continuance.

Comment. Section 40506.5 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Veh. Code § 42008 (amended). County amnesty program for delinquent fines and bail

SEC. _____. Section 42008 of the Vehicle Code is amended to read:

42008. (a) Any county may operate an amnesty program for delinquent fines and bail imposed for an infraction or misdemeanor violation of the Vehicle Code, except parking violations of the Vehicle Code and violations of Section 23103, 23104, 23152, or 23153. The program shall be implemented by the courts in accordance with Judicial Council guidelines, and shall apply to infraction or misdemeanor violations of the Vehicle Code, except parking violations, upon which a fine or bail was delinquent on or before April 1, 1991.

(b) Under the amnesty program, any person owing a fine or bail due on or before April 1, 1991, that was imposed for an infraction or misdemeanor violation of the Vehicle Code, except violations of Section 23103, 23104, 23152, or 23153 or parking violations, may pay to the municipal ~~or justice~~ court or to the superior court in a county in which there is no municipal court the amount scheduled by the court, which shall be either (1) 70 percent of the total fine or bail or (2) the amount of one hundred dollars (\$100) for an infraction or five hundred dollars (\$500) for a misdemeanor. This amount shall be accepted by the court in full satisfaction of the delinquent fine or bail.

(c) No criminal action shall be brought against any person for a delinquent fine or bail paid under this amnesty program and no other additional penalties shall be assessed for the late payment of the fine or bail made under the amnesty program.

(d) Notwithstanding Section 1463 of the Penal Code, the total amount of funds collected by the courts pursuant to the amnesty program created by this section shall be deposited in the county treasury.

Comment. Section 42008 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

1 The phrase “of the Penal Code” was inadvertently omitted from subdivision (d) when
2 originally enacted.

3 **Veh. Code § 42203 (amended). Violations on certain county owned premises**

4 SEC. _____. Section 42203 of the Vehicle Code is amended to read:
5 42203. Notwithstanding Section 42201 or 42201.5, 50 percent of all fines and
6 forfeitures collected in ~~any county municipal court or justice court in any county a~~
7 municipal court, or in a superior court in a county in which there is no municipal
8 court, upon conviction or upon the forfeiture of bail for violations of any
9 provisions of the Vehicle Code, or of any local ordinance or resolution, relating to
10 stopping, standing, or parking a vehicle, that have occurred upon the premises of
11 facilities physically located in such county, but which are owned by another
12 county, which other county furnishes law enforcement personnel for the premises,
13 shall be transmitted pursuant to this section to the county which owns the facilities
14 upon which the violations occurred. The court receiving such moneys shall, once
15 each month, transmit such moneys received in the preceding month to the county
16 treasurer of the county in which the court is located. Once each month in which ~~he~~
17 the county treasurer receives such moneys, the county treasurer shall transmit to
18 the county which owns such facilities an amount equal to 50 percent thereof. The
19 county owning such facilities shall, upon receipt of such moneys from the
20 municipal court or ~~justice court~~ superior court of the county in which the facilities
21 are physically located, deposit such moneys in its county treasury for use solely in
22 meeting traffic control and law enforcement expenses on the premises upon which
23 the violations occurred.

24 This section shall not apply when the county in which such facilities are located
25 performs all law enforcement functions with respect to such facilities.

26 **Comment.** Section 42203 is amended to accommodate unification of the municipal and
27 superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect
28 elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

29 **Water Code § 310 (amended). Jurisdiction**

30 SEC. _____. Section 310 of the Water Code is amended to read:
31 310. All prosecutions for the violation of any of the provisions of this article
32 shall be instituted in the ~~justice court or municipal court of the county in which the~~
33 well is situated, or in the superior court in a county in which there is no municipal
34 court.

35 **Comment.** Section 310 is amended to accommodate unification of the municipal and superior
36 courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination
37 of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

38 **Water Code § 1100 (amended). Manner of taking deposition**

39 SEC. _____. Section 1100 of the Water Code is amended to read:
40 1100. The board or any party to a proceeding before it may, in any investigation
41 or hearing, cause the deposition of witnesses residing within or without the State

to be taken in the manner prescribed by law for depositions in civil actions in the superior courts of this State under Article 3 (commencing with Section 2016) of Chapter 3 of Title 4 of Part 4 of the Code of Civil Procedure.

Comment. Section 1100 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e).

Welf. & Inst. Code § 245 (amended). Jurisdiction.

SEC. _____. Section 245 of the Welfare and Institutions Code is amended to read:

245. Each superior court shall exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of such jurisdiction, shall be known and referred to as the juvenile court. Appealable orders and judgments of the juvenile court are subject to the appellate jurisdiction of the court of appeal.

Comment. Section 245 makes clear that the court of appeal is the proper appellate court to review appealable orders and judgments of the juvenile court. See Welf. & Inst. Code §§ 395, 800 (appealable orders and judgments of the juvenile court). The Judicial Council already has enacted rules of practice and procedure governing juvenile court appeals. See Rules of Court, Rules 39, 39.1, 39.1A, 39.1B, 1435, 1436 and 1436.5.

☞ **Note.** This amendment avoids any uncertainty over whether a juvenile court judgment is appealable to the appellate court pursuant to Section 904.1 of the Code of Civil Procedure. A juvenile court judgment would be subject to existing Section 904.1 because it is a judgment of a superior court.

Welf. & Inst. Code § 255 (amended). Traffic hearing officers

SEC. _____. Section 255 of the Welfare and Institutions Code is amended to read:

255. The judge of the juvenile court, or in counties having more than one judge of the juvenile court the presiding judge of the juvenile court or the senior judge if there is no presiding judge, may appoint one or more persons of suitable experience, who may be judges of the ~~municipal court or justices of the justice court~~ municipal court, or of the superior court in a county in which there is no municipal court, or a probation officer or assistant or deputy probation officers, to serve as traffic hearing officers on a full-time or part-time basis. A hearing officer shall serve at the pleasure of the appointing judge, and unless the appointing judge makes ~~his~~ an order terminating the appointment of a hearing officer, such hearing officer shall continue to serve as such until the appointment of ~~his~~ a successor. The board of supervisors shall determine whether any compensation shall be paid to hearing officers, not otherwise employed by a public agency or holding another public office, and shall establish the amounts and rates thereof. An appointment of a probation officer, assistant probation officer, or deputy probation officer as a traffic hearing officer may be made only with the consent of the probation officer.

Comment. Section 255 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justices' court. Cal. Const. art. VI, §§ 1, 5(b).

☞ **Note.** It seems unlikely that a superior court judge sitting as a juvenile court judge in a unified county would appoint another superior court judge as a traffic hearing officer. However, in the sake of preserving the existing law, this section has been amended to permit such an appointment.

Welf. & Inst. Code § 601.4 (amended). Compulsory education violations

SEC. _____. Section 601.4 of the Welfare and Institutions Code is amended to read:

601.4. (a) The juvenile court judge may be assigned to sit as a municipal court judge, or as a superior court judge in a county in which there is no municipal court, to hear any complaint alleging that a parent, guardian, or other person having control or charge of a minor has violated Section 48293 of the Education Code. The jurisdiction of the juvenile court granted by this section shall not be exclusive and the charge may be prosecuted instead in a municipal ~~or justice~~ court, or in a superior court in a county in which there is no municipal court. However, upon motion, that action shall be transferred to the juvenile court.

(b) Notwithstanding Section 737 of the Penal Code, a violation of Section 48293 of the Education Code may be prosecuted pursuant to subdivision (a), by written complaint filed in the same manner as an infraction may be prosecuted ~~in a municipal or justice court~~. The juvenile court judge, sitting as a municipal court judge or as a superior court judge in a county in which there is no municipal court, may coordinate the action involving the minor with any action involving the parent, guardian, or other person having control or charge of the minor. Both matters may be heard and decided at the same time unless the parent, guardian, other person having control or charge of the minor, or any member of the press or public objects to closed hearing of the proceedings charging violation of Section 48293 of the Education Code.

Comment. Section 601.4 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

☞ **Note.** Prior to the enactment of this section, child truancy cases were in the jurisdiction of the juvenile court, while cases involving parents or guardians charged with violation of school attendance laws were under the jurisdiction of a municipal or justice court. This section, and a companion amendment to Education Code Section 48295 allow a juvenile court judge to sit as a municipal court judge for the purpose of hearing a complaint against a parent or guardian for violation of Education Code Section 48293, concerning child truancy.

Note that in a unified court, operation of this statute may seem a bit absurd — a superior court judge, sitting as a juvenile court judge may sit as a superior court judge, etc. However, the jurisdictional and procedural distinctions between sitting as a juvenile court judge and sitting as a superior court judge are significant and are preserved.

Welf. & Inst. Code § 603.5 (amended). Vehicle Code infractions or violation of local ordinances involving motor vehicles by minor

SEC. _____. Section 603.5 of the Welfare and Institutions Code is amended to read:

603.5. (a) Notwithstanding any other provision of law, in counties which adopt the provisions of this section, jurisdiction over the case of a minor alleged to have committed only a violation of the Vehicle Code classified as an infraction or a violation of a local ordinance involving the driving, parking, or operation of a motor vehicle, is with the municipal court or the superior court in a county in

1 which there is no municipal court, except that the ~~municipal~~ court may refer to the
2 juvenile court for adjudication, cases involving a minor who has been adjudicated
3 a ward of the juvenile court, or who has other matters pending in the juvenile
4 court.

5 (b) The cases specified in subdivision (a) shall not be governed by the
6 procedures set forth in the juvenile court law.

7 (c) Any provisions of juvenile court law requiring that confidentiality be
8 observed as to cases and proceedings, prohibiting or restricting the disclosure of
9 juvenile court records, or restricting attendance by the public at juvenile court
10 proceedings shall not apply. The procedures for bail specified in Chapter 1
11 (commencing with Section 1268) of Title 10 of Part 2 of the Penal Code shall
12 apply.

13 (d) The provisions of this section shall apply in a county in which the board of
14 supervisors, with the concurrence of the presiding judges of the superior, juvenile,
15 and any municipal courts, adopts a resolution making the section applicable in the
16 county as to any matters to be heard by the municipal or superior court pursuant to
17 this section, or in which a trial court coordination plan has been approved by the
18 Judicial Council pursuant to Section 68112 of the Government Code that provides
19 for the coordination of matters pursuant to this section.

20 **Comment.** Section 603.5 is amended to accommodate unification of the municipal and
21 superior courts in a county. Cal. Const. art. VI, § 5(e).

22 **Welf. & Inst. Code § 661 (amended). Notice and citation**

23 SEC. _____. Section 661 of the Welfare and Institutions Code is amended to read:

24 661. In addition to the notice provided in Sections 658 and 659, the juvenile
25 court may issue its citation directing any parent, guardian, or foster parent of the
26 person concerning whom a petition has been filed to appear at the time and place
27 set for any hearing or financial evaluation under the provisions of this chapter,
28 including a hearing under the provisions of Section 257, and directing any person
29 having custody or control of the minor concerning whom the petition has been
30 filed to bring the minor with him or her. The notice shall in addition state that a
31 parent, guardian, or foster parent may be required to participate in a counseling or
32 education program with the minor concerning whom the petition has been filed. If
33 the proceeding is one alleging that the minor comes within the provisions of
34 Section 601, the notice shall in addition contain notice to the parent, guardian, or
35 other person having control or charge of the minor that failure to comply with the
36 compulsory school attendance laws is an infraction, which may be charged and
37 prosecuted before the juvenile court judge sitting as a municipal court judge or as
38 a superior court judge in a county in which there is no municipal court. In those
39 cases, the notice shall also include notice that the parent, guardian, or other person
40 having control or charge of the minor has the right to a hearing on the infraction
41 before a judge different than the judge who has heard or is to hear the proceeding
42 pursuant to Section 601. The notice shall explain the provisions of Section 170.6

1 of the Code of Civil Procedure. Personal service of the citation shall be made at
2 least 24 hours before the time stated therein for the appearance.

3 **Comment.** Section 661 is amended to accommodate unification of the municipal and superior
4 courts in a county. Cal. Const. art. VI, § 5(e).

5 **Welf. & Inst. Code § 742.16 (amended). Restitution**

6 SEC. _____. Section 742.16 of the Welfare and Institutions Code is amended to
7 read:

8 742.16. (a) If a minor is found to be a person described in Section 602 by reason
9 of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6
10 or 640.7 of the Penal Code, and the court does not remove the minor from the
11 physical custody of the parent or guardian, the court as a condition of probation,
12 except in any case in which the court makes a finding and states on the record its
13 reasons why that condition would be inappropriate, shall require the minor to
14 wash, paint, repair, or replace the property defaced, damaged, or destroyed by the
15 minor or otherwise pay restitution to the probation officer of the county for
16 disbursement to the owner or possessor of the property or both. In any case in
17 which the minor is not granted probation or in which the minor's cleanup, repair,
18 or replacement of the property will not return the property to its condition before it
19 was defaced, damaged, or destroyed, the court shall make a finding of the amount
20 of restitution that would be required to fully compensate the owner and possessor
21 of the property for their damages. The court shall order the minor or the minor's
22 estate to pay that restitution to the probation officer of the county for disbursement
23 to the owner or possessor of the property or both, to the extent the court
24 determines that the minor or ~~his~~ the minor's estate have the ability to do so, except
25 in any case in which the court makes a finding and states on the record its reasons
26 why full restitution would be inappropriate. If full restitution is found to be
27 inappropriate, the court, shall require the minor to perform specified community
28 service, except in any case in which the court makes a finding and states on the
29 record its reasons why that condition would be inappropriate.

30 (b) If a minor is found to be a person described in Section 602 by reason of the
31 commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or
32 640.7 of the Penal Code, and the graffiti or other material inscribed by the minor
33 has been removed, or the property defaced by the minor has been repaired or
34 replaced by a public entity that has elected, pursuant to Section 742.14, to have the
35 probation officer of the county recoup its costs through proceedings in accordance
36 with this section and has made cost findings in accordance with subdivisions (c) or
37 (d) of Section 742.14, the court shall determine the total cost incurred by the
38 public entity for said removal, repair, or replacement, using, if applicable, the cost
39 findings most recently adopted by the public entity pursuant to subdivision (c) or
40 (d) of Section 742.14. The court shall order the minor or the minor's estate to pay
41 those costs to the probation officer of the county to the extent the court determines
42 that the minor or the minor's estate have the ability to do so.

(c) If the minor is found to be a person described in Section 602 by reason of the commission of an act prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code and the minor was identified or apprehended by the law enforcement agency of a city or county that has elected, pursuant to Section 742.14, to have the probation officer of the county recoup its costs through proceedings in accordance with this section, the court shall determine the cost of identifying or apprehending the minor, or both, using, if applicable, the cost findings adopted by the city or county pursuant to subdivision (b) of Section 742.14. The court shall order the minor or the minor's estate to pay those costs to the probation officer of the county to the extent the court determines that the minor or the minor's estate have the ability to do so.

(d) If the court determines that the minor or the minor's estate is unable to pay in full the costs and damages determined pursuant to subdivisions (a), (b), and (c), and if the minor's parent or parents have been cited into court pursuant to Section 742.18, the court shall hold a hearing to determine the liability of the minor's parent or parents pursuant to Section 1714.1 of the Civil Code for those costs and damages. Except when the court makes a finding setting forth unusual circumstances in which parental liability would not serve the interests of justice, the court shall order the minor's parent or parents to pay those costs and damages to the probation officer of the county to the extent the court determines that the parent or parents have the ability to pay, if the minor was in the custody or control of the parent or parents at the time he or she committed the act that forms the basis for the finding that the minor is a person described in Section 602. In evaluating the parent's or parents' ability to pay, the court shall take into consideration the family income, the necessary obligations of the family, and the number of persons dependent upon this income.

(e) The hearing described in subdivision (d) may be held immediately following the disposition hearing or at a later date, at the option of the court.

(f) If the amount of costs and damages sought to be recovered in the hearing pursuant to subdivision (d) is five thousand dollars (\$5,000) or less, the parent or parents may not be represented by counsel and the probation officer of the county shall be represented by his or her nonattorney designee. The court shall conduct such a hearing in accordance with Sections 116.510 and 116.520 of the Code of Civil Procedure. Notwithstanding the foregoing, if the court determines that a parent cannot properly present his or her defense, the court may, in its discretion, allow another individual to assist that parent. In addition, a husband or wife may appear and participate in the hearing on behalf of his or her spouse if the representative's spouse has given his or her consent and the court determines that the interest of justice would be served thereby.

(g) If the amount of costs and damages sought to be recovered in the hearing pursuant to subdivision (d) exceeds five thousand dollars (\$5,000), the parent or parents may be represented by counsel of his or her or their own choosing, and the probation officer of the county shall be represented by the district attorney or an

1 attorney or nonattorney designee of the probation officer. The parent or parents
2 shall not be entitled to court-appointed counsel or to counsel compensated at
3 public expense.

4 (h) At the hearing conducted pursuant to subdivision (d), there shall be a
5 presumption affecting the burden of proof that the findings of the court made
6 pursuant to subdivisions (a), (b), and (c) represent the actual damages and costs
7 attributable to the act of the minor that forms the basis of the finding that the
8 minor is a person described in Section 602.

9 (i) If the parent or parents after having been cited to appear pursuant to Section
10 742.18, fail to appear as ordered, the court shall order the parent or parents to pay
11 the full amount of the costs and damages determined by the court pursuant to
12 subdivisions (a), (b), and (c).

13 (j) Execution may be issued on an order issued by the court pursuant to this
14 section in the same manner as on a judgment in a civil action, including any
15 balance unpaid at the termination of the court's jurisdiction over the minor.

16 (k) At any time prior to the satisfaction of a judgment entered pursuant to this
17 section, a person against whom the judgment was entered may petition the
18 rendering court to modify or vacate the judgment on the showing of a change in
19 circumstances relating to his or her ability to pay the judgment.

20 (l) For purposes of a hearing conducted pursuant to subdivision (d), the judge of
21 the juvenile court shall have the jurisdiction of a judge of the municipal court or of
22 the superior court in a limited case, and where the amount of the demand is five
23 thousand dollars (\$5,000) or less, the judge of the juvenile court shall have the
24 powers of a judge presiding over the small claims ~~court~~ division.

25 (m) Nothing in this section shall be construed to limit the authority of a juvenile
26 court to provide conditions of probation.

27 (n) The options available to the court pursuant to subdivisions (a), (b), (c), (d),
28 and (k), to order payment by the minor and his or her parent or parents of less than
29 the full costs described in subdivisions (a), (b), and (c), on grounds of financial
30 inability or for reasons of justice, shall not be available to a municipal court in an
31 ordinary civil proceeding pursuant to subdivision (b) of Section 1714.1 of the
32 Civil Code, except that in any proceeding pursuant to either subdivision (b) of
33 Section 1714.1 of the Civil Code or this section, the maximum amount that a
34 parent or a minor may be ordered to pay shall not exceed twenty thousand dollars
35 (\$20,000) for each tort of the minor.

36 **Comment.** Section 742.16 is amended to accommodate unification of the municipal and
37 superior courts in a county. Cal. Const. art. VI, § 5(e). Subdivision (l) is also amended to correct
38 the reference to the small claims court, which is a division of the municipal court or, in a county
39 in which there is no municipal court, a division of the superior court. Code Civ. Proc. § 116.210
40 (small claims division).

41 ☞ **Note.** A proceeding under subdivision (d) appears intended to be a limited case. When the
42 juvenile court judge sits to determine the liability of parents or guardians the judge has the
43 jurisdiction of a municipal court judge. See subdivision (l). The amount in controversy cannot
44 exceed \$25,000. See subdivision (d), referring to Civ. Code § 1714.1.

1 **Welf. & Inst. Code § 3050 (amended). Possible narcotic addiction of person convicted of**
2 **misdemeanor or infraction**

3 SEC. _____. Section 3050 of the Welfare and Institutions Code is amended to
4 read:

5 3050. Upon conviction of a defendant of a misdemeanor or infraction ~~any crime~~
6 ~~in a municipal or justice court,~~ or following revocation of probation previously
7 granted for a misdemeanor or infraction, whether or not sentence has been
8 imposed, if it appears to the judge that the defendant may be addicted or by reason
9 of repeated use of narcotics may be in imminent danger of becoming addicted to
10 narcotics, such judge shall adjourn the proceedings or suspend the imposition or
11 execution of the sentence, certify the defendant to the superior court and order the
12 district attorney to file a petition for a commitment of the defendant to the Director
13 of Corrections for confinement in the narcotic detention, treatment and
14 rehabilitation facility.

15 Upon the filing of such a petition, the superior court shall order the defendant to
16 be examined by one physician. At the request of the defendant, the court shall
17 order the defendant to be examined by a second physician. At least one day before
18 the time of the examination as fixed by the court order, a copy of the petition and
19 order for examination shall be personally delivered to the defendant. A written
20 report of the examination by the physician or physicians shall be delivered to the
21 court, and if the report is to the effect that the person is not addicted nor in
22 imminent danger of addiction, it shall so certify and return the defendant to the
23 ~~municipal or justice court~~ which certified such defendant to the superior court for
24 such further proceedings as the judge of such ~~municipal or justice court~~ deems
25 warranted. If the report is to the effect that the defendant is addicted or is by
26 reason of the repeated use of narcotics in imminent danger of addiction, further
27 proceedings shall be conducted in compliance with Sections 3104, 3105, 3106,
28 and 3107.

29 If, after a hearing, the judge finds that the defendant is a narcotic addict, or is by
30 reason of the repeated use of narcotics in imminent danger of becoming addicted
31 thereto, and is not ineligible for the program under the application of Section
32 3052, he or she shall make an order committing such defendant to the custody of
33 the Director of Corrections for confinement in the facility until such time as he or
34 she is discharged pursuant to Article 5 (commencing with Section 3200), except as
35 this chapter permits earlier discharge. If, upon the hearing, the judge shall find that
36 the defendant is not a narcotic addict and is not in imminent danger of becoming
37 addicted to narcotics, the judge shall so certify and return the defendant to the
38 ~~municipal or justice court~~ which certified the defendant to the superior court for
39 such further proceedings as the judge of the ~~municipal or justice court~~ which
40 certified the defendant to the superior court deems warranted.

41 If a person committed pursuant to this section is dissatisfied with the order of
42 commitment, he or she may within 10 days after the making of such order, file a
43 written demand for a jury trial in compliance with Section 3108.

1 **Comment.** Section 3050 is amended to accommodate unification of the municipal and superior
2 courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination
3 of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

4 **Welf. & Inst. Code § 3051 (amended). Possible narcotic addiction of person convicted of**
5 **felony**

6 SEC. _____. Section 3051 of the Welfare and Institutions Code is amended to
7 read:

8 3051. Upon conviction of a defendant for ~~any crime in any superior court, a~~
9 felony, or following revocation of probation previously granted for a felony, and
10 upon imposition of sentence, if it appears to the judge that the defendant may be
11 addicted or by reason of repeated use of narcotics may be in imminent danger of
12 becoming addicted to narcotics the judge shall suspend the execution of the
13 sentence and order the district attorney to file a petition for commitment of the
14 defendant to the Director of Corrections for confinement in the narcotic detention,
15 treatment, and rehabilitation facility unless, in the opinion of the judge, the
16 defendant's record and probation report indicate such a pattern of criminality that
17 he or she does not constitute a fit subject for commitment under this section.

18 Upon the filing of the petition, the court shall order the defendant to be
19 examined by one physician. However, the examination may be waived by a
20 defendant if the defendant has been examined in accordance with Section 1203.03
21 of the Penal Code and that examination encompassed whether defendant is
22 addicted or is in imminent danger of addiction, and if the defendant is represented
23 by counsel and competent to understand the effect of the waiver. In cases where a
24 physician's report is waived by the defendant, the Department of Corrections may
25 perform an evaluation and provide a report as to the defendant's addiction or
26 imminent danger of addiction. If the Department of Corrections determines that
27 the defendant is not addicted or in imminent danger of addiction, the defendant
28 shall be returned to the sentencing court for resentencing. The examination may
29 also be waived upon stipulation by the defendant, his or her attorney, the
30 prosecutor, and the court that the defendant is addicted or is in imminent danger of
31 addiction. If a physician's report is prepared, at the request of the defendant, the
32 court shall order the defendant to be examined by a second physician. At least one
33 day before the time of the examination as fixed by the court order, a copy of the
34 petition and order for examination shall be personally delivered to the defendant.
35 A written report of the examination by the physician or physicians shall be
36 delivered to the court, and if the report is to the effect that the person is not
37 addicted nor in imminent danger of addiction, it shall so certify and return the
38 defendant to the department of the superior court that directed the filing of the
39 petition for the ordering of the execution of the sentence. The court may, unless
40 otherwise prohibited by law, modify the sentence or suspend the imposition of the
41 sentence. If the report is to the effect that the defendant is addicted or is by reason
42 of the repeated use of narcotics in imminent danger of addiction, further

1 proceedings shall be conducted in compliance with Sections 3104, 3105, 3106,
2 and 3107.

3 If, after a hearing, the judge finds that the defendant is a narcotic addict, or is by
4 reason of the repeated use of narcotics in imminent danger of becoming addicted
5 to narcotics, the judge shall make an order committing the person to the custody of
6 the Director of Corrections for confinement in the facility until a time that he or
7 she is discharged pursuant to Article 5 (commencing with Section 3200), except as
8 this chapter permits earlier discharge. If, upon the hearing, the judge finds that the
9 defendant is not a narcotic addict and is not in imminent danger of becoming
10 addicted to narcotics, the judge shall so certify and return the defendant to the
11 department of the superior court that directed the filing of the petition for the
12 ordering of execution of sentence. The court may, unless otherwise prohibited by
13 law, modify the sentence or suspend the imposition of the sentence.

14 If a person committed pursuant to this section is dissatisfied with the order of
15 commitment, he or she may, within 10 days after the making of the order, file a
16 written demand for a jury trial in compliance with Section 3108.

17 A psychologist licensed pursuant to Chapter 6.6 (commencing with Section
18 2900) of Division 2 of the Business and Professions Code may perform the
19 examination specified in this section and Section 3050. This section does not
20 expand the scope of practice of psychologists as set forth in Section 2903 of the
21 Business and Professions Code nor does this section allow a psychologist to
22 perform any activity that would otherwise require a physician's and surgeon's
23 license.

24 **Comment.** Section 3051 is amended to accommodate unification of the municipal and superior
25 courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination
26 of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

27 **Welf. & Inst. Code § 3200 (amended). Recommendation of discharge**

28 SEC. _____. Section 3200 of the Welfare and Institutions Code is amended to
29 read:

30 3200. (a) If at any time the Director of Corrections is of the opinion that a
31 person committed pursuant to Article 3 (commencing with Section 3100) while in
32 outpatient status has abstained from the use of narcotics, other than as medically
33 prescribed in a narcotic treatment program pursuant to Section 3154, for at least
34 six consecutive months and has otherwise complied with the conditions of his or
35 her release, the director shall recommend to the Narcotic Addict Evaluation
36 Authority that the person be discharged from the program. If the authority concurs
37 in the opinion of the director, it shall discharge the person from the program.

38 (b) If at any time the director is of the opinion that a person committed for a
39 period of 24 months, or less, pursuant to Article 2 (commencing with Section
40 3050) while in outpatient status has abstained from the use of narcotics, other than
41 as medically prescribed in a narcotic treatment program pursuant to Section 3154,
42 for at least 12 consecutive months and has otherwise complied with the conditions

1 of his or her release, or if at any time the director is of the opinion that a person
2 committed for a period of more than 24 months pursuant to Article 2
3 (commencing with Section 3050) while in outpatient status has abstained from the
4 use of narcotics, other than as medically prescribed in a narcotic treatment
5 program pursuant to Section 3154, for at least 16 consecutive months and has
6 otherwise complied with the conditions of his or her release, the director shall so
7 advise the Narcotic Addict Evaluation Authority. If the authority concurs in the
8 opinion of the director, it shall file with the superior court of the county in which
9 the person was committed a certificate alleging those facts and recommending to
10 the court the discharge of the person from the program. The authority shall serve a
11 copy of the certificate upon the district attorney of the county. Upon the filing of
12 the certificate, the court shall discharge the person from the program. The court
13 may, unless otherwise prohibited by law, modify the sentence, dismiss the
14 criminal charges of which the person was convicted, or suspend further
15 proceedings, as it deems warranted in the interests of justice. Where the person
16 was certified to the superior court ~~from a municipal or justice court, pursuant to~~
17 Section 3050 the person shall be returned to ~~that court~~ the court that certified the
18 person, which may dismiss the original charges. In any case where the criminal
19 charges are not dismissed and the person is sentenced thereon, time served in
20 custody while under commitment pursuant to Article 2 (commencing with Section
21 3050) shall be credited on the sentence. The dismissal shall have the same force
22 and effect as a dismissal under Section 1203.4 of the Penal Code, except the
23 conviction is a prior conviction for purposes of Division 10 (commencing with
24 Section 11000) of the Health and Safety Code.

25 **Comment.** Section 3200 is amended to accommodate unification of the municipal and superior
26 courts in a county. Cal. Const. art. VI, § 5(e). The section is also amended to reflect elimination
27 of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

1 APPELLATE DIVISION CONFORMING REVISIONS

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

4 17209. If a violation of this chapter is alleged or the application or construction
5 of this chapter is in issue in any proceeding in the Supreme Court of California, a
6 state court of appeal, or the appellate ~~department~~ division of a superior court, the
7 person who commenced that proceeding shall serve notice thereof, including a
8 copy of the person's brief or petition and brief, on the Attorney General, directed
9 to the attention of the Consumer Law Section, and on the district attorney of the
10 county in which the lower court action or proceeding was originally filed. The
11 notice, including the brief or petition and brief, shall be served within three days
12 after the commencement of the appellate proceeding, provided that the time may
13 be extended by the Chief Justice or presiding justice or judge for good cause
14 shown. No judgment or relief, temporary or permanent, shall be granted until
15 proof of service of this notice is filed with the court.

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

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

20 17536.5. If a violation of this chapter is alleged or the application or
21 construction of this chapter is in issue in any proceeding in the Supreme Court of
22 California, a state court of appeal, or the appellate ~~department~~ division of a
23 superior court, the person who commenced that proceeding shall serve notice
24 thereof, including a copy of the person's brief or petition and brief, on the
25 Attorney General, directed to the attention of the Consumer Law Section, and on
26 the district attorney of the county in which the lower court action or proceeding
27 was originally filed. The notice, including the brief or petition and brief, shall be
28 served within three days after the commencement of the appellate proceeding,
29 provided that the time may be extended by the Chief Justice or presiding justice or
30 judge for good cause shown. No judgment or relief, temporary or permanent, shall
31 be granted until proof of service of this notice is filed with the court.

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

JUSTICE COURT CONFORMING REVISIONS

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

SEC. _____. Section 6152 of the Business and Professions Code is amended to read:

6152. (a) It is unlawful for:

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

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

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

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

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

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

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

SEC. _____. Section 6302.5 of the Business and Professions Code is amended to read:

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

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

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

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

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

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

14 SEC. _____. Section 6321 of the Business and Professions Code is amended to
15 read:

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

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

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

26 SEC. _____. Section 6322 of the Business and Professions Code is amended to
27 read:

28 6322. Thereafter, any defendant, respondent, adverse party, or intervening party,
29 on his first appearance in a superior, ~~or municipal, or justice~~ or municipal court, or
30 any number of such defendants, respondents, or parties, appearing jointly, shall
31 pay to the clerk of the court, for the law library, the sum of one dollar (\$1) as
32 costs, in addition to the fees fixed by law.

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

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

36 SEC. _____. Section 25762 of the Business and Professions Code is amended to
37 read:

38 25762. All fines and forfeitures of bail imposed for a violation of this division
39 and collected in any court other than a municipal court ~~or a justice court~~ shall be
40 paid to the county treasurer of the county in which the court is held.

1 All fines and forfeitures of bail imposed for violation of this division and
2 collected upon conviction or upon forfeiture of bail, together with money
3 deposited as bail, in any municipal court ~~or justice court~~ shall be deposited with
4 the county treasurer of the county in which such court is situated and the money
5 deposited shall be distributed and disposed of pursuant to Penal Code Section
6 1463.

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

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

10 SEC. _____. Section 1181 of the Civil Code is amended to read:

11 1181. The proof or acknowledgment of an instrument may be made before a
12 notary public at any place within this state, or within the county or city and county
13 in this state in which the officer specified below was elected or appointed, before
14 either:

- 15 (a) A clerk of a superior, ~~municipal, or justice~~ municipal court.
- 16 (b) A county clerk.
- 17 (c) A court commissioner.
- 18 (d) A judge or retired judge of a municipal or justice court.
- 19 (e) A district attorney.
- 20 (f) A clerk of a board of supervisors.
- 21 (g) A city clerk.
- 22 (h) A county counsel.
- 23 (i) A city attorney.

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

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

29 SEC. _____. Section 1780 of the Civil Code is amended to read:

30 1780. (a) Any consumer who suffers any damage as a result of the use or
31 employment by any person of a method, act, or practice declared to be unlawful by
32 Section 1770 may bring an action against such person to recover or obtain any of
33 the following:

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

40 (b) Any consumer who is a senior citizen or a disabled person, as defined in
41 subdivisions (f) and (g) of Section 1761, as part of an action under subdivision (a),
42 may seek and be awarded, in addition to the remedies specified therein, up to five

thousand dollars (\$5,000) where the trier of fact (1) finds that the consumer has suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct, (2) makes an affirmative finding in regard to one or more of the factors set forth in subdivision (b) of Section 3345, and (3) finds that an additional award is appropriate. Judgment in a class action by senior citizens or disabled persons under Section 1781 may award each class member such an additional award where the trier of fact has made the foregoing findings.

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

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

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

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

Comment. Section 1780 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

☞ **Note.** Subdivision (c) is evidently intended as a venue, rather than jurisdiction, statute. Presumably an action may be brought in superior court, rather than municipal court, where the amount in controversy is beyond the subject matter jurisdiction of the municipal court. Whether a case is treated as a limited case in a county in which there is no municipal court depends on the amount in controversy. See Code Civ. Proc. § 86(a)(1).

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

SEC. _____. Section 1812.10 of the Civil Code is amended to read:

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

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

10 In any action subject to the provisions of this section, concurrently with the
11 filing of the complaint, the plaintiff shall file an affidavit stating facts showing that
12 the action has been commenced in a county or judicial district described in this
13 section as a proper place for the trial of the action. Such facts may be stated in a
14 verified complaint and shall not be stated on information or belief. When such
15 affidavit is filed with the complaint, a copy thereof shall be served with the
16 summons. If a plaintiff fails to file the affidavit or state facts in a verified
17 complaint required by this section, no further proceedings shall be had, but the
18 court shall, upon its own motion or upon motion of any party, dismiss any such
19 action without prejudice; however, the court may, on such terms as may be just,
20 permit the affidavit to be filed subsequent to the filing of the complaint and a copy
21 of such affidavit shall be served on the defendant. The time to answer or otherwise
22 plead shall date from such service.

23 **Comment.** Section 1812.10 is amended to reflect elimination of the justice court. Cal. Const.
24 art. VI, §§ 1, 5(b). In a county in which there is no municipal court, the superior court has
25 jurisdiction of matters that would be within the subject matter jurisdiction of the municipal court.
26 Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases).

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

28 SEC. _____. Section 2984.4 of the Civil Code is amended to read:

29 2984.4. An action on a contract or purchase order under the provisions of this
30 chapter shall be tried in the county in which the contract or purchase order was in
31 fact signed by the buyer, in the county in which the buyer resided at the time the
32 contract or purchase order was entered into, in the county in which the buyer
33 resides at the commencement of the action or in the county in which the motor
34 vehicle purchased pursuant to such contract or purchase order is permanently
35 garaged.

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

39 If within any such county there is a municipal ~~or justice~~ court, having
40 jurisdiction of the subject matter, established in the judicial district in which the
41 contract, conditional sale contract, or purchase order was in fact signed by the
42 buyer, or in which the buyer resided at the time the contract, conditional sale
43 contract, or purchase order was entered into, or in which the buyer resides at the

commencement of the action, or in which the motor vehicle purchased pursuant to such contract is permanently garaged, such court is the proper court for the trial of the action. Otherwise, any municipal ~~or justice~~ court in such county, having jurisdiction of the subject matter, is the proper court for the trial of the action.

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

Comment. Section 2984.4 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b). In a county in which there is no municipal court, the superior court has jurisdiction of matters that would be within the subject matter jurisdiction of the municipal court. Cal. Const. art. VI, § 10 (superior court jurisdiction); Code Civ. Proc. §§ 85, 85.1 (limited cases).

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

SEC. _____. Section 48294 of the Education Code is amended to read:

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


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

Elec. Code § 325 (amended). Judicial district

SEC. _____. Section 325 of the Elections Code is amended to read:

325. "Judicial district" includes municipal court district ~~and justice court district~~.

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

 **Note.** It is not entirely clear why this definition is needed. There appear to be only two instances in the codes where "judicial district" might have been intended to mean "superior court district," (see Food & Agric. Code § 31622; Insurance Code § 11542.2 (not amended in this draft)); and one where "judicial district" means "court of appeal district." See Pub. Util. Code § 1756.

Elec. Code § 327 (amended). Judicial officer

SEC. _____. Section 327 of the Elections Code is amended to read:

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

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

Elec. Code § 8203 (amended). Incumbents

SEC. _____. Section 8203 of the Elections Code is amended to read:

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

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

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

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

Elec. Code § 13107 (amended). Ballot designations

SEC. _____. Section 13107 of the Elections Code is amended to read:

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

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

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

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

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

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

(1) It would mislead the voter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. _____. Section 13111 of the Elections Code is amended to read:

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

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

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

(c) In the case of all other offices, the candidates for which are to be voted on throughout the state, the Secretary of State shall arrange the names of the candidates for the office in accordance with the randomized alphabet as provided for in Section 13112 for the First Assembly District. Thereafter, for each succeeding Assembly district, the name appearing first in the last preceding

1 Assembly district shall be placed last, the order of the other names remaining
2 unchanged.

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

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

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

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

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

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

38 (j) If the office is that of Justice of the California Supreme Court or a Court of
39 Appeal, the appropriate elections officials shall arrange the names of the
40 candidates for the office in accordance with the randomized alphabet as provided
41 for in Section 13112. However, the names of the judicial candidates shall not be
42 rotated among the applicable districts.

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

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

SEC. _____. Section 300 of the Evidence Code is amended to read:

300. Except as otherwise provided by statute, this code applies in every action before the Supreme Court or a court of appeal, superior court, or municipal court, ~~or justice court~~, including proceedings in such actions conducted by a referee, court commissioner, or similar officer, but does not apply in grand jury proceedings.

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

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

SEC. _____. Section 400 of the Family Code is amended to read:

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

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

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

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

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

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

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

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

(4) A United States magistrate or retired magistrate.

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

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

SEC. _____. Section 2357 of the Fish and Game Code is amended to read:

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

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

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

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

SEC. _____. Section 4341 of the Fish and Game Code is amended to read:

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

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

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

Food & Agric. Code § 25564 (amended). Abatement of nuisance

SEC. _____. Section 25564 of the Food and Agriculture Code is amended to read:

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

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

☞ **Note.** This section apparently creates concurrent jurisdiction in the superior and municipal courts, without any reference to the amount in controversy. Whether the proceeding is a limited case appears to depend on the designation made by the person bringing it.

Food & Agric. Code § 29733 (amended). Abatement of nuisance

SEC. _____. Section 29733 of the Food and Agriculture Code is amended to read:

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

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

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

Comment. Section 29733 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

☞ **Note.** This section apparently creates concurrent jurisdiction in the superior and municipal courts, without any reference to the amount in controversy. Whether the proceeding is a limited case appears to depend on the designation made by the person bringing it.

Food & Agric. Code § 43039 (amended). Abatement of nuisance

SEC. _____. Section 43039 of the Food and Agriculture Code is amended to read:
43039. If the lot which is held is perishable or subject to rapid deterioration, the enforcing officer may file a verified petition in any superior or ~~inferior~~ municipal court of the state to destroy the lot or otherwise abate the nuisance. The petition shall show the condition of the lot, that the lot is situated within the county, that the lot is held, and that notice of noncompliance has been served as provided in this article. The court may thereupon order that the lot be forthwith destroyed or the nuisance otherwise abated as set forth in the order.

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

☞ **Note.** This section apparently creates concurrent jurisdiction in the superior and municipal courts, without any reference to the amount in controversy. Whether the proceeding is a limited case appears to depend on the designation made by the person bringing it.

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

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

- (a) The condition of the lot.
- (b) That the lot is situated within the territorial jurisdiction of the court in which the petition is being filed.
- (c) That the lot is held, and that the notice of noncompliance has been served as provided in Section 59285.
- (d) That the lot has not been reconditioned as required.
- (e) The name and address of the owner and the person in possession of the lot.
- (f) That the owner has refused permission to divert or to destroy the lot.


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

☞ **Note.** This section apparently creates concurrent jurisdiction in the superior and municipal courts, without any reference to the amount in controversy. Whether the proceeding is a limited case appears to depend on the designation made by the person bringing it.

Health & Safety Code § 108580 (amended). Condemnation proceedings

SEC. _____. Section 108580 of the Health and Safety Code is amended to read:
108580. When a toy is alleged to be in violation of this article, the department or the local health officer shall commence proceedings in the superior court, or ~~lower~~ municipal court, in whose jurisdiction the toy is located, for condemnation of the article.

Comment. Section 108580 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).


 **Note.** This section apparently creates concurrent jurisdiction in the superior and municipal courts, without any reference to the amount in controversy. Whether the proceeding is a limited case appears to depend on the designation made by the person bringing it.

Health & Safety Code § 111880 (amended). Condemnation proceedings

SEC. _____. Section 111880 of the Health and Safety Code is amended to read:

111880. When a food, drug, device, or cosmetic is alleged to be adulterated, misbranded, falsely advertised, or the sale of which is otherwise in violation of this part, the department shall commence proceedings in the superior court or ~~lower~~ municipal court in whose jurisdiction the food, drug, device, or cosmetic is located for condemnation of the article.

Comment. Section 111880 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).


 **Note.** This section apparently creates concurrent jurisdiction in the superior and municipal courts, without any reference to the amount in controversy. Whether the proceeding is a limited case appears to depend on the designation made by the person bringing it.

Health & Safety Code § 111895 (amended). Condemnation or destruction

SEC. _____. Section 111895 of the Health and Safety Code is amended to read:

111895. Any superior or ~~lower~~ municipal court of this state may condemn any food, drug, device, or cosmetic under provisions of this part. In the absence of such an order, the food, drug, device, or cosmetic may be destroyed under the supervision of an authorized agent of the department who has the written consent of the owner, his or her attorney, or authorized representative.

Comment. Section 111895 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

 **Note.** This section apparently creates concurrent jurisdiction in the superior and municipal courts, without any reference to the amount in controversy. Whether the proceeding is a limited case appears to depend on the designation made by the person bringing it.

Lab. Code § 98 (amended). Investigations and hearings regarding employee complaints

SEC. _____. Section 98 of the Labor Code is amended to read:

98. (a) The Labor Commissioner shall have the authority to investigate employee complaints. The Labor Commissioner may provide for a hearing in any action to recover wages, penalties, and other demands for compensation properly before the division or the Labor Commissioner including orders of the Industrial Welfare Commission, and shall determine all matters arising under his or her jurisdiction. It shall be within the jurisdiction of the Labor Commissioner to accept and determine claims from holders of payroll checks or payroll drafts returned unpaid because of insufficient funds, if, after a diligent search, the holder is unable to return the dishonored check or draft to the payee and recover the sums paid out. Within 30 days of filing of the complaint, the Labor Commissioner shall notify the parties as to whether a hearing will be held, or whether action will be taken in

1 accordance with Section 98.3, or whether no further action will be taken on the
2 complaint. If the determination is made by the Labor Commissioner to hold a
3 hearing, the hearing shall be held within 90 days of the date of that determination.
4 However, the Labor Commissioner may postpone or grant additional time before
5 setting a hearing if the Labor Commissioner finds that it would lead to an
6 equitable and just resolution of the dispute.

7 It is the intent of the Legislature that hearings held pursuant to this section be
8 conducted in an informal setting preserving the right of the parties.

9 (b) When a hearing is set, a copy of the complaint, which shall include the
10 amount of compensation requested, together with a notice of time and place of the
11 hearing, shall be served on all parties, personally or by certified mail.

12 (c) Within 10 days after service of the notice and the complaint, a defendant
13 may file an answer with the Labor Commissioner in any form as the Labor
14 Commissioner may prescribe, setting forth the particulars in which the complaint
15 is inaccurate or incomplete and the facts upon which the defendant intends to rely.

16 (d) No pleading other than the complaint and answer of the defendant or
17 defendants shall be required. Both shall be in writing and shall conform to the
18 form and the rules of practice and procedure adopted by the Labor Commissioner.

19 (e) Evidence on matters not pleaded in the answer shall be allowed only on
20 terms and conditions the Labor Commissioner shall impose. In all these cases, the
21 claimant shall be entitled to a continuance for purposes of review of the new
22 evidence.

23 (f) If the defendant fails to appear or answer within the time allowed under this
24 chapter, no default shall be taken against him or her, but the Labor Commissioner
25 shall hear the evidence offered and shall issue an order, decision, or award in
26 accordance with the evidence. A defendant failing to appear or answer, or
27 subsequently contending to be aggrieved in any manner by want of notice of the
28 pendency of the proceedings, may apply to the Labor Commissioner for relief in
29 accordance with Section 473 of the Code of Civil Procedure. The Labor
30 Commissioner may afford this relief. No right to relief, including the claim that
31 the findings or award of the Labor Commissioner or judgment entered thereon are
32 void upon their face, shall accrue to the defendant in any court unless prior
33 application is made to the Labor Commissioner in accordance with this chapter.

34 (g) All hearings conducted pursuant to this chapter are governed by the division
35 and by the rules of practice and procedure adopted by the Labor Commissioner.

36 (h) Whenever a claim is filed under this chapter against a person operating or
37 doing business under a fictitious business name, as defined in Section 17900 of the
38 Business and Professions Code, which relates to the person's business, the
39 division shall inquire at the time of the hearing whether the name of the person is
40 the legal name under which the business or person has been licensed, registered,
41 incorporated, or otherwise authorized to do business.

42 The division may amend an order, decision, or award to conform to the legal
43 name of the business or the person who is the defendant to a wage claim, provided

1 it can be shown that proper service was made on the defendant or his or her agent,
2 unless a judgment had been entered on the order, decision, or award pursuant to
3 subdivision (d) of Section 98.2. The Labor Commissioner may apply to the clerk
4 of the ~~justice, municipal,~~ municipal or superior court to amend a judgment that has
5 been issued pursuant to a final order, decision, or award to conform to the legal
6 name of the defendant, provided it can be shown that proper service was made on
7 the defendant or his or her agent.

8 **Comment.** Section 98 is amended to reflect elimination of the justice court. Cal. Const. art. VI,
9 §§ 1, 5(b).

10 **Lab. Code § 98.2 (amended). Review and enforcement of decision**

11 SEC. _____. Section 98.2 of the Labor Code is amended to read:

12 98.2. (a) Within 10 days after service of notice of an order, decision, or award
13 the parties may seek review by filing an appeal to the ~~justice, municipal,~~ municipal
14 or superior court, in accordance with the appropriate rules of jurisdiction, where
15 the appeal shall be heard de novo. A copy of the appeal request shall be served
16 upon the Labor Commissioner by the appellant. For purposes of computing the 10-
17 day period after service, Section 1013 of the Code of Civil Procedure shall be
18 applicable.

19 (b) If the party seeking review by filing an appeal to the ~~justice, municipal,~~
20 municipal or superior court is unsuccessful in the appeal, the court shall determine
21 the costs and reasonable attorneys' fees incurred by the other parties to the appeal,
22 and assess that amount as a cost upon the party filing the appeal.

23 (c) If no notice of appeal of the order, decision, or award is filed within the
24 period set forth in subdivision (a), the order, decision, or award shall, in the
25 absence of fraud, be deemed the final order.

26 (d) The Labor Commissioner shall file, within 10 days of the order becoming
27 final pursuant to subdivision (c), a certified copy of the final order with the clerk
28 of the ~~justice, municipal,~~ municipal or superior court, in accordance with the
29 appropriate rules of jurisdiction, of the appropriate county unless a settlement has
30 been reached by the parties and approved by the Labor Commissioner. Judgment
31 shall be entered immediately by the court clerk in conformity therewith. The
32 judgment so entered shall have the same force and effect as, and shall be subject to
33 all of the provisions of law relating to, a judgment in a civil action, and may be
34 enforced in the same manner as any other judgment of the court in which it is
35 entered. Enforcement of the judgment shall receive court priority.

36 (e) In order to ensure judgments are satisfied, the Labor Commissioner may
37 serve upon the judgment debtor personally or by first-class mail at the last known
38 address of the judgment debtor listed with the division, a form similar to, and
39 requiring the reporting of the same information as, the form approved or adopted
40 by the Judicial Council for purposes of subdivision (b) of Section 117.19 of the
41 Code of Civil Procedure to assist in identifying the nature and location of any
42 assets of the judgment debtor.

The judgment debtor shall complete the form and cause it to be delivered to the division at the address listed on the form within 35 days after the form has been served on the judgment debtor, unless the judgment has been satisfied. In case of willful failure by the judgment debtor to comply with this subdivision, the division or the judgment creditor may request the court to apply the sanctions provided in Section 708.170 of the Code of Civil Procedure.

(f) Notwithstanding subdivision (d), the Labor Commissioner may stay execution of any judgment entered upon an order, decision, or award which has become final upon good cause appearing therefore and may impose the terms and conditions of the stay of execution. A certified copy of the stay of execution shall be filed with the clerk entering the judgment.

(g) When a judgment is satisfied in fact, otherwise than by execution, the Labor Commissioner may, upon the motion of either party or on its own motion, order entry of satisfaction of judgment. The clerk of the court shall enter a satisfaction of judgment upon the filing of a certified copy of the order.

(h) The Labor Commissioner shall make every reasonable effort to ensure that judgments are satisfied, including taking all appropriate legal action and requiring the employer to deposit a bond as provided in Section 240.

(i) The judgment creditor, or the Labor Commissioner as assignee of the judgment creditor, shall be entitled to court costs and reasonable attorney fees for enforcing the judgment which is rendered pursuant to this section.

Comment. Section 98.2 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Lab. Code § 3352 (amended). Persons not “employees”

SEC. _____. Section 3352 of the Labor Code is amended to read:

3352. “Employee” excludes the following:

(a) Any person defined in subdivision (d) of Section 3351 who is employed by his or her parent, spouse, or child.

(b) Any person performing services in return for aid or sustenance only, received from any religious, charitable, or relief organization.

(c) Any person holding an appointment as deputy clerk, or deputy sheriff, ~~or deputy constable~~ appointed for his or her own convenience, and who receives no compensation from the county or municipal corporation or from the citizens thereof for his or her services as the deputy. This exclusion is operative only as to employment by the county or municipal corporation and does not deprive any person so deputized from recourse against a private person employing him or her for injury occurring in the course of and arising out of the employment.

(d) Any person performing voluntary services at or for a recreational camp, hut, or lodge operated by a nonprofit organization, exempt from federal income tax under Section 101(6) of the Internal Revenue Code, of which he or she or a member of his or her family is a member and who receives no compensation for those services other than meals, lodging, or transportation.

1 (e) Any person performing voluntary service as a ski patrolman who receives no
2 compensation for those services other than meals or lodging or the use of ski tow
3 or ski lift facilities.

4 (f) Any person employed by a ski lift operator to work at a snow ski area who is
5 relieved of and not performing any prescribed duties, while participating in
6 recreational activities on his or her own initiative.

7 (g) Any person, other than a regular employee, participating in sports or athletics
8 who receives no compensation for the participation other than the use of athletic
9 equipment, uniforms, transportation, travel, meals, lodgings, or other expenses
10 incidental thereto.

11 (h) Any person defined in subdivision (d) of Section 3351 who was employed
12 by the employer to be held liable for less than 52 hours during the 90 calendar
13 days immediately preceding the date of the injury for injuries, as defined in
14 Section 5411, or during the 90 calendar days immediately preceding the date of
15 the last employment in an occupation exposing the employee to the hazards of the
16 disease or injury for injuries, as defined in Section 5412, or who earned less than
17 one hundred dollars (\$100) in wages from the employer during the 90 calendar
18 days immediately preceding the date of the injury for injuries, as defined in
19 Section 5411, or during the 90 calendar days immediately preceding the date of
20 the last employment in an occupation exposing the employee to the hazards of the
21 disease or injury for injuries, as defined in Section 5412.

22 (i) Any person performing voluntary service for a public agency or a private,
23 nonprofit organization who receives no remuneration for the services other than
24 meals, transportation, lodging, or reimbursement for incidental expenses.

25 (j) Any person, other than a regular employee, performing officiating services
26 relating to amateur sporting events sponsored by any public agency or private,
27 nonprofit organization, who receives no remuneration for these services other than
28 a stipend for each day of service no greater than the amount established by the
29 Department of Personnel Administration as a per diem expense for employees or
30 officers of the state. The stipend shall be presumed to cover incidental expenses
31 involved in officiating, including, but not limited to, meals, transportation,
32 lodging, rule books and courses, uniforms, and appropriate equipment.

33 (k) Any student participating as an athlete in amateur sporting events sponsored
34 by any public agency, public or private nonprofit college, university or school,
35 who receives no remuneration for the participation other than the use of athletic
36 equipment, uniforms, transportation, travel, meals, lodgings, scholarships, grants-
37 in-aid, or other expenses incidental thereto.

38 (l) Any law enforcement officer who is regularly employed by a local or state
39 law enforcement agency in an adjoining state and who is deputized to work under
40 the supervision of a California peace officer pursuant to paragraph (4) of
41 subdivision (a) of Section 832.6 of the Penal Code.

42 (m) Any law enforcement officer who is regularly employed by the Oregon
43 State Police, the Nevada Department of Motor Vehicles and Public Safety, or the

1 Arizona Department of Public Safety and who is acting as a peace officer in this
2 state pursuant to subdivision (a) of Section 830.32 of the Penal Code.

3 (n) Any person, other than a regular employee, performing services as a sports
4 official for an entity sponsoring an intercollegiate or interscholastic sports event,
5 or any person performing services as a sports official for a public agency, public
6 entity, or a private nonprofit organization, which public agency, public entity, or
7 private nonprofit organization sponsors an amateur sports event. For purposes of
8 this subdivision, “sports official” includes an umpire, referee, judge, scorekeeper,
9 timekeeper, or other person who is a neutral participant in a sports event.

10 **Comment.** Section 3352 is amended to reflect elimination of the justice court and of the office
11 of constable. Cal. Const. art. VI, §§ 1, 5(b).

12 **Mil. & Vet. Code § 467 (amended). Collection and disposition of fines and penalties**

13 SEC. _____. Section 467 of the Military and Veterans Code is amended to read:

14 467. For the purpose of collecting fines or penalties imposed by a court-martial,
15 the president of any general or special court-martial and the summary court officer
16 of any summary court shall make a list of all fines and penalties and of the persons
17 against whom they have been imposed, and may thereafter issue a warrant under
18 his or her hand directed to any sheriff or marshal of the county, commanding him
19 or her to levy and collect the fines and penalties, together with the costs, upon and
20 out of the property of the person against whom the fine or penalty is imposed. The
21 warrant shall be executed and renewed in the same manner as executions ~~from the~~
22 justices’ courts under the Code of Civil Procedure.

23 All fines collected under this section or imposed and collected under Section
24 450.1 shall be paid by the officer collecting them to the commanding officer of the
25 organization of which the person fined is or was a member and shall be deposited
26 by the commanding officer into the General Fund.

27 **Comment.** Section 467 is amended to reflect elimination of the justices’ court. Cal. Const. art.
28 VI, §§ 1, 5.

29 ☞ **Note.** The justices’ court is an obsolete inferior court, superseded by the justice court by
30 Constitutional Amendment on November 7, 1950.

31 **Rev. & Tax. Code § 6776 (amended). Issuance of warrant**

32 SEC. _____. Section 6776 of the Revenue and Taxation Code is amended to read:

33 6776. At any time within three years after any person is delinquent in the
34 payment of any amount herein required to be paid, or within 10 years after the last
35 recording of an abstract under Section 6738 or the last recording or filing of a
36 notice of state tax lien under Section 7171 of the Government Code, the board or
37 its authorized representative may issue a warrant for the enforcement of any liens
38 and for the collection of any amount required to be paid to the state under this part.
39 The warrant shall be directed to any sheriff, marshal, ~~constable~~, or the Department
40 of the California Highway Patrol and shall have the same effect as a writ of
41 execution. The warrant shall be levied and sale made pursuant to it in the same
42 manner and with the same effect as a levy of and a sale pursuant to a writ of

1 execution and shall be levied within five working days following receipt of the
2 warrant.

3 **Comment.** Section 6776 is amended to reflect elimination of the justice court and of the office
4 of constable. Cal. Const. art. VI, §§ 1, 5(b).

5 **Rev. & Tax. Code § 6777 (amended). Fees**

6 SEC. _____. Section 6777 of the Revenue and Taxation Code is amended to read:

7 6777. The board may pay or advance to the sheriff, marshal, ~~constable~~, or the
8 Department of the California Highway Patrol, the same fees, commissions, and
9 expenses for services as are provided by law for similar services rendered pursuant
10 to a writ of execution. The board, and not the court, shall approve the fees for
11 publication in a newspaper.

12 **Comment.** Section 6777 is amended to reflect elimination of the justice court and of the office
13 of constable. Cal. Const. art. VI, §§ 1, 5(b).

14 **Rev. & Tax. Code § 19232 (amended). Force and effect of warrant**

15 SEC. _____. Section 19232 of the Revenue and Taxation Code is amended to read:

16 19232. The warrant shall be directed to any sheriff, ~~constable~~, marshal, or the
17 Department of the California Highway Patrol and shall have the same force and
18 effect as a writ of execution. The warrant shall be levied and sale made pursuant to
19 it in the same manner and with the same force and effect as a levy of and sale
20 pursuant to a writ of execution.

21 **Comment.** Section 19232 is amended to reflect elimination of the justice court and of the
22 office of constable. Cal. Const. art. VI, §§ 1, 5(b).

23 **Rev. & Tax. Code § 19233 (amended). Fees**

24 SEC. _____. Section 19233 of the Revenue and Taxation Code is amended to read:

25 19233. The Franchise Tax Board shall pay or advance to the sheriff, ~~constable~~,
26 marshal, or the Department of the California Highway Patrol the same fees,
27 commissions, and expenses as are provided by law for similar services pursuant to
28 a writ of execution. The Franchise Tax Board, and not the court, shall approve the
29 fees for publication in a newspaper.

30 **Comment.** Section 19233 is amended to reflect elimination of the justice court and of the
31 office of constable. Cal. Const. art. VI, §§ 1, 5(b).

32 **Rev. & Tax. Code § 19280 (amended). Referral of fines and penalties to Franchise Tax**
33 **Board**

34 SEC. _____. Section 19280 of the Revenue and Taxation Code is amended to read:

35 19280. (a) Fines, state or local penalties, forfeitures, restitution fines, or
36 restitution orders imposed by a superior, ~~municipal~~, or justice or municipal court
37 of the State of California upon a person or any other entity that is in an amount
38 totaling no less than two hundred fifty dollars (\$250), in the aggregate, and due a
39 county or the state for criminal offenses, including all offenses involving a
40 violation of the Vehicle Code except offenses relating to parking or registration or

1 offenses by pedestrians or bicyclists, may, no sooner than 90 days after payment
2 of that amount becomes delinquent, be referred by the county or the state to the
3 Franchise Tax Board for collection under guidelines prescribed by the Franchise
4 Tax Board. The Franchise Tax Board shall establish criteria for referral, which
5 shall include setting forth a minimum dollar amount subject to referral and
6 collection.

7 (b) For the period January 1, 1995, to December 31, 1997, inclusive, for
8 purposes of a manageable implementation and evaluation of the program
9 authorized by this article, the Franchise Tax Board may limit referrals to nine
10 counties.

11 (c) Upon written notice to the obligor from the Franchise Tax Board, any
12 amount referred to the Franchise Tax Board under subdivision (a) and any interest
13 thereon, including any interest on the amount referred under subdivision (a) that
14 accrued prior to the date of referral, shall be treated as final and due and payable to
15 the State of California, and shall be collected from the obligor by the Franchise
16 Tax Board in any manner authorized under the law for collection of a delinquent
17 personal income tax liability, including, but not limited to, issuance of an order
18 and levy under Article 4 (commencing with Section 706.070) of Chapter 5 of
19 Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner
20 provided for earnings withholding orders for taxes.

21 (d)(1) Part 10 (commencing with Section 18401), this part, Part 10.7
22 (commencing with Section 21001), and Part 11 (commencing with Section 23001)
23 shall apply to amounts referred under this article in the same manner and with the
24 same force and effect and to the full extent as if the language of those laws had
25 been incorporated in full into this article, except to the extent that any provision is
26 either inconsistent with this article or is not relevant to this article.

27 (2) Any information, information sources, or enforcement remedies and
28 capabilities available to the court referring the amount due described in
29 subdivision (a), shall be available to the Franchise Tax Board to be used in
30 conjunction with, or independent of, the information, information sources, or
31 remedies and capabilities available to the Franchise Tax Board for purposes of
32 administering Part 10 (commencing with Section 18401), this part, Part 10.7
33 (commencing with Section 21001), or Part 11 (commencing with Section 23001).

34 (e) The activities required to implement and administer this part shall not
35 interfere with the primary mission of the Franchise Tax Board to administer Part
36 10 (commencing with Section 17001) and Part 11 (commencing with Section
37 23001).

38 (f) For amounts referred for collection under subdivision (a), interest shall
39 accrue at the greater of the rate applicable to the amount due being collected or the
40 rate provided under Section 19521. When notice of the amount due includes
41 interest and is mailed to the obligor and the amount is paid within 10 days after the
42 date of notice, interest shall not be imposed for the period after the date of notice.

(g) In no event shall a collection under this article be construed as a payment of income taxes imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001).

Comment. Section 19280 is amended to reflect elimination of the justice court. Cal. Const. art. VI, §§ 1, 5(b).

Unemp. Ins. Code § 1785 (amended). Issuance of warrant

SEC. _____. Section 1785 of the Unemployment Insurance Code is amended to read:

1785. If any amount required to be paid under this division is not paid when due, the director or the director's authorized representative may, not later than three years after the payment became delinquent, or within 10 years after the last entry of a judgment under Article 5 (commencing with Section 1815) or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this division. The warrant shall be directed to any sheriff, marshal, or peace officer of the Department of the California Highway Patrol, ~~or constable~~ and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

Comment. Section 1785 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Unemp. Ins. Code § 1786 (amended). Fees

SEC. _____. Section 1786 of the Unemployment Insurance Code is amended to read:

1786. The department may pay or advance to the sheriff, marshal, or peace officer of the Department of the California Highway Patrol, ~~or constable~~, the same fees, commissions, and expenses for his or her services under this article as are provided by law for similar services pursuant to a writ of execution. The director, and not the court, shall approve the fees for publication in a newspaper.

Comment. Section 1786 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Veh. Code § 40508.6 (amended). Administrative assessments for costs

SEC. _____. Section 40508.6 of the Vehicle Code is amended to read:

40508.6. The Legislature hereby authorizes the establishment of the following program, to be implemented in any county, upon the adoption of a resolution by the board of supervisors authorizing it. For the superior court and each municipal court ~~or justice court~~ district in the county, a board of supervisors may establish administrative assessments, not to exceed ten dollars (\$10), for clerical and administrative costs incurred for the following activities:

1 (a) An assessment for the cost of recording and maintaining a record of the
2 defendant's prior convictions for violations of ~~the~~ this code. The assessment shall
3 be payable at the time of payment of a fine or when bail is forfeited for any
4 subsequent violations of this code other than parking, pedestrian, or bicycle
5 violations.

6 (b) An assessment for all defendants whose driver's license or automobile
7 registration is attached or restricted pursuant to Section 40509 or 40509.5, to cover
8 the cost of notifying the Department of Motor Vehicles of the attachment or
9 restriction.

10 **Comment.** Section 40508.6 is amended to reflect elimination of the justice court. Cal. Const.
11 art. VI, §§ 1, 5(b).

12 **Welf. & Inst. Code § 11350.7 (amended). Delinquent support payments**

13 SEC. _____. Section 11350.7 of the Welfare and Institutions Code is amended to
14 read:

15 11350.7. (a) Notwithstanding any other provision of law, if any support obligor
16 is delinquent in the payment of support for at least 30 days and the district attorney
17 is enforcing the support obligation pursuant to Section 11475.1, the district
18 attorney may issue a warrant for the collection of that support and may levy on
19 and sell vehicles and vessels as defined in the Vehicle Code, or aircraft.

20 (b) A warrant may be issued by a district attorney for a support obligation which
21 accrued under a court order or judgment if the obligor had notice of the accrued
22 support arrearage as provided in this section, and did not make a timely request for
23 review.

24 (c) The notice requirement shall be satisfied by the district attorney sending a
25 statement of support arrearages to the obligor at the obligor's last known address
26 by first-class mail, postage prepaid. The notice shall advise the obligor of the
27 amount of the support arrearage. The notice shall advise the obligor that the
28 obligor may have the arrearage determination reviewed by administrative
29 procedures and state how such a review may be obtained. The notice shall also
30 advise the obligor of his or her right to seek a judicial determination of arrearages
31 pursuant to Section 11350.8 and shall include a form to be filed with the court to
32 request a judicial determination of arrearages. If the obligor requests an
33 administrative review of the arrearage determination within 20 days from the date
34 the notice was mailed to the obligor, the district attorney shall review the
35 assessment or determination and shall not issue the warrant for a disputed amount
36 of support until the administrative review procedure is completed.

37 (d) If the obligor requests a judicial determination of the arrearages within 20
38 days from the date the notice was mailed to the obligor, the district attorney shall
39 not issue the warrant for a disputed amount of support until the judicial
40 determination is complete.

41 (e) The warrant shall be directed to any sheriff, ~~constable~~, marshal, or the
42 Department of the California Highway Patrol and shall have the same force and

effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the manner and with the same force and effect as a levy and sale pursuant to a writ of execution. The district attorney may pay or advance to the levying officer the same fees, commissions, and expenses for his or her services under this section as are provided by law for similar services pursuant to a writ of execution, except for those fees and expenses for which the district attorney is exempt by law from paying. The district attorney, and not the court, shall approve the fees for publication in a newspaper.

(f) The fees, commissions, expenses, and the reasonable costs associated with the sale of property levied upon by warrant pursuant to this section, including, but not limited to, appraisers' fees, auctioneers' fees, and advertising fees are an obligation of the support obligor and may be collected from the obligor by virtue of the warrant or in any other manner as though these items were support payments delinquent for at least 30 days.

Comment. Section 11350.7 is amended to reflect elimination of the justice court and of the office of constable. Cal. Const. art. VI, §§ 1, 5(b).

Section 22 of the Protection District Act of 1895 (amended). Claim for damages

SEC. _____. Section 22 of the Protection District Act of 1903 (Chapter 201 of the Statutes of 1895) is amended to read.

Sec. 22. When sufficient money is in such Protection District Fund to pay for the property taken and damaged, according to the award of damages made in the report adopted by the Board of Supervisors, as provided in section seventeen hereof, the Clerk of the Board of Supervisors shall notify the owner, possessor, or occupant of any land or improvement thereon to whom damages shall have been awarded, that such award has been made, and the amount thereof, and that upon such person filing a claim and tendering a conveyance of any property to be taken, such claim will be allowed and such damages paid. Such notice shall be given by depositing such notice in the Post Office at the county seat of such county, postage prepaid, addressed to such owner, possessor, or occupant, if his the name be known. In case the property is unoccupied, and the name of the owners is unknown, or in case such unoccupied property is set down as belonging to unknown owners for the reasons given in section fourteen hereof, such notice shall be delivered to the Sheriff ~~or to a Constable~~, who shall serve the same by posting a copy in a conspicuous place upon the property named in said notice, and indorse a certificate of service upon the original notice, and file the same with the Clerk of the Board of Supervisors.

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

Section 4 of the Drainage District Act of 1903 (amended). Appeals

SEC. _____. Section 4 of the Drainage District Act of 1903 (Chapter 238 of the Statutes of 1903) is amended to read.

1 Sec. 4. The right of appeal from said order to the superior court of the county
2 where said petition is heard, is hereby given to any person interested, who is a
3 party to the record; provided, that if more than one appeal be taken they shall be
4 consolidated and tried together. Such appeal shall be taken within ten days after
5 the entry of such order upon the minutes of the board of supervisors. The appeal
6 shall be taken and heard in the same manner as other appeals ~~from justices' courts~~
7 to the appellate division of the superior court, except as herein otherwise provided.
8 Upon the appeal, the superior court may make and enter its judgment affirming,
9 modifying, or reversing the order appealed from. Within ten days thereafter, the
10 superior court must cause its remittitur to issue to said board of supervisors, and if
11 said order of the board of supervisors is modified or reversed, the judgment of the
12 superior court and its remittitur shall direct the board of supervisors what order it
13 shall enter. Such remittitur shall be filed by the clerk of the board of supervisors,
14 and at the first regular meeting of the board thereafter, it shall cause to be entered
15 in its minutes the order as directed by said superior court. The appeal herein
16 provided for shall be heard and determined within thirty days from the time of
17 filing the notice of appeal.

18 **Comment.** Section 4, is amended to reflect elimination of the justices' court. Cal. Const. art.
19 VI, §§ 1, 5.

20 ☞ **Note.** The justices' court is an obsolete inferior court, superseded by the justice court by
21 Constitutional Amendment on November 7, 1950.